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**Sub. H. B. No. 150**

**Representative Merrin**

**Cosponsors: Representatives Antani, Carruthers, Dean, DeVitis, Ginter, Hillyer, Hood, Jordan, Keller, Lanese, Lang, Manning, D., Patton, Perales, Richardson, Riedel, Roemer, Romanchuk, Seitz, Sheehy, Stein, Swearingen, Vitale, Wiggam, Zeltwanger**

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**A BILL**

To amend sections 5726.01, 5726.02, 5726.04,  
5726.06, and 5751.01 of the Revised Code to  
reduce the tax liability of newly formed banks  
by up to one million dollars per year for their  
first three years and to exclude the principal  
balance of mortgage loans sold by a mortgage  
lender from the lender's commercial activity tax  
gross receipts.

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

**Section 1.** That sections 5726.01, 5726.02, 5726.04,  
5726.06, and 5751.01 of the Revised Code be amended to read as  
follows:

**Sec. 5726.01.** As used in this chapter:

(A) "Affiliated group" means a group of two or more  
persons with fifty per cent or greater of the value of each  
person's ownership interests owned or controlled directly,  
indirectly, or constructively through related interests by

common owners during all or any portion of the taxable year, and 17  
the common owners. "Affiliated group" includes, but is not 18  
limited to, any person eligible to be included in a consolidated 19  
elected taxpayer group under section 5751.011 of the Revised 20  
Code or a combined taxpayer group under section 5751.012 of the 21  
Revised Code. 22

(B) "Bank organization" means any of the following: 23

(1) A national bank organized and operating as a national 24  
bank association pursuant to the "National Bank Act," 13 Stat. 25  
100 (1864), 12 U.S.C. 21, et seq.; 26

(2) A federal savings association or federal savings bank 27  
chartered under 12 U.S.C. 1464; 28

(3) A bank, banking association, trust company, savings 29  
and loan association, savings bank, or other banking institution 30  
that is organized or incorporated under the laws of the United 31  
States, any state, or a foreign country; 32

(4) Any corporation organized and operating pursuant to 12 33  
U.S.C. 611, et seq.; 34

(5) Any agency or branch of a foreign bank, as those terms 35  
are defined in 12 U.S.C. 3101. 36

"Bank organization" does not include an institution 37  
organized under the "Federal Farm Loan Act," 39 Stat. 360 38  
(1916), or a successor of such an institution, a company 39  
chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or 40  
a successor of such a company, an association formed pursuant to 41  
12 U.S.C. 2279c-1, an insurance company, or a credit union. 42

(C) "Call report" means the consolidated reports of 43  
condition and income prescribed by the federal financial 44

institutions examination council that a person is required to 45  
file with a federal regulatory agency pursuant to 12 U.S.C. 161, 46  
12 U.S.C. 324, or 12 U.S.C. 1817. 47

(D) "Captive finance company" means a person that derived 48  
at least seventy-five per cent of its gross income for the 49  
current taxable year and the two taxable years preceding the 50  
current taxable year from one or more of the following 51  
transactions: 52

(1) Financing transactions with members of its affiliated 53  
group; 54

(2) Financing transactions with or for customers of 55  
products manufactured or sold by a member of its affiliated 56  
group; 57

(3) Financing transactions with or for a distributor or 58  
franchisee that sells, leases, or services a product 59  
manufactured or sold by a member of the person's affiliated 60  
group; 61

(4) Financing transactions with or for a supplier to a 62  
member of the person's affiliated group in connection with the 63  
member's manufacturing business; 64

(5) Issuing bonds or other publicly traded debt 65  
instruments for the benefit of the affiliated group; 66

(6) Short-term or long-term investments whereby the person 67  
invests the cash reserves of the affiliated group and the 68  
affiliated group utilizes the proceeds from the investments. 69

For the purposes of division (D) of this section, 70  
"financing transaction" means making or selling loans, extending 71  
credit, leasing, earning or receiving subvention, including 72

interest supplements and other support costs related thereto, or 73  
acquiring, selling, or servicing accounts receivable, notes, 74  
loans, leases, debt, or installment obligations that arise from 75  
the sale or lease of tangible personal property or the 76  
performance of services, and "gross income" has the same meaning 77  
as in section 61 of the Internal Revenue Code and includes 78  
income from transactions between the captive finance company and 79  
other members of its affiliated group. 80

A person that has not been in continuous existence for the 81  
two taxable years preceding the current taxable year qualifies 82  
as a "captive finance company" for purposes of division (D) of 83  
this section if the person derived at least seventy-five per 84  
cent of its gross income for the period of its existence from 85  
one or more of the transactions described in divisions (D)(1) to 86  
(6) of this section. 87

"Captive finance company" does not include a small dollar 88  
lender. 89

(E) "Credit union" means a nonprofit cooperative financial 90  
institution organized or chartered under the laws of this state, 91  
any other state, or the United States. 92

(F) "Diversified savings and loan holding company" has the 93  
same meaning as in 12 U.S.C. 1467a, as that section existed on 94  
January 1, 2012. 95

(G) "Document of creation" means the articles of 96  
incorporation of a corporation, articles of organization of a 97  
limited liability company, registration of a foreign limited 98  
liability company, certificate of limited partnership, 99  
registration of a foreign limited partnership, registration of a 100  
domestic or foreign limited liability partnership, or 101

registration of a trade name. 102

(H) "Financial institution" means a bank organization, a 103  
holding company of a bank organization, or a nonbank financial 104  
organization, except when one of the following applies: 105

(1) If two or more such entities are consolidated for the 106  
purposes of filing an FR Y-9, "financial institution" means a 107  
group consisting of all entities that are included in the FR Y- 108  
9. 109

(2) If two or more such entities are consolidated for the 110  
purposes of filing a call report, "financial institution" means 111  
a group consisting of all entities that are included in the call 112  
report and that are not included in a group described in 113  
division (H) (1) of this section. 114

(3) If a bank organization is owned directly by a 115  
grandfathered unitary savings and loan holding company or 116  
directly or indirectly by an entity that was a grandfathered 117  
unitary savings and loan holding company on January 1, 2012, 118  
"financial institution" means a group consisting only of that 119  
bank organization and the entities included in that bank 120  
organization's call report, notwithstanding division (H) (1) or 121  
(2) of this section. 122

"Financial institution" does not include a diversified 123  
savings and loan holding company, a grandfathered unitary 124  
savings and loan holding company, any entity that was a 125  
grandfathered unitary savings and loan holding company on 126  
January 1, 2012, or any entity that is not a bank organization 127  
or owned by a bank organization and that is owned directly or 128  
indirectly by an entity that was a grandfathered unitary savings 129  
and loan holding company on January 1, 2012. 130

(I) "FR Y-9" means the consolidated or parent-only 131  
financial statements that a holding company is required to file 132  
with the federal reserve board pursuant to 12 U.S.C. 1844. In 133  
the case of a holding company required to file both consolidated 134  
and parent-only financial statements, "FR Y-9" means the 135  
consolidated financial statements that the holding company is 136  
required to file. 137

(J) "Grandfathered unitary savings and loan holding 138  
company" means an entity described in 12 U.S.C. 1467a(c)(9)(C), 139  
as that section existed on December 31, 1999. 140

(K) "Gross receipts" means all items of income, without 141  
deduction for expenses. If the reporting person for a taxpayer 142  
is a holding company, "gross receipts" includes all items of 143  
income reported on the FR Y-9 filed by the holding company. If 144  
the reporting person for a taxpayer is a bank organization, 145  
"gross receipts" includes all items of income reported on the 146  
call report filed by the bank organization. If the reporting 147  
person for a taxpayer is a nonbank financial organization, 148  
"gross receipts" includes all items of income reported in 149  
accordance with generally accepted accounting principles. 150

(L) "Insurance company" means every corporation, 151  
association, and society engaged in the business of insurance of 152  
any character, or engaged in the business of entering into 153  
contracts substantially amounting to insurance of any character, 154  
or of indemnifying or guaranteeing against loss or damage, or 155  
acting as surety on bonds or undertakings. "Insurance company" 156  
also includes any health insuring corporation as defined in 157  
section 1751.01 of the Revised Code. 158

(M) (1) "Nonbank financial organization" means every person 159  
that is not a bank organization or a holding company of a bank 160

organization and that engages in business primarily as a small 161  
dollar lender. "Nonbank financial organization" does not include 162  
an institution organized under the "Federal Farm Loan Act," 39 163  
Stat. 360 (1916), or a successor of such an institution, an 164  
insurance company, a captive finance company, a credit union, an 165  
institution organized and operated exclusively for charitable 166  
purposes within the meaning of section 501(c) (3) of the Internal 167  
Revenue Code, or a person that facilitates or services one or 168  
more securitizations for a bank organization, a holding company 169  
of a bank organization, a captive finance company, or any member 170  
of the person's affiliated group. 171

(2) A person is engaged in business primarily as a small 172  
dollar lender if the person has, for the taxable year, gross 173  
income from the activities described in division (O) of this 174  
section that exceeds the person's gross income from all other 175  
activities. As used in division (M) of this section, "gross 176  
income" has the same meaning as in section 61 of the Internal 177  
Revenue Code, and income from transactions between the person 178  
and the other members of the affiliated group shall be 179  
eliminated, and any sales, exchanges, and other dispositions of 180  
commercial paper to persons outside the affiliated group 181  
produces gross income only to the extent the proceeds from such 182  
transactions exceed the affiliated group's basis in such 183  
commercial paper. 184

(N) "Reporting person" means one of the following: 185

(1) In the case of a financial institution described in 186  
division (H) (1) of this section, the top-tier holding company 187  
required to file an FR Y-9. 188

(2) In the case of a financial institution described in 189  
division (H) (2) or (3) of this section, the bank organization 190

required to file the call report.	191
(3) In the case of a bank organization or nonbank financial organization that is not included in a group described in division (H) (1) or (2) of this section, the bank organization or nonbank financial organization.	192 193 194 195
(O) "Small dollar lender" means any person engaged primarily in the business of loaning money to individuals, provided that the loan amounts do not exceed five thousand dollars and the duration of the loans do not exceed twelve months. A "small dollar lender" does not include a bank organization, credit union, or captive finance company.	196 197 198 199 200 201
(P) "Tax year" means the calendar year for which the tax levied under section 5726.02 of the Revised Code is required to be paid.	202 203 204
(Q) "Taxable year" means the calendar year preceding the year in which an annual report is required to be filed under section 5726.03 of the Revised Code.	205 206 207
(R) "Taxpayer" means a financial institution subject to the tax levied under section 5726.02 of the Revised Code.	208 209
(S) "Total equity capital" means the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. "Total equity capital" shall not include any noncontrolling (minority) interests as reported on an FR Y-9 or call report, unless such interests are in a bank organization or a bank holding company.	210 211 212 213 214 215 216 217 218
(T) "Total Ohio equity capital" means the portion of the	219

total equity capital of a financial institution apportioned to	220
Ohio pursuant to section 5726.05 of the Revised Code.	221
(U) "Holding company" does not include a diversified	222
savings and loan holding company, a grandfathered unitary	223
savings and loan holding company, any entity that was a	224
grandfathered unitary savings and loan holding company on	225
January 1, 2012, or any entity that is not a bank organization	226
or owned by a bank organization and that is owned directly or	227
indirectly by an entity that was a grandfathered unitary savings	228
and loan holding company on January 1, 2012.	229
(V) "Securitization" means transferring one or more assets	230
to one or more persons and subsequently issuing securities	231
backed by the right to receive payment from the asset or assets	232
so transferred.	233
<u>(W) "De novo bank organization" means a bank organization</u>	234
<u>that first began operations in the taxable year preceding the</u>	235
<u>current tax year or in either of the two immediately preceding</u>	236
<u>taxable years.</u>	237
<b>Sec. 5726.02.</b> (A) For the purpose of funding the needs of	238
this state and its local governments <del>beginning with the tax year</del>	239
<del>that commences on January 1, 2014, and continuing for every tax</del>	240
<del>year thereafter,</del> there is hereby levied a tax on each financial	241
institution for the privilege of doing business in this state. A	242
financial institution is subject to the tax imposed under this	243
chapter for each calendar year that the financial institution	244
conducts business as a financial institution in this state or	245
otherwise has nexus in or with this state under the Constitution	246
of the United States on the first day of January of that	247
calendar year.	248

(B) The amount of tax a financial institution other than a de novo bank organization is required to pay under this chapter shall equal the greater of the minimum tax required under division (A) (1) (a) of section 5726.04 of the Revised Code or the amount by which the tax calculated under division ~~(A) (2)~~ (A) (1) (b) of that section exceeds any credits allowed against the tax. The amount of tax a de novo bank organization is required to pay under this chapter shall equal the amount by which the tax calculated under division (A) (2) of section 5726.04 of the Revised Code exceeds any credits allowed against the tax.

**Sec. 5726.04.** (A) (1) The tax levied on a financial institution other than a de novo bank organization under this chapter shall be the greater of the following:

~~(1)~~ (a) A minimum tax equal to one thousand dollars;

~~(2)~~ (b) The product of the total Ohio equity capital of the financial institution, as determined under this section, multiplied by eight mills for each dollar of the first two hundred million dollars of total Ohio equity capital, by four mills for each dollar of total Ohio equity capital greater than two hundred million and less than one billion three hundred million dollars, and by two and one-half mills for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars.

(2) The tax levied on a de novo bank organization under this chapter shall equal the difference obtained by subtracting one million dollars from the amount of tax that would be calculated for the de novo bank organization under division (A) (1) (b) of this section, provided that if that difference is equal to or less than zero, no tax shall be due for the taxable year.

A de novo bank organization with no tax due for a taxable 279  
year pursuant to this division shall be considered a financial 280  
institution that "paid the tax imposed by section 5726.02 of the 281  
Revised Code based on" that taxable year for the purposes of 282  
division (E) (3) of section 5751.01 of the Revised Code. 283

(B) If the reporting person for a financial institution 284  
files an FR Y-9 or call report, the total equity capital of the 285  
financial institution shall equal the total equity capital shown 286  
on the reporting person's FR Y-9 or call report as of the end of 287  
the taxable year. The total equity capital of all other 288  
financial institutions shall be reported as of the end of the 289  
taxable year in accordance with generally accepted accounting 290  
principles. 291

(C) For the purposes of this section: 292

(1) "Total Ohio equity capital" means the product of (a) 293  
the total equity capital of a financial institution as of the 294  
end of a taxable year to the extent that the total equity 295  
capital does not exceed fourteen per cent of the financial 296  
institution's total assets multiplied by (b) the Ohio 297  
apportionment ratio calculated for the financial institution 298  
under section 5726.05 of the Revised Code, except as provided in 299  
section 5726.041 of the Revised Code. 300

(2) "Total assets" means: 301

(a) In the case of a financial institution described in 302  
division (H) (1) of section 5726.01 of the Revised Code, the 303  
total consolidated assets as shown on the reporting person's FR 304  
Y-9 as of the end of the taxable year; 305

(b) In the case of a financial institution described in 306  
division (H) (2) or (3) of section 5726.01 of the Revised Code, 307

the total consolidated assets as shown on the reporting person's 308  
call report as of the end of the taxable year; 309

(c) In the case of all other financial institutions, the 310  
total consolidated assets of the financial institution as of the 311  
end of the taxable year in accordance with generally accepted 312  
accounting principles. 313

The tax commissioner may audit a reporting person's total 314  
assets to confirm the financial institution's actual total 315  
consolidated assets and may make any adjustments necessary. 316

(D) All payments received from the tax levied under this 317  
chapter shall be credited to the general revenue fund. 318

(E) The commissioner may adopt rules to provide additional 319  
guidance for the application of this section. 320

**Sec. 5726.06.** (A) The reporting person for a taxpayer 321  
shall file estimated tax reports and remit the amount of tax 322  
estimated to be due for a tax year to the tax commissioner as 323  
follows: 324

(1) ~~The minimum tax required under division (A) (1) of~~ 325  
~~section 5726.04 of the Revised Code or one-third~~ One-third of 326  
the estimated tax, ~~whichever is greater~~ or the minimum tax 327  
required under division (A) (1) (a) of section 5726.04 of the 328  
Revised Code, if applicable and greater than one-third of the 329  
estimated tax, on or before the thirty-first day of January of 330  
the tax year; 331

(2) One-half of the amount by which the estimated tax 332  
exceeds the amount paid under division (A) (1) of this section on 333  
or before the thirty-first day of March of the tax year; 334

(3) One-half of the amount by which the estimated tax 335

exceeds the amount paid under division (A) (1) of this section on 336  
or before the thirty-first day of May of the tax year. 337

(B) (1) The reporting person for a taxpayer shall remit the 338  
estimated tax electronically as provided in division (C) of 339  
section 5726.03 of the Revised Code. Remittance shall be made 340  
payable to the treasurer of state. 341

(2) The tax commissioner shall immediately forward to the 342  
treasurer of state all amounts received under this section, and 343  
the treasurer of state shall credit all payments of such 344  
estimated tax as provided in division (D) of section 5726.04 of 345  
the Revised Code. 346

(C) (1) If a taxpayer was not subject to the tax imposed by 347  
section 5726.02 of the Revised Code for the preceding tax year, 348  
"estimated tax" for purposes of division (A) (1) of this section 349  
means ninety per cent of the qualifying net tax for the tax 350  
year. If a taxpayer was subject to the tax for the preceding tax 351  
year, "estimated tax" for purposes of division (A) (1) of this 352  
section means the lesser of one hundred per cent of the 353  
taxpayer's qualifying net tax for the preceding tax year or 354  
ninety per cent of the qualifying net tax for the tax year. 355

(2) If the taxpayer did not file a report under section 356  
5726.02 of the Revised Code for the tax year or failed to 357  
prepare and file the report in good faith for the tax year, 358  
"qualifying net tax" as used in division (C) (1) of this section 359  
for that tax year means the amount described in division (C) (2) 360  
(a) of this section. Otherwise, "qualifying net tax" as used in 361  
division (C) (1) of this section for that tax year means the 362  
lesser of the amount described in division (C) (2) (a) or (b) of 363  
this section. 364

(a) The tax imposed by section 5726.02 of the Revised Code 365  
for that tax year reduced by the credits listed in section 366  
5726.98 of the Revised Code. If the credits exceed the total tax 367  
and the financial institution is not a de novo bank 368  
organization, the qualifying net tax is the minimum tax. 369

(b) The lesser of the tax shown on the report, prepared 370  
and filed in good faith, reduced by the credits shown on that 371  
report, or the tax shown on an amended report, prepared and 372  
filed in good faith, reduced by the credits shown on that 373  
amended report. If the credits shown exceed the total tax shown 374  
and the financial institution is not a de novo bank 375  
organization, the qualifying net tax is the minimum tax. 376

**Sec. 5751.01.** As used in this chapter: 377

(A) "Person" means, but is not limited to, individuals, 378  
combinations of individuals of any form, receivers, assignees, 379  
trustees in bankruptcy, firms, companies, joint-stock companies, 380  
business trusts, estates, partnerships, limited liability 381  
partnerships, limited liability companies, associations, joint 382  
ventures, clubs, societies, for-profit corporations, S 383  
corporations, qualified subchapter S subsidiaries, qualified 384  
subchapter S trusts, trusts, entities that are disregarded for 385  
federal income tax purposes, and any other entities. 386

(B) "Consolidated elected taxpayer" means a group of two 387  
or more persons treated as a single taxpayer for purposes of 388  
this chapter as the result of an election made under section 389  
5751.011 of the Revised Code. 390

(C) "Combined taxpayer" means a group of two or more 391  
persons treated as a single taxpayer for purposes of this 392  
chapter under section 5751.012 of the Revised Code. 393

(D) "Taxpayer" means any person, or any group of persons 394  
in the case of a consolidated elected taxpayer or combined 395  
taxpayer treated as one taxpayer, required to register or pay 396  
tax under this chapter. "Taxpayer" does not include excluded 397  
persons. 398

(E) "Excluded person" means any of the following: 399

(1) Any person with not more than one hundred fifty 400  
thousand dollars of taxable gross receipts during the calendar 401  
year. Division (E) (1) of this section does not apply to a person 402  
that is a member of a consolidated elected taxpayer; 403

(2) A public utility that paid the excise tax imposed by 404  
section 5727.24 or 5727.30 of the Revised Code based on one or 405  
more measurement periods that include the entire tax period 406  
under this chapter, except that a public utility that is a 407  
combined company is a taxpayer with regard to the following 408  
gross receipts: 409

(a) Taxable gross receipts directly attributed to a public 410  
utility activity, but not directly attributed to an activity 411  
that is subject to the excise tax imposed by section 5727.24 or 412  
5727.30 of the Revised Code; 413

(b) Taxable gross receipts that cannot be directly 414  
attributed to any activity, multiplied by a fraction whose 415  
numerator is the taxable gross receipts described in division 416  
(E) (2) (a) of this section and whose denominator is the total 417  
taxable gross receipts that can be directly attributed to any 418  
activity; 419

(c) Except for any differences resulting from the use of 420  
an accrual basis method of accounting for purposes of 421  
determining gross receipts under this chapter and the use of the 422

cash basis method of accounting for purposes of determining 423  
gross receipts under section 5727.24 of the Revised Code, the 424  
gross receipts directly attributed to the activity of a natural 425  
gas company shall be determined in a manner consistent with 426  
division (D) of section 5727.03 of the Revised Code. 427

As used in division (E) (2) of this section, "combined 428  
company" and "public utility" have the same meanings as in 429  
section 5727.01 of the Revised Code. 430

(3) A financial institution, as defined in section 5726.01 431  
of the Revised Code, that paid the tax imposed by section 432  
5726.02 of the Revised Code based on one or more taxable years 433  
that include the entire tax period under this chapter; 434

(4) A person directly or indirectly owned by one or more 435  
financial institutions, as defined in section 5726.01 of the 436  
Revised Code, that paid the tax imposed by section 5726.02 of 437  
the Revised Code based on one or more taxable years that include 438  
the entire tax period under this chapter. 439

For the purposes of division (E) (4) of this section, a 440  
person owns another person under the following circumstances: 441

(a) In the case of corporations issuing capital stock, one 442  
corporation owns another corporation if it owns fifty per cent 443  
or more of the other corporation's capital stock with current 444  
voting rights; 445

(b) In the case of a limited liability company, one person 446  
owns the company if that person's membership interest, as 447  
defined in section 1705.01 of the Revised Code, is fifty per 448  
cent or more of the combined membership interests of all persons 449  
owning such interests in the company; 450

(c) In the case of a partnership, trust, or other 451

unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

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

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF) (4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust

election under division (FF) (3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

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

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

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and

distributive or proportionate shares of receipts and income from 509  
a pass-through entity as defined under section 5733.04 of the 510  
Revised Code; 511

(c) Receipts from the sale, exchange, or other disposition 512  
of an asset described in section 1221 or 1231 of the Internal 513  
Revenue Code, without regard to the length of time the person 514  
held the asset. Notwithstanding section 1221 of the Internal 515  
Revenue Code, receipts from hedging transactions also are 516  
excluded to the extent the transactions are entered into 517  
primarily to protect a financial position, such as managing the 518  
risk of exposure to (i) foreign currency fluctuations that 519  
affect assets, liabilities, profits, losses, equity, or 520  
investments in foreign operations; (ii) interest rate 521  
fluctuations; or (iii) commodity price fluctuations. As used in 522  
division (F)(2)(c) of this section, "hedging transaction" has 523  
the same meaning as used in section 1221 of the Internal Revenue 524  
Code and also includes transactions accorded hedge accounting 525  
treatment under statement of financial accounting standards 526  
number 133 of the financial accounting standards board. For the 527  
purposes of division (F)(2)(c) of this section, the actual 528  
transfer of title of real or tangible personal property to 529  
another entity is not a hedging transaction. 530

(d) Proceeds received attributable to the repayment, 531  
maturity, or redemption of the principal of a loan, bond, mutual 532  
fund, certificate of deposit, or marketable instrument; 533

(e) The principal amount received under a repurchase 534  
agreement or on account of any transaction properly 535  
characterized as a loan to the person; 536

(f) Contributions received by a trust, plan, or other 537  
arrangement, any of which is described in section 501(a) of the 538

Internal Revenue Code, or to which Title 26, Subtitle A, Chapter	539
1, Subchapter (D) of the Internal Revenue Code applies;	540
(g) Compensation, whether current or deferred, and whether	541
in cash or in kind, received or to be received by an employee,	542
former employee, or the employee's legal successor for services	543
rendered to or for an employer, including reimbursements	544
received by or for an individual for medical or education	545
expenses, health insurance premiums, or employee expenses, or on	546
account of a dependent care spending account, legal services	547
plan, any cafeteria plan described in section 125 of the	548
Internal Revenue Code, or any similar employee reimbursement;	549
(h) Proceeds received from the issuance of the taxpayer's	550
own stock, options, warrants, puts, or calls, or from the sale	551
of the taxpayer's treasury stock;	552
(i) Proceeds received on the account of payments from	553
insurance policies, except those proceeds received for the loss	554
of business revenue;	555
(j) Gifts or charitable contributions received; membership	556
dues received by trade, professional, homeowners', or	557
condominium associations; and payments received for educational	558
courses, meetings, meals, or similar payments to a trade,	559
professional, or other similar association; and fundraising	560
receipts received by any person when any excess receipts are	561
donated or used exclusively for charitable purposes;	562
(k) Damages received as the result of litigation in excess	563
of amounts that, if received without litigation, would be gross	564
receipts;	565
(l) Property, money, and other amounts received or	566
acquired by an agent on behalf of another in excess of the	567

agent's commission, fee, or other remuneration;	568
(m) Tax refunds, other tax benefit recoveries, and	569
reimbursements for the tax imposed under this chapter made by	570
entities that are part of the same combined taxpayer or	571
consolidated elected taxpayer group, and reimbursements made by	572
entities that are not members of a combined taxpayer or	573
consolidated elected taxpayer group that are required to be made	574
for economic parity among multiple owners of an entity whose tax	575
obligation under this chapter is required to be reported and	576
paid entirely by one owner, pursuant to the requirements of	577
sections 5751.011 and 5751.012 of the Revised Code;	578
(n) Pension reversions;	579
(o) Contributions to capital;	580
(p) Sales or use taxes collected as a vendor or an out-of-	581
state seller on behalf of the taxing jurisdiction from a	582
consumer or other taxes the taxpayer is required by law to	583
collect directly from a purchaser and remit to a local, state,	584
or federal tax authority;	585
(q) In the case of receipts from the sale of cigarettes,	586
tobacco products, or vapor products by a wholesale dealer,	587
retail dealer, distributor, manufacturer, vapor distributor, or	588
seller, all as defined in section 5743.01 of the Revised Code,	589
an amount equal to the federal and state excise taxes paid by	590
any person on or for such cigarettes, tobacco products, or vapor	591
products under subtitle E of the Internal Revenue Code or	592
Chapter 5743. of the Revised Code;	593
(r) In the case of receipts from the sale, transfer,	594
exchange, or other disposition of motor fuel as "motor fuel" is	595
defined in section 5736.01 of the Revised Code, an amount equal	596

to the value of the motor fuel, including federal and state 597  
motor fuel excise taxes and receipts from billing or invoicing 598  
the tax imposed under section 5736.02 of the Revised Code to 599  
another person; 600

(s) In the case of receipts from the sale of beer or 601  
intoxicating liquor, as defined in section 4301.01 of the 602  
Revised Code, by a person holding a permit issued under Chapter 603  
4301. or 4303. of the Revised Code, an amount equal to federal 604  
and state excise taxes paid by any person on or for such beer or 605  
intoxicating liquor under subtitle E of the Internal Revenue 606  
Code or Chapter 4301. or 4305. of the Revised Code; 607

(t) Receipts realized by a new motor vehicle dealer or 608  
used motor vehicle dealer, as defined in section 4517.01 of the 609  
Revised Code, from the sale or other transfer of a motor 610  
vehicle, as defined in that section, to another motor vehicle 611  
dealer for the purpose of resale by the transferee motor vehicle 612  
dealer, but only if the sale or other transfer was based upon 613  
the transferee's need to meet a specific customer's preference 614  
for a motor vehicle; 615

(u) Receipts from a financial institution described in 616  
division (E)(3) of this section for services provided to the 617  
financial institution in connection with the issuance, 618  
processing, servicing, and management of loans or credit 619  
accounts, if such financial institution and the recipient of 620  
such receipts have at least fifty per cent of their ownership 621  
interests owned or controlled, directly or constructively 622  
through related interests, by common owners; 623

(v) Receipts realized from administering anti-neoplastic 624  
drugs and other cancer chemotherapy, biologicals, therapeutic 625  
agents, and supportive drugs in a physician's office to patients 626

with cancer; 627

(w) Funds received or used by a mortgage broker that is 628  
not a dealer in intangibles, other than fees or other 629  
consideration, pursuant to a table-funding mortgage loan or 630  
warehouse-lending mortgage loan. Terms used in division (F) (2) 631  
(w) of this section have the same meanings as in section 1322.01 632  
of the Revised Code, except "mortgage broker" means a person 633  
assisting a buyer in obtaining a mortgage loan for a fee or 634  
other consideration paid by the buyer or a lender, or a person 635  
engaged in table-funding or warehouse-lending mortgage loans 636  
that are first lien mortgage loans. 637

(x) Property, money, and other amounts received by a 638  
professional employer organization, as defined in section 639  
4125.01 of the Revised Code, from a client employer, as defined 640  
in that section, in excess of the administrative fee charged by 641  
the professional employer organization to the client employer; 642

(y) In the case of amounts retained as commissions by a 643  
permit holder under Chapter 3769. of the Revised Code, an amount 644  
equal to the amounts specified under that chapter that must be 645  
paid to or collected by the tax commissioner as a tax and the 646  
amounts specified under that chapter to be used as purse money; 647

(z) Qualifying distribution center receipts. 648

(i) For purposes of division (F) (2) (z) of this section: 649

(I) "Qualifying distribution center receipts" means 650  
receipts of a supplier from qualified property that is delivered 651  
to a qualified distribution center, multiplied by a quantity 652  
that equals one minus the Ohio delivery percentage. If the 653  
qualified distribution center is a refining facility, "supplier" 654  
includes all dealers, brokers, processors, sellers, vendors, 655

cosigners, and distributors of qualified property. 656

(II) "Qualified property" means tangible personal property 657  
delivered to a qualified distribution center that is shipped to 658  
that qualified distribution center solely for further shipping 659  
by the qualified distribution center to another location in this 660  
state or elsewhere or, in the case of gold, silver, platinum, or 661  
palladium delivered to a refining facility solely for refining 662  
to a grade and fineness acceptable for delivery to a registered 663  
commodities exchange. "Further shipping" includes storing and 664  
repackaging property into smaller or larger bundles, so long as 665  
the property is not subject to further manufacturing or 666  
processing. "Refining" is limited to extracting impurities from 667  
gold, silver, platinum, or palladium through smelting or some 668  
other process at a refining facility. 669

(III) "Qualified distribution center" means a warehouse, a 670  
facility similar to a warehouse, or a refining facility in this 671  
state that, for the qualifying year, is operated by a person 672  
that is not part of a combined taxpayer group and that has a 673  
qualifying certificate. All warehouses or facilities similar to 674  
warehouses that are operated by persons in the same taxpayer 675  
group and that are located within one mile of each other shall 676  
be treated as one qualified distribution center. All refining 677  
facilities that are operated by persons in the same taxpayer 678  
group and that are located in the same or adjacent counties may 679  
be treated as one qualified distribution center. 680

(IV) "Qualifying year" means the calendar year to which 681  
the qualifying certificate applies. 682

(V) "Qualifying period" means the period of the first day 683  
of July of the second year preceding the qualifying year through 684  
the thirtieth day of June of the year preceding the qualifying 685

year. 686

(VI) "Qualifying certificate" means the certificate issued 687  
by the tax commissioner after the operator of a distribution 688  
center files an annual application with the commissioner. The 689  
application and annual fee shall be filed and paid for each 690  
qualified distribution center on or before the first day of 691  
September before the qualifying year or within forty-five days 692  
after the distribution center opens, whichever is later. 693

The applicant must substantiate to the commissioner's 694  
satisfaction that, for the qualifying period, all persons 695  
operating the distribution center have more than fifty per cent 696  
of the cost of the qualified property shipped to a location such 697  
that it would be situated outside this state under the provisions 698  
of division (E) of section 5751.033 of the Revised Code. The 699  
applicant must also substantiate that the distribution center 700  
cumulatively had costs from its suppliers equal to or exceeding 701  
five hundred million dollars during the qualifying period. (For 702  
purposes of division (F)(2)(z)(i)(VI) of this section, 703  
"supplier" excludes any person that is part of the consolidated 704  
elected taxpayer group, if applicable, of the operator of the 705  
qualified distribution center.) The commissioner may require the 706  
applicant to have an independent certified public accountant 707  
certify that the calculation of the minimum thresholds required 708  
for a qualified distribution center by the operator of a 709  
distribution center has been made in accordance with generally 710  
accepted accounting principles. The commissioner shall issue or 711  
deny the issuance of a certificate within sixty days after the 712  
receipt of the application. A denial is subject to appeal under 713  
section 5717.02 of the Revised Code. If the operator files a 714  
timely appeal under section 5717.02 of the Revised Code, the 715  
operator shall be granted a qualifying certificate effective for 716

the remainder of the qualifying year or until the appeal is 717  
finalized, whichever is earlier. If the operator does not 718  
prevail in the appeal, the operator shall pay the ineligible 719  
operator's supplier tax liability. 720

(VII) "Ohio delivery percentage" means the proportion of 721  
the total property delivered to a destination inside Ohio from 722  
the qualified distribution center during the qualifying period 723  
compared with total deliveries from such distribution center 724  
everywhere during the qualifying period. 725

(VIII) "Refining facility" means one or more buildings 726  
located in a county in the Appalachian region of this state as 727  
defined by section 107.21 of the Revised Code and utilized for 728  
refining or smelting gold, silver, platinum, or palladium to a 729  
grade and fineness acceptable for delivery to a registered 730  
commodities exchange. 731

(IX) "Registered commodities exchange" means a board of 732  
trade, such as New York mercantile exchange, inc. or commodity 733  
exchange, inc., designated as a contract market by the commodity 734  
futures trading commission under the "Commodity Exchange Act," 7  
U.S.C. 1 et seq., as amended. 735  
736

(X) "Ineligible operator's supplier tax liability" means 737  
an amount equal to the tax liability of all suppliers of a 738  
distribution center had the distribution center not been issued 739  
a qualifying certificate for the qualifying year. Ineligible 740  
operator's supplier tax liability shall not include interest or 741  
penalties. The tax commissioner shall determine an ineligible 742  
operator's supplier tax liability based on information that the 743  
commissioner may request from the operator of the distribution 744  
center. An operator shall provide a list of all suppliers of the 745  
distribution center and the corresponding costs of qualified 746

property for the qualifying year at issue within sixty days of a 747  
request by the commissioner under this division. 748

(ii)(I) If the distribution center is new and was not open 749  
for the entire qualifying period, the operator of the 750  
distribution center may request that the commissioner grant a 751  
qualifying certificate. If the certificate is granted and it is 752  
later determined that more than fifty per cent of the qualified 753  
property during that year was not shipped to a location such 754  
that it would be situated outside of this state under the 755  
provisions of division (E) of section 5751.033 of the Revised 756  
Code or if it is later determined that the person that operates 757  
the distribution center had average monthly costs from its 758  
suppliers of less than forty million dollars during that year, 759  
then the operator of the distribution center shall pay the 760  
ineligible operator's supplier tax liability. (For purposes of 761  
division (F)(2)(z)(ii) of this section, "supplier" excludes any 762  
person that is part of the consolidated elected taxpayer group, 763  
if applicable, of the operator of the qualified distribution 764  
center.) 765

(II) The commissioner may grant a qualifying certificate 766  
to a distribution center that does not qualify as a qualified 767  
distribution center for an entire qualifying period if the 768  
operator of the distribution center demonstrates that the 769  
business operations of the distribution center have changed or 770  
will change such that the distribution center will qualify as a 771  
qualified distribution center within thirty-six months after the 772  
date the operator first applies for a certificate. If, at the 773  
end of that thirty-six-month period, the business operations of 774  
the distribution center have not changed such that the 775  
distribution center qualifies as a qualified distribution 776  
center, the operator of the distribution center shall pay the 777

ineligible operator's supplier tax liability for each year that 778  
the distribution center received a certificate but did not 779  
qualify as a qualified distribution center. For each year the 780  
distribution center receives a certificate under division (F) (2) 781  
(z) (ii) (II) of this section, the distribution center shall pay 782  
all applicable fees required under division (F) (2) (z) of this 783  
section and shall submit an updated business plan showing the 784  
progress the distribution center made toward qualifying as a 785  
qualified distribution center during the preceding year. 786

(III) An operator may appeal a determination under 787  
division (F) (2) (z) (ii) (I) or (II) of this section that the 788  
ineligible operator is liable for the operator's supplier tax 789  
liability as a result of not qualifying as a qualified 790  
distribution center, as provided in section 5717.02 of the 791  
Revised Code. 792

(iii) When filing an application for a qualifying 793  
certificate under division (F) (2) (z) (i) (VI) of this section, the 794  
operator of a qualified distribution center also shall provide 795  
documentation, as the commissioner requires, for the 796  
commissioner to ascertain the Ohio delivery percentage. The 797  
commissioner, upon issuing the qualifying certificate, also 798  
shall certify the Ohio delivery percentage. The operator of the 799  
qualified distribution center may appeal the commissioner's 800  
certification of the Ohio delivery percentage in the same manner 801  
as an appeal is taken from the denial of a qualifying 802  
certificate under division (F) (2) (z) (i) (VI) of this section. 803

(iv) (I) In the case where the distribution center is new 804  
and not open for the entire qualifying period, the operator 805  
shall make a good faith estimate of an Ohio delivery percentage 806  
for use by suppliers in their reports of taxable gross receipts 807

for the remainder of the qualifying period. The operator of the 808  
facility shall disclose to the suppliers that such Ohio delivery 809  
percentage is an estimate and is subject to recalculation. By 810  
the due date of the next application for a qualifying 811  
certificate, the operator shall determine the actual Ohio 812  
delivery percentage for the estimated qualifying period and 813  
proceed as provided in division (F) (2) (z) (iii) of this section 814  
with respect to the calculation and recalculation of the Ohio 815  
delivery percentage. The supplier is required to file, within 816  
sixty days after receiving notice from the operator of the 817  
qualified distribution center, amended reports for the impacted 818  
calendar quarter or quarters or calendar year, whichever the 819  
case may be. Any additional tax liability or tax overpayment 820  
shall be subject to interest but shall not be subject to the 821  
imposition of any penalty so long as the amended returns are 822  
timely filed. 823

(II) The operator of a distribution center that receives a 824  
qualifying certificate under division (F) (2) (z) (ii) (II) of this 825  
section shall make a good faith estimate of the Ohio delivery 826  
percentage that the operator estimates will apply to the 827  
distribution center at the end of the thirty-six-month period 828  
after the operator first applied for a qualifying certificate 829  
under that division. The result of the estimate shall be 830  
multiplied by a factor of one and seventy-five one-hundredths. 831  
The product of that calculation shall be the Ohio delivery 832  
percentage used by suppliers in their reports of taxable gross 833  
receipts for each qualifying year that the distribution center 834  
receives a qualifying certificate under division (F) (2) (z) (ii) 835  
(II) of this section, except that, if the product is less than 836  
five per cent, the Ohio delivery percentage used shall be five 837  
per cent and that, if the product exceeds forty-nine per cent, 838

the Ohio delivery percentage used shall be forty-nine per cent. 839

(v) Qualifying certificates and Ohio delivery percentages 840  
issued by the commissioner shall be open to public inspection 841  
and shall be timely published by the commissioner. A supplier 842  
relying in good faith on a certificate issued under this 843  
division shall not be subject to tax on the qualifying 844  
distribution center receipts under division (F) (2) (z) of this 845  
section. An operator receiving a qualifying certificate is 846  
liable for the ineligible operator's supplier tax liability for 847  
each year the operator received a certificate but did not 848  
qualify as a qualified distribution center. 849

(vi) The annual fee for a qualifying certificate shall be 850  
one hundred thousand dollars for each qualified distribution 851  
center. If a qualifying certificate is not issued, the annual 852  
fee is subject to refund after the exhaustion of all appeals 853  
provided for in division (F) (2) (z) (i) (VI) of this section. The 854  
first one hundred thousand dollars of the annual application 855  
fees collected each calendar year shall be credited to the 856  
revenue enhancement fund. The remainder of the annual 857  
application fees collected shall be distributed in the same 858  
manner required under section 5751.20 of the Revised Code. 859

(vii) The tax commissioner may require that adequate 860  
security be posted by the operator of the distribution center on 861  
appeal when the commissioner disagrees that the applicant has 862  
met the minimum thresholds for a qualified distribution center 863  
as set forth in division (F) (2) (z) of this section. 864

(aa) Receipts of an employer from payroll deductions 865  
relating to the reimbursement of the employer for advancing 866  
moneys to an unrelated third party on an employee's behalf; 867

(bb) Cash discounts allowed and taken;	868
(cc) Returns and allowances;	869
(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;	870 871 872 873 874 875 876 877 878 879 880 881 882 883
(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;	884 885 886 887
(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	888 889 890
(gg) (i) As used in this division:	891
(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section. "Qualified uranium receipts" does not include	892 893 894 895 896

any receipts with a situs in this state outside a uranium 897  
enrichment zone certified by the tax commissioner under division 898  
(F) (2) (gg) (ii) of this section. 899

(II) "Uranium enrichment zone" means all real property 900  
that is part of a uranium enrichment facility licensed by the 901  
United States nuclear regulatory commission and that was or is 902  
owned or controlled by the United States department of energy or 903  
its successor. 904

(ii) Any person that owns, leases, or operates real or 905  
tangible personal property constituting or located within a 906  
uranium enrichment zone may apply to the tax commissioner to 907  
have the uranium enrichment zone certified for the purpose of 908  
excluding qualified uranium receipts under division (F) (2) (gg) 909  
of this section. The application shall include such information 910  
that the tax commissioner prescribes. Within sixty days after 911  
receiving the application, the tax commissioner shall certify 912  
the zone for that purpose if the commissioner determines that 913  
the property qualifies as a uranium enrichment zone as defined 914  
in division (F) (2) (gg) of this section, or, if the tax 915  
commissioner determines that the property does not qualify, the 916  
commissioner shall deny the application or request additional 917  
information from the applicant. If the tax commissioner denies 918  
an application, the commissioner shall state the reasons for the 919  
denial. The applicant may appeal the denial of an application to 920  
the board of tax appeals pursuant to section 5717.02 of the 921  
Revised Code. If the applicant files a timely appeal, the tax 922  
commissioner shall conditionally certify the applicant's 923  
property. The conditional certification shall expire when all of 924  
the applicant's appeals are exhausted. Until final resolution of 925  
the appeal, the applicant shall retain the applicant's records 926  
in accordance with section 5751.12 of the Revised Code, 927

notwithstanding any time limit on the preservation of records 928  
under that section. 929

(hh) In the case of amounts collected by a licensed casino 930  
operator from casino gaming, amounts in excess of the casino 931  
operator's gross casino revenue. In this division, "casino 932  
operator" and "casino gaming" have the meanings defined in 933  
section 3772.01 of the Revised Code, and "gross casino revenue" 934  
has the meaning defined in section 5753.01 of the Revised Code. 935

(ii) Receipts realized from the sale of agricultural 936  
commodities by an agricultural commodity handler, both as 937  
defined in section 926.01 of the Revised Code, that is licensed 938  
by the director of agriculture to handle agricultural 939  
commodities in this state. 940

(jj) Qualifying integrated supply chain receipts. 941

As used in division (F) (2) (jj) of this section: 942

(i) "Qualifying integrated supply chain receipts" means 943  
receipts of a qualified integrated supply chain vendor from the 944  
sale of qualified property delivered to, or integrated supply 945  
chain services provided to, another qualified integrated supply 946  
chain vendor or to a retailer that is a member of the integrated 947  
supply chain. "Qualifying integrated supply chain receipts" does 948  
not include receipts of a person that is not a qualified 949  
integrated supply chain vendor from the sale of raw materials to 950  
a member of an integrated supply chain, or receipts of a member 951  
of an integrated supply chain from the sale of qualified 952  
property or integrated supply chain services to a person that is 953  
not a member of the integrated supply chain. 954

(ii) "Qualified property" means any of the following: 955

(I) Component parts used to hold, contain, package, or 956

dispense qualified products, excluding equipment;	957
(II) Work-in-process inventory that will become, comprise, or form a component part of a qualified product capable of being sold at retail, excluding equipment, machinery, furniture, and fixtures;	958 959 960 961
(III) Finished goods inventory that is a qualified product capable of being sold at retail in the inventory's present form.	962 963
(iii) "Qualified integrated supply chain vendor" means a person that is a member of an integrated supply chain and that provides integrated supply chain services within a qualified integrated supply chain district to a retailer that is a member of the integrated supply chain or to another qualified integrated supply chain vendor that is located within the same such district as the person but does not share a common owner with that person.	964 965 966 967 968 969 970 971
(iv) "Qualified product" means a personal care, health, or beauty product or an aromatic product, including a candle. "Qualified product" does not include a drug that may be dispensed only pursuant to a prescription, durable medical equipment, mobility enhancing equipment, or a prosthetic device, as those terms are defined in section 5739.01 of the Revised Code.	972 973 974 975 976 977 978
(v) "Integrated supply chain" means two or more qualified integrated supply chain vendors certified on the most recent list certified to the tax commissioner under this division that systematically collaborate and coordinate business operations with a retailer on the flow of tangible personal property from material sourcing through manufacturing, assembly, packaging, and delivery to the retailer to improve long-term financial	979 980 981 982 983 984 985

performance of each vendor and the supply chain that includes 986  
the retailer. 987

For the purpose of the certification required under this 988  
division, the reporting person for each retailer, on or before 989  
the first day of October of each year, shall certify to the tax 990  
commissioner a list of the qualified integrated supply chain 991  
vendors providing or receiving integrated supply chain services 992  
within a qualified integrated supply chain district for the 993  
ensuing calendar year. On or before the following first day of 994  
November, the commissioner shall issue a certificate to the 995  
retailer and to each vendor certified to the commissioner on 996  
that list. The certificate shall include the names of the 997  
retailer and of the qualified integrated supply chain vendors. 998

The retailer shall notify the commissioner of any changes 999  
to the list, including additions to or subtractions from the 1000  
list or changes in the name or legal entity of vendors certified 1001  
on the list, within sixty days after the date the retailer 1002  
becomes aware of the change. Within thirty days after receiving 1003  
that notification, the commissioner shall issue a revised 1004  
certificate to the retailer and to each vendor certified on the 1005  
list. The revised certificate shall include the effective date 1006  
of the change. 1007

Each recipient of a certificate issued pursuant to this 1008  
division shall maintain a copy of the certificate for four years 1009  
from the date the certificate was received. 1010

(vi) "Integrated supply chain services" means procuring 1011  
raw materials or manufacturing, processing, refining, 1012  
assembling, packaging, or repackaging tangible personal property 1013  
that will become finished goods inventory capable of being sold 1014  
at retail by a retailer that is a member of an integrated supply 1015

chain. 1016

(vii) "Retailer" means a person primarily engaged in 1017  
making retail sales and any member of that person's consolidated 1018  
elected taxpayer group or combined taxpayer group, whether or 1019  
not that member is primarily engaged in making retail sales. 1020

(viii) "Qualified integrated supply chain district" means 1021  
the parcel or parcels of land from which a retailer's integrated 1022  
supply chain that existed on September 29, 2015, provides or 1023  
receives integrated supply chain services, and to which all of 1024  
the following apply: 1025

(I) The parcel or parcels are located wholly in a county 1026  
having a population of greater than one hundred sixty-five 1027  
thousand but less than one hundred seventy thousand based on the 1028  
2010 federal decennial census. 1029

(II) The parcel or parcels are located wholly in the 1030  
corporate limits of a municipal corporation with a population 1031  
greater than seven thousand five hundred and less than eight 1032  
thousand based on the 2010 federal decennial census that is 1033  
partly located in the county described in division (F) (2) (jj) 1034  
(viii) (I) of this section, as those corporate limits existed on 1035  
September 29, 2015. 1036

(III) The aggregate acreage of the parcel or parcels 1037  
equals or exceeds one hundred acres. 1038

(kk) In the case of a railroad company described in 1039  
division (D) (9) of section 5727.01 of the Revised Code that 1040  
purchases dyed diesel fuel directly from a supplier as defined 1041  
by section 5736.01 of the Revised Code, an amount equal to the 1042  
product of the number of gallons of dyed diesel fuel purchased 1043  
directly from such a supplier multiplied by the average 1044

wholesale price for a gallon of diesel fuel as determined under 1045  
section 5736.02 of the Revised Code for the period during which 1046  
the fuel was purchased multiplied by a fraction, the numerator 1047  
of which equals the rate of tax levied by section 5736.02 of the 1048  
Revised Code less the rate of tax computed in section 5751.03 of 1049  
the Revised Code, and the denominator of which equals the rate 1050  
of tax computed in section 5751.03 of the Revised Code. 1051

(ll) Receipts realized by an out-of-state disaster 1052  
business from disaster work conducted in this state during a 1053  
disaster response period pursuant to a qualifying solicitation 1054  
received by the business. Terms used in division (F) (2) (ll) of 1055  
this section have the same meanings as in section 5703.94 of the 1056  
Revised Code. 1057

(mm) In the case of receipts from the sale or transfer of 1058  
a mortgage-backed security or a mortgage loan by a mortgage 1059  
lender holding a valid certificate of registration issued under 1060  
Chapter 1322. of the Revised Code or by a person that is a 1061  
member of the mortgage lender's consolidated elected taxpayer 1062  
group, an amount equal to the principal balance of the mortgage 1063  
loan. 1064

(nn) Any receipts for which the tax imposed by this 1065  
chapter is prohibited by the constitution or laws of the United 1066  
States or the constitution of this state. 1067

(3) In the case of a taxpayer when acting as a real estate 1068  
broker, "gross receipts" includes only the portion of any fee 1069  
for the service of a real estate broker, or service of a real 1070  
estate salesperson associated with that broker, that is retained 1071  
by the broker and not paid to an associated real estate 1072  
salesperson or another real estate broker. For the purposes of 1073  
this division, "real estate broker" and "real estate 1074

salesperson" have the same meanings as in section 4735.01 of the Revised Code.

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

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

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

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

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

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

(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.

(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:

(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. 1103

(2) Has during the calendar year payroll in this state of 1104  
at least fifty thousand dollars. Payroll in this state includes 1105  
all of the following: 1106

(a) Any amount subject to withholding by the person under 1107  
section 5747.06 of the Revised Code; 1108

(b) Any other amount the person pays as compensation to an 1109  
individual under the supervision or control of the person for 1110  
work done in this state; and 1111

(c) Any amount the person pays for services performed in 1112  
this state on its behalf by another. 1113

(3) Has during the calendar year taxable gross receipts of 1114  
at least five hundred thousand dollars. 1115

(4) Has at any time during the calendar year within this 1116  
state at least twenty-five per cent of the person's total 1117  
property, total payroll, or total gross receipts. 1118

(5) Is domiciled in this state as an individual or for 1119  
corporate, commercial, or other business purposes. 1120

(J) "Tangible personal property" has the same meaning as 1121  
in section 5739.01 of the Revised Code. 1122

(K) "Internal Revenue Code" means the Internal Revenue 1123  
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 1124  
used in this chapter that is not otherwise defined has the same 1125  
meaning as when used in a comparable context in the laws of the 1126  
United States relating to federal income taxes unless a 1127  
different meaning is clearly required. Any reference in this 1128  
chapter to the Internal Revenue Code includes other laws of the 1129  
United States relating to federal income taxes. 1130

(L) "Calendar quarter" means a three-month period ending 1131  
on the thirty-first day of March, the thirtieth day of June, the 1132  
thirtieth day of September, or the thirty-first day of December. 1133

(M) "Tax period" means the calendar quarter or calendar 1134  
year on the basis of which a taxpayer is required to pay the tax 1135  
imposed under this chapter. 1136

(N) "Calendar year taxpayer" means a taxpayer for which 1137  
the tax period is a calendar year. 1138

(O) "Calendar quarter taxpayer" means a taxpayer for which 1139  
the tax period is a calendar quarter. 1140

(P) "Agent" means a person authorized by another person to 1141  
act on its behalf to undertake a transaction for the other, 1142  
including any of the following: 1143

(1) A person receiving a fee to sell financial 1144  
instruments; 1145

(2) A person retaining only a commission from a 1146  
transaction with the other proceeds from the transaction being 1147  
remitted to another person; 1148

(3) A person issuing licenses and permits under section 1149  
1533.13 of the Revised Code; 1150

(4) A lottery sales agent holding a valid license issued 1151  
under section 3770.05 of the Revised Code; 1152

(5) A person acting as an agent of the division of liquor 1153  
control under section 4301.17 of the Revised Code. 1154

(Q) "Received" includes amounts accrued under the accrual 1155  
method of accounting. 1156

(R) "Reporting person" means a person in a consolidated 1157

elected taxpayer or combined taxpayer group that is designated 1158  
by that group to legally bind the group for all filings and tax 1159  
liabilities and to receive all legal notices with respect to 1160  
matters under this chapter, or, for the purposes of section 1161  
5751.04 of the Revised Code, a separate taxpayer that is not a 1162  
member of such a group. 1163

**Section 2.** That existing sections 5726.01, 5726.02, 1164  
5726.04, 5726.06, and 5751.01 of the Revised Code are hereby 1165  
repealed. 1166

**Section 3.** The amendment by this act of sections 5726.01, 1167  
5726.02, 5726.04, and 5726.06 of the Revised Code applies only 1168  
to bank organizations that first begin operations in the taxable 1169  
year in which this act takes effect or in any ensuing taxable 1170  
year. 1171

The amendment by this act of section 5751.01 of the 1172  
Revised Code applies to tax periods beginning on or after the 1173  
effective date of this section. 1174