

As Reported by the House Financial Institutions Committee

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Sub. H. B. No. 150

Representative Merrin

A BILL

To amend sections 5726.01, 5726.02, 5726.04, 1
5726.06, and 5751.01 of the Revised Code to 2
reduce the tax liability of newly formed banks 3
by up to one million dollars per year for their 4
first three years and to exclude the principal 5
balance of mortgage loans sold by a mortgage 6
lender from the lender's commercial activity tax 7
gross receipts. 8

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

Section 1. That sections 5726.01, 5726.02, 5726.04, 9
5726.06, and 5751.01 of the Revised Code be amended to read as 10
follows: 11

Sec. 5726.01. As used in this chapter: 12

(A) "Affiliated group" means a group of two or more 13
persons with fifty per cent or greater of the value of each 14
person's ownership interests owned or controlled directly, 15
indirectly, or constructively through related interests by 16
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 Code or a combined taxpayer group under section 5751.012 of the Revised Code.

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

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

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

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

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

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

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

(C) "Call report" means the consolidated reports of condition and income prescribed by the federal financial institutions examination council that a person is required to file with a federal regulatory agency pursuant to 12 U.S.C. 161, 12 U.S.C. 324, or 12 U.S.C. 1817.

(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 192
financial organization that is not included in a group described 193
in division (H) (1) or (2) of this section, the bank organization 194

or nonbank financial organization.	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 total equity capital of a financial institution apportioned to Ohio pursuant to section 5726.05 of the Revised Code.	219 220 221
(U) "Holding company" does not include a diversified savings and loan holding company, a grandfathered unitary	222 223

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

(W) "De novo bank organization" means a bank organization 234
that first began operations in the taxable year preceding the 235
current tax year or in either of the two immediately preceding 236
taxable years. 237

Sec. 5726.02. (A) For the purpose of funding the needs of 238
this state and its local governments ~~beginning with the tax year~~ 239
~~that commences on January 1, 2014, and continuing for every tax~~ 240
~~year thereafter,~~ 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 249
de novo bank organization is required to pay under this chapter 250
shall equal the greater of the minimum tax required under 251
division (A) (1) (a) of section 5726.04 of the Revised Code or the 252
amount by which the tax calculated under division ~~(A) (2)~~ (A) (1) 253

(b) of that section exceeds any credits allowed against the tax. 254
The amount of tax a de novo bank organization is required to pay 255
under this chapter shall equal the amount by which the tax 256
calculated under division (A)(2) of section 5726.04 of the 257
Revised Code exceeds any credits allowed against the tax. 258

Sec. 5726.04. (A) (1) The tax levied on a financial 259
institution other than a de novo bank organization under this 260
chapter shall be the greater of the following: 261

~~(1)~~ (a) A minimum tax equal to one thousand dollars; 262

~~(2)~~ (b) The product of the total Ohio equity capital of 263
the financial institution, as determined under this section, 264
multiplied by eight mills for each dollar of the first two 265
hundred million dollars of total Ohio equity capital, by four 266
mills for each dollar of total Ohio equity capital greater than 267
two hundred million and less than one billion three hundred 268
million dollars, and by two and one-half mills for each dollar 269
of total Ohio equity capital equal to or greater than one 270
billion three hundred million dollars. 271

(2) The tax levied on a de novo bank organization under 272
this chapter shall equal the difference obtained by subtracting 273
one million dollars from the amount of tax that would be 274
calculated for the de novo bank organization under division (A) 275
(1)(b) of this section, provided that if that difference is 276
equal to or less than zero, no tax shall be due for the taxable 277
year. 278

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

<u>division (E) (3) of section 5751.01 of the Revised Code.</u>	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 thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;	400 401 402 403
(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:	404 405 406 407 408 409
(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;	410 411 412 413
(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;	414 415 416 417 418 419
(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.	420 421 422 423 424 425 426 427

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

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

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

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

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

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

(c) In the case of a partnership, trust, or other 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 457
beneficial interests of all persons having such an interest in 458
the organization. 459

(5) A domestic insurance company or foreign insurance 460
company, as defined in section 5725.01 of the Revised Code, that 461
paid the insurance company premiums tax imposed by section 462
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 463
insurance company whose gross premiums are subject to tax under 464
section 3905.36 of the Revised Code based on one or more 465
measurement periods that include the entire tax period under 466
this chapter; 467

(6) A person that solely facilitates or services one or 468
more securitizations of phase-in-recovery property pursuant to a 469
final financing order as those terms are defined in section 470
4928.23 of the Revised Code. For purposes of this division, 471
"securitization" means transferring one or more assets to one or 472
more persons and then issuing securities backed by the right to 473
receive payment from the asset or assets so transferred. 474

(7) Except as otherwise provided in this division, a pre- 475
income tax trust as defined in division (FF) (4) of section 476
5747.01 of the Revised Code and any pass-through entity of which 477
such pre-income tax trust owns or controls, directly, 478
indirectly, or constructively through related interests, more 479
than five per cent of the ownership or equity interests. If the 480
pre-income tax trust has made a qualifying pre-income tax trust 481
election under division (FF) (3) of section 5747.01 of the 482
Revised Code, then the trust and the pass-through entities of 483
which it owns or controls, directly, indirectly, or 484
constructively through related interests, more than five per 485
cent of the ownership or equity interests, shall not be excluded 486

persons for purposes of the tax imposed under section 5751.02 of the Revised Code.	487 488
(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.	489 490
(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.	491 492 493 494 495 496 497
(1) The following are examples of gross receipts:	498
(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;	499 500
(b) Amounts realized from the taxpayer's performance of services for another;	501 502
(c) Amounts realized from another's use or possession of the taxpayer's property or capital;	503 504
(d) Any combination of the foregoing amounts.	505
(2) "Gross receipts" excludes the following amounts:	506
(a) Interest income except interest on credit sales;	507
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	508 509 510 511
(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal	512 513

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," 7 735
U.S.C. 1 et seq., as amended. 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 870
imposed by this chapter was paid in a prior quarterly tax 871
payment period. For the purpose of this division, "bad debts" 872

means any debts that have become worthless or uncollectible 873
between the preceding and current quarterly tax payment periods, 874
have been uncollected for at least six months, and that may be 875
claimed as a deduction under section 166 of the Internal Revenue 876
Code and the regulations adopted under that section, or that 877
could be claimed as such if the taxpayer kept its accounts on 878
the accrual basis. "Bad debts" does not include repossessed 879
property, uncollectible amounts on property that remains in the 880
possession of the taxpayer until the full purchase price is 881
paid, or expenses in attempting to collect any account 882
receivable or for any portion of the debt recovered; 883

(ee) Any amount realized from the sale of an account 884
receivable to the extent the receipts from the underlying 885
transaction giving rise to the account receivable were included 886
in the gross receipts of the taxpayer; 887

(ff) Any receipts directly attributed to a transfer 888
agreement or to the enterprise transferred under that agreement 889
under section 4313.02 of the Revised Code. 890

(gg) (i) As used in this division: 891

(I) "Qualified uranium receipts" means receipts from the 892
sale, exchange, lease, loan, production, processing, or other 893
disposition of uranium within a uranium enrichment zone 894
certified by the tax commissioner under division (F) (2) (gg) (ii) 895
of this section. "Qualified uranium receipts" does not include 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, 958
or form a component part of a qualified product capable of being 959
sold at retail, excluding equipment, machinery, furniture, and 960
fixtures; 961

(III) Finished goods inventory that is a qualified product 962
capable of being sold at retail in the inventory's present form. 963

(iii) "Qualified integrated supply chain vendor" means a 964
person that is a member of an integrated supply chain and that 965
provides integrated supply chain services within a qualified 966
integrated supply chain district to a retailer that is a member 967
of the integrated supply chain or to another qualified 968
integrated supply chain vendor that is located within the same 969
such district as the person but does not share a common owner 970
with that person. 971

(iv) "Qualified product" means a personal care, health, or 972
beauty product or an aromatic product, including a candle. 973
"Qualified product" does not include a drug that may be 974
dispensed only pursuant to a prescription, durable medical 975
equipment, mobility enhancing equipment, or a prosthetic device, 976
as those terms are defined in section 5739.01 of the Revised 977
Code. 978

(v) "Integrated supply chain" means two or more qualified 979
integrated supply chain vendors certified on the most recent 980
list certified to the tax commissioner under this division that 981
systematically collaborate and coordinate business operations 982
with a retailer on the flow of tangible personal property from 983
material sourcing through manufacturing, assembly, packaging, 984
and delivery to the retailer to improve long-term financial 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 1075
Revised Code. 1076

(4) A taxpayer's method of accounting for gross receipts 1077
for a tax period shall be the same as the taxpayer's method of 1078
accounting for federal income tax purposes for the taxpayer's 1079

federal taxable year that includes the tax period. If a 1080
taxpayer's method of accounting for federal income tax purposes 1081
changes, its method of accounting for gross receipts under this 1082
chapter shall be changed accordingly. 1083

(G) "Taxable gross receipts" means gross receipts situated 1084
to this state under section 5751.033 of the Revised Code. 1085

(H) A person has "substantial nexus with this state" if 1086
any of the following applies. The person: 1087

(1) Owns or uses a part or all of its capital in this 1088
state; 1089

(2) Holds a certificate of compliance with the laws of 1090
this state authorizing the person to do business in this state; 1091

(3) Has bright-line presence in this state; 1092

(4) Otherwise has nexus with this state to an extent that 1093
the person can be required to remit the tax imposed under this 1094
chapter under the Constitution of the United States. 1095

(I) A person has "bright-line presence" in this state for 1096
a reporting period and for the remaining portion of the calendar 1097
year if any of the following applies. The person: 1098

(1) Has at any time during the calendar year property in 1099
this state with an aggregate value of at least fifty thousand 1100
dollars. For the purpose of division (I)(1) of this section, 1101
owned property is valued at original cost and rented property is 1102
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 section 5747.06 of the Revised Code; 1107
1108
- (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 1109
1110
1111
- (c) Any amount the person pays for services performed in this state on its behalf by another. 1112
1113
- (3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars. 1114
1115
- (4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts. 1116
1117
1118
- (5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes. 1119
1120
- (J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code. 1121
1122
- (K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes. 1123
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- (L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December. 1131
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- (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