

**As Reported by the House Ways and Means Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. S. B. No. 235**

**Senator Roegner**

**Cosponsors: Senators Antani, Antonio, Brenner, Cirino, Dolan, Gavarone, Hackett, Hottinger, Huffman, S., Johnson, Kunze, Manning, McColley, Reineke, Romanchuk, Schaffer, Schuring, Sykes, Thomas, Wilson, Yuko Representatives Merrin, Riedel, Roemer**

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**A BILL**

To amend sections 128.47, 323.08, 718.05, 718.27, 1  
718.85, 718.89, 718.91, 3734.905, 4307.05, 2  
5725.222, 5726.30, 5727.28, 5727.91, 5728.061, 3  
5729.102, 5735.11, 5735.122, 5736.08, 5739.01, 4  
5739.02, 5739.03, 5739.07, 5739.104, 5741.02, 5  
5741.10, 5743.53, 5745.11, 5747.11, 5747.98, 6  
5749.08, 5751.08, and 5753.06 and to enact 7  
sections 122.91 and 5747.82 of the Revised Code 8  
to authorize tax incentives and to revise the 9  
law governing state and local taxation. 10

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

**Section 1.** That sections 128.47, 323.08, 718.05, 718.27, 11  
718.85, 718.89, 718.91, 3734.905, 4307.05, 5725.222, 5726.30, 12  
5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 5735.122, 13  
5736.08, 5739.01, 5739.02, 5739.03, 5739.07, 5739.104, 5741.02, 14  
5741.10, 5743.53, 5745.11, 5747.11, 5747.98, 5749.08, 5751.08, 15  
and 5753.06 be amended and sections 122.91 and 5747.82 of the 16  
Revised Code be enacted to read as follows: 17

Sec. 122.91. (A) As used in this section: 18

(1) "Qualifying individual" means an individual who holds 19  
a valid commercial driver's license or who is eligible to obtain 20  
such a license. 21

(2) "Commercial driver's license" and "commercial motor 22  
vehicle" have the same meanings as in section 4506.01 of the 23  
Revised Code. 24

(3) "Training expense" means any cost customarily incurred 25  
by an employer to train an employee who is a qualifying 26  
individual to obtain a commercial driver's license or to operate 27  
a commercial motor vehicle. "Training expense" shall not include 28  
such an employee's wages. 29

(4) "Tax credit-eligible training expense" means any 30  
training expense certified under division (B) of this section. 31

(5) "Director" means the director of development. 32

(B)(1) For calendar years 2023 through 2026, an employer 33  
may apply to the director, on or before the first day of 34  
December of each year and on a form prescribed by the director, 35  
to certify training expenses that an employer estimates the 36  
employer will incur during the following calendar year as tax 37  
credit-eligible training expenses. Within thirty days after 38  
receiving such an application, the director shall certify to 39  
each applicant the amount of the applicant's submitted expenses 40  
the director finds to be tax credit-eligible training expenses. 41  
The director shall not certify more than fifty thousand dollars 42  
of training expenses per year as tax credit-eligible training 43  
expenses for any employer. 44

(2) The director shall not certify more than three million 45  
dollars in tax credit-eligible training expenses for each 46

calendar year, increased by the sum of tax credit-eligible 47  
expenses the director was authorized to certify within the limit 48  
described in division (B) (2) of this section for preceding years 49  
that were not the basis of a tax credit certificate issued under 50  
division (C) (2) of this section in the current year or any 51  
preceding year. 52

(C) (1) An employer that incurs tax credit-eligible 53  
training expenses in a calendar year that were certified for 54  
that year under division (B) of this section may apply to the 55  
director for a nonrefundable credit against the tax imposed by 56  
section 5747.02 of the Revised Code. The credit shall equal one- 57  
half of the tax credit-eligible training expenses actually 58  
incurred by the employer in, and certified for, the preceding 59  
calendar year. The application may be submitted after the first 60  
day and before the twenty-first day of January of the year 61  
following the year for which the director certified the 62  
expenses. The application shall be submitted on a form 63  
prescribed by the director and shall, at a minimum, include an 64  
itemized list of tax credit-eligible training expenses incurred 65  
by the employer for each employee and the identities of those 66  
employees. 67

(2) If the director approves an application described in 68  
division (C) (1) of this section, the director, within sixty days 69  
after receipt of the application, shall issue a tax credit 70  
certificate to the applicant. The director in consultation with 71  
the tax commissioner shall prescribe the form and manner of 72  
issuing certificates. The director shall assign a unique 73  
identifying number to each tax credit certificate and shall 74  
record the certificate in a register devised and maintained by 75  
the director for that purpose. The certificate shall state the 76  
amount of the tax credit-eligible training expenses on which the 77

credit is based, the amount of the credit, and the date the 78  
certificate is issued. Upon issuance of a certificate, the 79  
director shall certify to the tax commissioner the name of the 80  
applicant, the amount of tax credit-eligible training expenses 81  
stated on the certificate, and any other information required by 82  
the rules adopted under this section. 83

(D) (1) An employer that has been issued a tax credit 84  
certificate under division (C) (2) of this section during the 85  
preceding calendar year shall file a form with the director 86  
identifying all employees, the training of which is the basis of 87  
that tax credit, whose employment with the employer was 88  
terminated during the preceding calendar year, the amount of the 89  
tax credit that is attributable to those employees, and any 90  
other information requested by the director. The form shall be 91  
prescribed by the director, and shall be filed on or before the 92  
twenty-first day of January of the year following the issuance 93  
year stated on the certificate. 94

(2) The director shall annually submit to the general 95  
assembly a report in accordance with division (B) of section 96  
101.68 of the Revised Code that includes the total number of 97  
employees described in division (D) (1) of this section and 98  
reported to the director for the preceding calendar year, the 99  
total amount of tax credits attributable to those employees, and 100  
any other information the director finds pertinent. 101

(E) The director in consultation with the tax commissioner 102  
shall adopt rules under Chapter 119. of the Revised Code for the 103  
administration of this section. Such rules shall set forth any 104  
applicable fees, any penalties for noncompliance with the 105  
reporting requirements prescribed in division (D) of this 106  
section, and the types of expenses that qualify as training 107

expenses for purposes of this section. 108

**Sec. 128.47.** Beginning January 1, 2014: 109

(A) A wireless service provider, reseller, seller, 110  
wireless service subscriber, or consumer of a prepaid wireless 111  
calling service may apply to the tax commissioner for a refund 112  
of wireless 9-1-1 charges described in division (B) of this 113  
section and of any penalties assessed with respect to such 114  
charges. The application shall be made on the form prescribed by 115  
the tax commissioner. The application shall be made not later 116  
than four years after the date of the illegal or erroneous 117  
payment ~~of the wireless 9-1-1 charge~~ by the subscriber or 118  
consumer, unless the wireless service provider, reseller, or 119  
seller waives the time limitation under division (A) (3) of 120  
section 128.462 of the Revised Code. If the time limitation is 121  
waived, the refund application period shall be extended for the 122  
same period as the waiver. 123

(B) (1) If a wireless service provider, reseller, or seller 124  
refunds to a subscriber or consumer the full amount of wireless 125  
9-1-1 charges that the subscriber or consumer paid illegally or 126  
erroneously, and if the provider, reseller, or seller remitted 127  
that amount under section 128.46 of the Revised Code, the tax 128  
commissioner shall refund that amount to the provider, reseller, 129  
or seller. 130

(2) If a wireless service provider, reseller, or seller 131  
has illegally or erroneously billed a subscriber or charged a 132  
consumer for a wireless 9-1-1 charge, and if the provider, 133  
reseller, or seller has not collected the charge but has 134  
remitted that amount under section 128.46 of the Revised Code, 135  
the tax commissioner shall refund that amount to the provider, 136  
reseller, or seller. 137

(C) (1) The tax commissioner may refund to a subscriber or consumer wireless 9-1-1 charges paid illegally or erroneously to a provider, reseller, or seller only if both of the following apply:

(a) The tax commissioner has not refunded the wireless 9-1-1 charges to the provider, reseller, or seller.

(b) The provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer.

(2) The tax commissioner may require the subscriber or consumer to obtain from the provider, reseller, or seller a written statement confirming that the provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer and that the provider, reseller, or seller has not filed an application for a refund under this section. The tax commissioner may also require the provider, reseller, or seller to provide this statement.

(D) On the filing of an application for a refund under this section, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the determined amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(E) Refunds granted under this section shall include interest as provided by section 5739.132 of the Revised Code.

**Sec. 323.08.** After certifying the tax list and duplicate pursuant to section 319.28 of the Revised Code, the county

auditor shall deliver a list of the tax rates, ~~tax reduction~~ 167  
~~factors,~~ expressed in mills for each one dollar of taxable 168  
value, and effective tax rates, expressed both in mills for each 169  
one dollar of taxable value and as a percentage of true value, 170  
assessed and applied against each of the two classes of property 171  
of the county to the county treasurer, who shall immediately 172  
cause a schedule of all such ~~tax rates and effective rates~~ to be 173  
published in a newspaper of general circulation in the county 174  
or, in lieu of such publication, the county treasurer may insert 175  
a copy of such schedule with each tax bill mailed. Such schedule 176  
shall specify particularly the rates and effective rates of 177  
taxation levied for all purposes on the tax list and duplicate 178  
for the support of the various taxing units within the county, 179  
expressed in dollars and cents for each one thousand dollars of 180  
valuation. ~~The effective tax rates shall be printed in boldface~~ 181  
~~type.~~ The schedule may also include, in the county auditor's 182  
discretion, the tax reduction factors for each of the two 183  
classes of property of the county, or it may exclude that 184  
information if the county auditor prefers the schedule to be 185  
more concise and more user-friendly. 186

The county treasurer shall publish notice of the date of 187  
the last date for payment of each installment of taxes once a 188  
week for two successive weeks prior to such date in a newspaper 189  
of general circulation within the county or as provided in 190  
section 7.16 of the Revised Code. The notice shall be inserted 191  
in a conspicuous place in the newspaper and shall also contain 192  
notice that any taxes paid after such date will accrue a penalty 193  
and interest and that failure to receive a tax bill will not 194  
avoid such penalty and interest. The notice shall contain a 195  
telephone number that may be called by taxpayers who have not 196  
received tax bills. 197

As used in this section and section 323.131 of the Revised Code, "effective tax rate" means the effective rate after making the reduction required by section 319.301, but before making the reduction required by section 319.302 of the Revised Code.

**Sec. 718.05.** (A) An annual return with respect to the income tax levied by a municipal corporation shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is liable for the tax. If the total credit allowed against the tax as described in division (D) of section 718.04 of the Revised Code for the year is equal to or exceeds the tax imposed by the municipal corporation, no return shall be required unless the municipal ordinance or resolution levying the tax requires the filing of a return in such circumstances.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by a municipal corporation in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) No municipal corporation shall deny spouses the ability to file a joint return.



(F) (1) Each return required to be filed under this section 227  
shall contain the signature of the taxpayer or the taxpayer's 228  
duly authorized agent and of the person who prepared the return 229  
for the taxpayer, and shall include the taxpayer's social 230  
security number or taxpayer identification number. Each return 231  
shall be verified by a declaration under penalty of perjury. 232

(2) A tax administrator may require a taxpayer who is an 233  
individual to include, with each annual return, amended return, 234  
or request for refund required under this section, copies of 235  
only the following documents: all of the taxpayer's Internal 236  
Revenue Service form W-2, "Wage and Tax Statements," including 237  
all information reported on the taxpayer's federal W-2, as well 238  
as taxable wages reported or withheld for any municipal 239  
corporation; the taxpayer's Internal Revenue Service form 1040 240  
or, in the case of a return or request required by a qualified 241  
municipal corporation, Ohio form IT-1040; and, with respect to 242  
an amended tax return or refund request, any other documentation 243  
necessary to support the refund request or the adjustments made 244  
in the amended return. An individual taxpayer who files the 245  
annual return required by this section electronically is not 246  
required to provide paper copies of any of the foregoing to the 247  
tax administrator unless the tax administrator requests such 248  
copies after the return has been filed. 249

(3) A tax administrator may require a taxpayer that is not 250  
an individual to include, with each annual net profit return, 251  
amended net profit return, or request for refund required under 252  
this section, copies of only the following documents: the 253  
taxpayer's Internal Revenue Service form 1041, form 1065, form 254  
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 255  
respect to an amended tax return or refund request, any other 256  
documentation necessary to support the refund request or the 257

adjustments made in the amended return. 258

A taxpayer that is not an individual and that files an 259  
annual net profit return electronically through the Ohio 260  
business gateway or in some other manner shall either mail the 261  
documents required under this division to the tax administrator 262  
at the time of filing or, if electronic submission is available, 263  
submit the documents electronically through the Ohio business 264  
gateway. The department of taxation shall publish a method of 265  
electronically submitting the documents required under this 266  
division through the Ohio business gateway on or before January 267  
1, 2016. The department shall transmit all documents submitted 268  
electronically under this division to the appropriate tax 269  
administrator. 270

(4) After a taxpayer files a tax return, the tax 271  
administrator may request, and the taxpayer shall provide, any 272  
information, statements, or documents required by the municipal 273  
corporation to determine and verify the taxpayer's municipal 274  
income tax liability. The requirements imposed under division 275  
(F) of this section apply regardless of whether the taxpayer 276  
files on a generic form or on a form prescribed by the tax 277  
administrator. 278

(G) (1) (a) Except as otherwise provided in this chapter, 279  
each individual income tax return required to be filed under 280  
this section shall be completed and filed as required by the tax 281  
administrator on or before the date prescribed for the filing of 282  
state individual income tax returns under division (G) of 283  
section 5747.08 of the Revised Code. The taxpayer shall complete 284  
and file the return or notice on forms prescribed by the tax 285  
administrator or on generic forms, together with remittance made 286  
payable to the municipal corporation or tax administrator. No 287

remittance is required if the amount shown to be due is ten 288  
dollars or less. A municipal corporation shall not require a 289  
qualifying employee whose income consists exclusively of exempt 290  
income described in division (C) (20) (b) or (c) of section 718.01 291  
of the Revised Code to file a return under this section. 292

(b) Except as otherwise provided in this chapter, each 293  
annual net profit return required to be filed under this section 294  
by a taxpayer that is not an individual shall be completed and 295  
filed as required by the tax administrator on or before the 296  
fifteenth day of the fourth month following the end of the 297  
taxpayer's taxable year. The taxpayer shall complete and file 298  
the return or notice on forms prescribed by the tax 299  
administrator or on generic forms, together with remittance made 300  
payable to the municipal corporation or tax administrator. No 301  
remittance is required if the amount shown to be due is ten 302  
dollars or less. 303

(2) (a) Any taxpayer that has duly requested an automatic 304  
six-month extension for filing the taxpayer's federal income tax 305  
return shall automatically receive an extension for the filing 306  
of a municipal income tax return. The extended due date of the 307  
municipal income tax return shall be the fifteenth day of the 308  
tenth month after the last day of the taxable year to which the 309  
return relates. 310

(b) A taxpayer that has not requested or received a six- 311  
month extension for filing the taxpayer's federal income tax 312  
return may request that the tax administrator grant the taxpayer 313  
a six-month extension of the date for filing the taxpayer's 314  
municipal income tax return. If the request is received by the 315  
tax administrator on or before the date the municipal income tax 316  
return is due, the tax administrator shall grant the taxpayer's 317

requested extension. 318

(c) An extension of time to file under division (G) (2) of 319  
this section is not an extension of the time to pay any tax due 320  
unless the tax administrator grants an extension of that date. 321

(3) If the tax commissioner extends for all taxpayers the 322  
date for filing state income tax returns under division (G) of 323  
section 5747.08 of the Revised Code, a taxpayer shall 324  
automatically receive an extension for the filing of a municipal 325  
income tax return. The extended due date of the municipal income 326  
tax return shall be the same as the extended due date of the 327  
state income tax return. 328

(4) If the tax administrator considers it necessary in 329  
order to ensure the payment of the tax imposed by the municipal 330  
corporation in accordance with this chapter, the tax 331  
administrator may require taxpayers to file returns and make 332  
payments otherwise than as provided in this section, including 333  
taxpayers not otherwise required to file annual returns. 334

(5) If a taxpayer receives an extension for the filing of 335  
a municipal income tax return under division (G) (2), (3), or (4) 336  
of this section, the tax administrator shall not make any 337  
inquiry or send any notice to the taxpayer with regard to the 338  
return on or before the date the taxpayer files the return or on 339  
or before the extended due date to file the return, whichever 340  
occurs first. 341

If a tax administrator violates division (G) (5) of this 342  
section, the municipal corporation shall reimburse the taxpayer 343  
for any reasonable costs incurred to respond to such inquiry or 344  
notice. 345

Division (G) (5) of this section does not apply if the tax 346

administrator has actual knowledge that the taxpayer failed to 347  
file for a federal extension as required to receive the 348  
extension under division (G) (2) (a) of this section or failed to 349  
file for an extension under division (G) (2) (b) of this section. 350

(6) To the extent that any provision in this division 351  
conflicts with any provision in section 718.052 of the Revised 352  
Code, the provision in that section prevails. 353

(H) (1) For taxable years beginning after 2015, a municipal 354  
corporation shall not require a taxpayer to remit tax with 355  
respect to net profits if the amount due is less than ten 356  
dollars. 357

(2) Except as provided in division (H) (3) of this section, 358  
any taxpayer not required to remit tax to a municipal 359  
corporation for a taxable year pursuant to division (H) (1) of 360  
this section shall file with the municipal corporation an annual 361  
net profit return under division (F) (3) of this section. 362

(3) A municipal corporation shall not require a person to 363  
file a net profit return under this section if the person's 364  
income consists exclusively of exempt income described in 365  
division (C) (20) (a) of section 718.01 of the Revised Code. 366

(I) (1) If any report, claim, statement, or other document 367  
required to be filed, or any payment required to be made, within 368  
a prescribed period or on or before a prescribed date under this 369  
chapter is delivered after that period or that date by United 370  
States mail to the tax administrator or other municipal official 371  
with which the report, claim, statement, or other document is 372  
required to be filed, or to which the payment is required to be 373  
made, the date of the postmark stamped on the cover in which the 374  
report, claim, statement, or other document, or payment is 375

mailed shall be deemed to be the date of delivery or the date of 376  
payment. "The date of postmark" means, in the event there is 377  
more than one date on the cover, the earliest date imprinted on 378  
the cover by the postal service. 379

(2) If a payment under this chapter is made by electronic 380  
funds transfer, the payment shall be considered to be made on 381  
the date of the timestamp assigned by the first electronic 382  
system receiving that payment. 383

(J) The amounts withheld by an employer, the agent of an 384  
employer, or an other payer as described in section 718.03 of 385  
the Revised Code shall be allowed to the recipient of the 386  
compensation as credits against payment of the tax imposed on 387  
the recipient by the municipal corporation, unless the amounts 388  
withheld were not remitted to the municipal corporation and the 389  
recipient colluded with the employer, agent, or other payer in 390  
connection with the failure to remit the amounts withheld. 391

(K) Each return required by a municipal corporation to be 392  
filed in accordance with this section shall include a box that 393  
the taxpayer may check to authorize another person, including a 394  
tax return preparer who prepared the return, to communicate with 395  
the tax administrator about matters pertaining to the return. 396  
The return or instructions accompanying the return shall 397  
indicate that by checking the box the taxpayer authorizes the 398  
tax administrator to contact the preparer or other person 399  
concerning questions that arise during the examination or other 400  
review of the return and authorizes the preparer or other person 401  
only to provide the tax administrator with information that is 402  
missing from the return, to contact the tax administrator for 403  
information about the examination or other review of the return 404  
or the status of the taxpayer's refund or payments, and to 405

respond to notices about mathematical errors, offsets, or return 406  
preparation that the taxpayer has received from the tax 407  
administrator and has shown to the preparer or other person. 408

(L) The tax administrator of a municipal corporation shall 409  
accept for filing a generic form of any income tax return, 410  
report, or document required by the municipal corporation in 411  
accordance with this chapter, provided that the generic form, 412  
once completed and filed, contains all of the information 413  
required by ordinance, resolution, or rules adopted by the 414  
municipal corporation or tax administrator, and provided that 415  
the taxpayer or tax return preparer filing the generic form 416  
otherwise complies with the provisions of this chapter and of 417  
the municipal corporation ordinance or resolution governing the 418  
filing of returns, reports, or documents. 419

(M) When income tax returns, reports, or other documents 420  
require the signature of a tax return preparer, the tax 421  
administrator shall accept a facsimile of such a signature in 422  
lieu of a manual signature. 423

(N) (1) As used in this division, "worksite location" has 424  
the same meaning as in section 718.011 of the Revised Code. 425

(2) A person may notify a tax administrator that the 426  
person does not expect to be a taxpayer with respect to the 427  
municipal corporation for a taxable year if both of the 428  
following conditions apply: 429

(a) The person was required to file a tax return with the 430  
municipal corporation for the immediately preceding taxable year 431  
because the person performed services at a worksite location 432  
within that municipal corporation. 433

(b) The person no longer provides services in the 434

municipal corporation and does not expect to be subject to the 435  
municipal corporation's income tax for the taxable year. 436

The person shall provide the notice in a signed affidavit 437  
that briefly explains the person's circumstances, including the 438  
location of the previous worksite location and the last date on 439  
which the person performed services or made any sales within the 440  
municipal corporation. The affidavit also shall include the 441  
following statement: "The affiant has no plans to perform any 442  
services within the municipal corporation, make any sales in the 443  
municipal corporation, or otherwise become subject to the tax 444  
levied by the municipal corporation during the taxable year. If 445  
the affiant does become subject to the tax levied by the 446  
municipal corporation for the taxable year, the affiant agrees 447  
to be considered a taxpayer and to properly register as a 448  
taxpayer with the municipal corporation if such a registration 449  
is required by the municipal corporation's resolutions, 450  
ordinances, or rules." The person shall sign the affidavit under 451  
penalty of perjury. 452

(c) If a person submits an affidavit described in division 453  
(N) (2) of this section, the tax administrator shall not require 454  
the person to file any tax return for the taxable year unless 455  
the tax administrator possesses information that conflicts with 456  
the affidavit or if the circumstances described in the affidavit 457  
change. Nothing in division (N) of this section prohibits the 458  
tax administrator from performing an audit of the person. 459

**Sec. 718.27.** (A) As used in this section: 460

(1) "Applicable law" means this chapter, the resolutions, 461  
ordinances, codes, directives, instructions, and rules adopted 462  
by a municipal corporation provided such resolutions, 463  
ordinances, codes, directives, instructions, and rules impose or 464



directly or indirectly address the levy, payment, remittance, or 465  
filing requirements of a municipal income tax. 466

(2) "Income tax," "estimated income tax," and "withholding 467  
tax" means any income tax, estimated income tax, and withholding 468  
tax imposed by a municipal corporation pursuant to applicable 469  
law, including at any time before January 1, 2016. 470

(3) A "return" includes any tax return, report, 471  
reconciliation, schedule, and other document required to be 472  
filed with a tax administrator or municipal corporation by a 473  
taxpayer, employer, any agent of the employer, or any other 474  
payer pursuant to applicable law, including at any time before 475  
January 1, 2016. 476

(4) "Federal short-term rate" means the rate of the 477  
average market yield on outstanding marketable obligations of 478  
the United States with remaining periods to maturity of three 479  
years or less, as determined under section 1274 of the Internal 480  
Revenue Code, for July of the current year. 481

(5) "Interest rate as described in division (A) of this 482  
section" means the federal short-term rate, rounded to the 483  
nearest whole number per cent, plus five per cent. The rate 484  
shall apply for the calendar year next following the July of the 485  
year in which the federal short-term rate is determined in 486  
accordance with division (A) (4) of this section. 487

(6) "Unpaid estimated income tax" means estimated income 488  
tax due but not paid by the date the tax is required to be paid 489  
under applicable law. 490

(7) "Unpaid income tax" means income tax due but not paid 491  
by the date the income tax is required to be paid under 492  
applicable law. 493

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B)(1) This section applies to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the municipal corporation on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted before January 1, 2016, of the municipal corporation to which the return is to be filed or the payment is to be made.

(C) Each municipal corporation levying a tax on income may impose on a taxpayer, employer, any agent of the employer, and any other payer, and must attempt to collect, the interest amounts and penalties prescribed under division (C) of this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipal corporation timely and full payment or

remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipal corporation any return required to be filed. 523  
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(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. 526  
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(2) (a) With respect to unpaid income tax and unpaid estimated income tax, a municipal corporation may impose a penalty equal to fifteen per cent of the amount not timely paid. 529  
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531

(b) With respect to any unpaid withholding tax, a municipal corporation may impose a penalty not exceeding fifty per cent of the amount not timely paid. 532  
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(3) With respect to returns other than estimated income tax returns, a municipal corporation may impose a penalty ~~of not exceeding~~ twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon ~~for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed one hundred fifty dollars for each failure,~~ except that a municipal corporation shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return. 535  
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(D) (1) With respect to the income taxes, estimated income taxes, withholding taxes, and returns, no municipal corporation shall impose, seek to collect, or collect any penalty, amount of interest, charges, or additional fees not described in this section. 545  
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(2) With respect to the income taxes, estimated income taxes, withholding taxes, and returns not described in division 550  
551

(A) of this section, nothing in this section requires a 552  
municipal corporation to refund or credit any penalty, amount of 553  
interest, charges, or additional fees that the municipal 554  
corporation has properly imposed or collected before January 1, 555  
2016. 556

(E) Nothing in this section limits the authority of a 557  
municipal corporation to abate or partially abate penalties or 558  
interest imposed under this section when the tax administrator 559  
determines, in the tax administrator's sole discretion, that 560  
such abatement is appropriate. 561

(F) By the thirty-first day of October of each year the 562  
municipal corporation shall publish the rate described in 563  
division (A) of this section applicable to the next succeeding 564  
calendar year. 565

(G) The municipal corporation may impose on the taxpayer, 566  
employer, any agent of the employer, or any other payer the 567  
municipal corporation's post-judgment collection costs and fees, 568  
including attorney's fees. 569

**Sec. 718.85.** (A) (1) For each taxable year, every taxpayer 570  
shall file an annual return. Such return, along with the amount 571  
of tax shown to be due on the return less the amount paid for 572  
the taxable year under section 718.88 of the Revised Code, shall 573  
be submitted to the tax commissioner, on a form and in the 574  
manner prescribed by the commissioner, on or before the 575  
fifteenth day of the fourth month following the end of the 576  
taxpayer's taxable year. 577

(2) The remittance shall be made payable to the treasurer 578  
of state and in the form prescribed by the tax commissioner. If 579  
the amount payable with the tax return is ten dollars or less, 580

no remittance is required. 581

(B) The tax commissioner shall immediately forward to the 582  
treasurer of state all amounts the commissioner receives 583  
pursuant to sections 718.80 to 718.95 of the Revised Code. The 584  
treasurer shall credit such amounts to the municipal net profit 585  
tax fund which is hereby created in the state treasury. 586

(C) (1) Each return required to be filed under this section 587  
shall contain the signature of the taxpayer or the taxpayer's 588  
duly authorized agent and of the person who prepared the return 589  
for the taxpayer, and shall include the taxpayer's 590  
identification number. Each return shall be verified by a 591  
declaration under penalty of perjury. 592

(2) (a) The tax commissioner may require a taxpayer to 593  
include, with each annual tax return, amended return, or request 594  
for refund filed with the commissioner under sections 718.80 to 595  
718.95 of the Revised Code, copies of any relevant documents or 596  
other information. 597

(b) A taxpayer that files an annual tax return 598  
electronically through the Ohio business gateway or in another 599  
manner as prescribed by the tax commissioner shall either submit 600  
the documents required under this division electronically as 601  
prescribed at the time of filing or, if electronic submission is 602  
not available, mail the documents to the tax commissioner. The 603  
department of taxation shall publish a method of electronically 604  
submitting the documents required under this division on or 605  
before January 1, 2019. 606

(3) After a taxpayer files a tax return, the tax 607  
commissioner may request, and the taxpayer shall provide, any 608  
information, statements, or documents required to determine and 609

verify the taxpayer's municipal income tax. 610

(D) (1) (a) Any taxpayer that has duly requested an 611  
automatic extension for filing the taxpayer's federal income tax 612  
return shall automatically receive an extension for the filing 613  
of a tax return with the commissioner under this section. The 614  
extended due date of the return shall be the fifteenth day of 615  
the tenth month after the last day of the taxable year to which 616  
the return relates. 617

(b) A taxpayer that has not requested or received a six- 618  
month extension for filing the taxpayer's federal income tax 619  
return may request that the commissioner grant the taxpayer a 620  
six-month extension of the date for filing the taxpayer's 621  
~~municipal income~~ tax return. If the commissioner receives the 622  
request on or before the date the ~~municipal income~~ tax return is 623  
due, the commissioner shall grant the taxpayer's extension 624  
request. 625

(c) An extension of time to file under division (D) (1) of 626  
this section is not an extension of the time to pay any tax due 627  
unless the tax commissioner grants an extension of that date. 628

(2) If the commissioner considers it necessary in order to 629  
ensure payment of a tax imposed in accordance with section 630  
718.04 of the Revised Code, the commissioner may require 631  
taxpayers to file returns and make payments otherwise than as 632  
provided in this section, including taxpayers not otherwise 633  
required to file annual returns. 634

(3) If a taxpayer receives an extension for the filing of 635  
a tax return under division (D) (1) or (2) of this section, the 636  
commissioner shall not make any inquiry or send any notice to 637  
the taxpayer with regard to the return on or before the date the 638

taxpayer files the return or on or before the extended due date 639  
to file the return, whichever occurs first. 640

If the commissioner violates division (D)(3) of this 641  
section, the commissioner shall reimburse the taxpayer for any 642  
reasonable costs incurred to respond to such inquiry or notice. 643  
Such reimbursement shall be paid from the general revenue fund. 644

Division (D)(3) of this section does not apply if the 645  
commissioner has actual knowledge that the taxpayer failed to 646  
file for a federal extension as required to receive the 647  
extension under division (D)(1)(a) of this section or failed to 648  
file for an extension under division (D)(1)(b) of this section. 649

(E) Each return required to be filed in accordance with 650  
this section shall include a box that the taxpayer may check to 651  
authorize another person, including a tax return preparer who 652  
prepared the return, to communicate with the tax commissioner 653  
about matters pertaining to the return. The return or 654  
instructions accompanying the return shall indicate that by 655  
checking the box the taxpayer authorizes the commissioner to 656  
contact the preparer or other person concerning questions that 657  
arise during the examination or other review of the return and 658  
authorizes the preparer or other person only to provide the 659  
commissioner with information that is missing from the return, 660  
to contact the commissioner for information about the 661  
examination or other review of the return or the status of the 662  
taxpayer's refund or payments, and to respond to notices about 663  
mathematical errors, offsets, or return preparation that the 664  
taxpayer has received from the commissioner and has shown to the 665  
preparer or other person. 666

(F) When income tax returns or other documents require the 667  
signature of a tax return preparer, the tax commissioner shall 668

accept a facsimile or electronic version of such a signature in 669  
lieu of a manual signature. 670

**Sec. 718.89.** (A) In addition to any other penalty imposed 671  
by sections 718.80 to 718.95 or Chapter 5703. of the Revised 672  
Code, the following penalties shall apply: 673

(1) If a taxpayer required to file a tax return under 674  
sections 718.80 to 718.95 of the Revised Code fails to make and 675  
file the return within the time prescribed, including any 676  
extensions of time granted by the tax commissioner, the 677  
commissioner may impose a penalty not exceeding twenty-five 678  
dollars ~~per month or fraction of a month, for each month or~~ 679  
~~fraction of a month elapsing between the due date, including~~ 680  
~~extensions of the due date, and the date on which the return is~~ 681  
~~filed. The aggregate penalty, per instance, under this division~~ 682  
~~shall not exceed one hundred fifty dollars, except that the~~ 683  
commissioner shall abate or refund the penalty assessed on a 684  
taxpayer's first failure to timely file a return after the 685  
taxpayer files that return. 686

(2) If a person required to file a tax return 687  
electronically under sections 718.80 to 718.95 of the Revised 688  
Code fails to do so, the commissioner may impose a penalty not 689  
to exceed the following: 690

(a) For each of the first two failures, five per cent of 691  
the amount required to be reported on the return; 692

(b) For the third and any subsequent failure, ten per cent 693  
of the amount required to be reported on the return. 694

(3) If a taxpayer that has made the election allowed under 695  
section 718.80 of the Revised Code fails to timely pay an amount 696  
of tax required to be paid under this chapter, the commissioner 697



may impose a penalty equal to fifteen per cent of the amount not 698  
timely paid. 699

(4) If a taxpayer files what purports to be a tax return 700  
required by sections 718.80 to 718.95 of the Revised Code that 701  
does not contain information upon which the substantial 702  
correctness of the return may be judged or contains information 703  
that on its face indicates that the return is substantially 704  
incorrect, and the filing of the return in that manner is due to 705  
a position that is frivolous or a desire that is apparent from 706  
the return to delay or impede the administration of sections 707  
718.80 to 718.95 of the Revised Code, a penalty of up to five 708  
hundred dollars may be imposed. 709

(5) If a taxpayer makes a fraudulent attempt to evade the 710  
reporting or payment of the tax required to be shown on any 711  
return required under sections 718.80 to 718.95 of the Revised 712  
Code, a penalty may be imposed not exceeding the greater of one 713  
thousand dollars or one hundred per cent of the tax required to 714  
be shown on the return. 715

(6) If any person makes a false or fraudulent claim for a 716  
refund under section 718.91 of the Revised Code, a penalty may 717  
be imposed not exceeding the greater of one thousand dollars or 718  
one hundred per cent of the claim. Any penalty imposed under 719  
this division, any refund issued on the claim, and interest on 720  
any refund from the date of the refund, may be assessed under 721  
section 718.90 of the Revised Code without regard to any time 722  
limitation for the assessment imposed by division (A) of that 723  
section. 724

(B) For purposes of this section, the tax required to be 725  
shown on a tax return shall be reduced by the amount of any part 726  
of the tax paid on or before the date, including any extensions 727

of the date, prescribed for filing the return. 728

(C) Each penalty imposed under this section shall be in 729  
addition to any other penalty imposed under this section. All or 730  
part of any penalty imposed under this section may be abated by 731  
the tax commissioner. The commissioner may adopt rules governing 732  
the imposition and abatement of such penalties. 733

(D) All amounts collected under this section shall be 734  
considered as taxes collected under sections 718.80 to 718.95 of 735  
the Revised Code and shall be credited and distributed to 736  
municipal corporations in the same proportion as the underlying 737  
tax liability is required to be distributed to such municipal 738  
corporations under section 718.83 of the Revised Code. 739

**Sec. 718.91.** (A) An application to refund to a taxpayer 740  
~~the amount of taxes paid on any illegal, erroneous, or excessive~~ 741  
~~payment of tax under sections 718.80 to 718.95 of the Revised~~ 742  
~~Code, including assessments, amounts that were overpaid, paid~~ 743  
illegally or erroneously, or paid on an illegal or erroneous 744  
assessment pursuant to sections 718.80 to 718.95 of the Revised 745  
Code shall be filed with the tax commissioner within three years 746  
after the date of the illegal, erroneous, or excessive payment 747  
~~of the tax~~, or within any additional period allowed by division 748  
(A) of section 718.90 of the Revised Code. The application shall 749  
be filed in the form prescribed by the tax commissioner. 750

(B) (1) On the filing of a refund application, the tax 751  
commissioner shall determine the amount of refund to which the 752  
applicant is entitled. The amount determined shall be based on 753  
the amount overpaid per return or assessment. If the amount is 754  
greater than ten dollars and not less than that claimed, the 755  
commissioner shall certify that amount to the director of budget 756  
and management and the treasurer of state for payment from the 757

tax refund fund created in section 5703.052 of the Revised Code. 758  
If the amount is greater than ten dollars but less than that 759  
claimed, the commissioner shall proceed in accordance with 760  
section 5703.70 of the Revised Code. 761

(2) Upon issuance of a refund under this section, the 762  
commissioner shall notify each municipal corporation of the 763  
amount refunded to the taxpayer attributable to that municipal 764  
corporation, which shall be deducted from the municipal 765  
corporation's next distribution under section 718.83 of the 766  
Revised Code. 767

(C) Any portion of a refund determined under division (B) 768  
of this section that is not issued within ninety days after such 769  
determination shall bear interest at the rate per annum 770  
prescribed by section 5703.47 of the Revised Code from the 771  
ninety-first day after such determination until the day the 772  
refund is paid or credited. On an illegal or erroneous 773  
assessment, interest shall be paid at that rate from the date of 774  
payment on the illegal or erroneous assessment until the day the 775  
refund is paid or credited. 776

**Sec. 3734.905.** (A) The treasurer of state shall refund the 777  
fee imposed by section 3734.901 of the Revised Code paid 778  
illegally or erroneously, or paid on an illegal or erroneous 779  
assessment, or any penalty assessed with respect to such a fee. 780  
Applications for refund shall be filed with the tax commissioner 781  
on a form prescribed by the commissioner, within four years of 782  
the illegal or erroneous payment ~~of the fee.~~ 783

On the filing of the application, the commissioner shall 784  
determine the amount of refund to which the applicant is 785  
entitled. If the amount is not less than that claimed, the 786  
commissioner shall certify the amount to the director of budget 787

and management and treasurer of state for payment from the tax 788  
refund fund created by section 5703.052 of the Revised Code. If 789  
the amount is less than that claimed, the commissioner shall 790  
proceed in accordance with section 5703.70 of the Revised Code. 791

The certified amount shall include interest calculated at 792  
the rate per annum prescribed by section 5703.47 of the Revised 793  
Code from the date of overpayment to the date of the 794  
commissioner's certification. 795

(B) When the fee imposed pursuant to section 3734.901 of 796  
the Revised Code has been paid on tires that are sold by a 797  
retail dealer or wholesale distributor to a motor vehicle 798  
manufacturer, or to a wholesale distributor or retail dealer for 799  
the purpose of resale outside this state, the seller in this 800  
state is entitled to a refund of the amount of the fee actually 801  
paid on the tires. To obtain a refund under this division, the 802  
seller shall apply to the tax commissioner, shall furnish 803  
documentary evidence satisfactory to the commissioner that the 804  
price paid by the purchaser did not include the fee, and shall 805  
provide the name and address of the purchaser to the 806  
commissioner. The seller shall apply on the form prescribed by 807  
the commissioner, within four years after the date of the sale. 808  
Upon receipt of an application, the commissioner shall determine 809  
the amount of any refund due and shall certify that amount to 810  
the director of budget and management and the treasurer of state 811  
for payment from the tax refund fund created in section 5703.052 812  
of the Revised Code. The certified amount shall include interest 813  
calculated at the rate per annum prescribed by section 5703.47 814  
of the Revised Code from the date of overpayment to the date of 815  
the commissioner's certification. 816

(C) If any person entitled to a refund ~~of fees~~ under this 817

section, or section 5703.70 of the Revised Code, is indebted to 818  
the state for any tax administered by the tax commissioner, or 819  
any charge, penalties, or interest arising from such tax, the 820  
amount allowable on the application for refund first shall be 821  
applied in satisfaction of the debt. 822

**Sec. 4307.05.** (A) The tax commissioner shall refund to 823  
persons required to pay the tax levied under section 4301.42, 824  
4301.421, 4301.424, 4301.43, 4301.432, 4303.33, or 4305.01 of 825  
the Revised Code ~~the amount of tax amounts~~ paid illegally or 826  
erroneously or paid on an illegal or erroneous assessment. 827  
Applications for refund shall be filed with the commissioner, on 828  
the form prescribed by the commissioner, within three years from 829  
the date of the illegal or erroneous payment ~~of the tax or~~ 830  
~~assessment.~~ 831

On the filing of the application, the commissioner shall 832  
determine the amount of the refund to which the applicant is 833  
entitled. If the amount is not less than that claimed, the 834  
commissioner shall certify the amount to the director of budget 835  
and management and treasurer of state for payment from the tax 836  
refund fund created by section 5703.052 of the Revised Code. If 837  
the amount is less than that claimed, the commissioner shall 838  
proceed in accordance with section 5703.70 of the Revised Code. 839

(B) The holder of a B-3 permit is entitled to a refund of 840  
the actual amount of tax paid on wine sold for sacramental 841  
purposes, upon the conditions that the permit holder make 842  
affidavit that the wine was so sold, that the tax had been paid 843  
on the wine, and that the permit holder furnish both of the 844  
following: 845

(1) A written acknowledgment from the purchaser that the 846  
purchaser has received the wine and that the price paid did not 847

include the tax; 848

(2) The name and address of the purchaser. 849

Application for a refund shall be made as an application 850  
for refund of ~~tax~~amounts erroneously paid and shall be subject 851  
to the requirements and procedures of division (A) of this 852  
section. On the filing of the application, the commissioner 853  
shall determine the amount of refund due and certify that amount 854  
to the director of budget and management and treasurer of state 855  
for payment from the tax refund fund. When a refund is granted 856  
for payment of an illegal or erroneous assessment issued by the 857  
commissioner, the refund shall include interest on the amount of 858  
the refund from the date of the overpayment. The interest shall 859  
be computed at the rate per annum prescribed by section 5703.47 860  
of the Revised Code. 861

**Sec. 5725.222.** (A) An application to refund to a domestic 862  
insurance company any taxes imposed by section 3737.71 of the 863  
Revised Code or amounts imposed under this chapter that are 864  
overpaid, paid illegally or erroneously, or paid on any illegal, 865  
erroneous, or excessive assessment, with interest thereon as 866  
provided by section 5725.221 of the Revised Code, shall be filed 867  
with the superintendent of insurance, on the form prescribed by 868  
the superintendent, within three years after the date of the 869  
illegal, erroneous, or excessive payment ~~of the tax~~. No refund 870  
shall be allowed unless an application has been filed in 871  
accordance with this section. The time limit imposed under this 872  
division may be extended if both the domestic insurance company 873  
and the superintendent of insurance agree in writing to the 874  
extension. 875

(B) Except as otherwise provided in this division, the 876  
superintendent may make an assessment against a domestic 877

insurance company for any deficiency for the period for which a 878  
report, tax return, or tax payment is due for any taxes imposed 879  
by section 3737.71 of the Revised Code or this chapter, based on 880  
any information in the superintendent's possession. No 881  
assessment shall be made against a domestic insurance company 882  
more than three years after the later of the final date the 883  
report, tax return, or tax payment subject to the assessment was 884  
required to be filed or paid, or the date the report or tax 885  
return was filed, provided that there shall be no bar if the 886  
domestic insurance company failed to file the required report or 887  
tax return or if the deficiency results from fraud or any 888  
felonious act. The time limit may be extended if both the 889  
domestic insurance company and the superintendent agree in 890  
writing to the extension. For the purposes of this division, an 891  
assessment is made on the date the notification of the 892  
assessment is sent by the department of insurance or the date of 893  
an invoice for the assessment from the treasurer of state, 894  
whichever is earlier. 895

**Sec. 5726.30.** (A) The tax commissioner shall refund ~~the~~ 896  
~~amount of taxes~~ amounts imposed under this chapter that a person 897  
overpaid, paid illegally or erroneously, or paid on an illegal 898  
or erroneous assessment. The person shall file an application 899  
for refund with the tax commissioner, on the form prescribed by 900  
the commissioner, within four years after the date of the 901  
illegal or erroneous payment ~~of the tax~~, or within any 902  
additional period allowed under division (B) of section 5726.20 903  
of the Revised Code. The applicant shall provide the amount of 904  
the requested refund along with the claimed reasons for, and 905  
documentation to support, the issuance of a refund. 906

For purposes of this division, a payment that an applicant 907  
made before the due date for filing the report to which the 908

payment relates shall be deemed to have been made on the due 909  
date of the report. 910

(B) Upon the filing of a refund application, the tax 911  
commissioner shall determine the amount of refund to which the 912  
applicant is entitled. If the amount is not less than that 913  
claimed, the commissioner shall certify the amount to the 914  
director of budget and management and treasurer of state for 915  
payment from the tax refund fund created under section 5703.052 916  
of the Revised Code. If the amount is less than that claimed, 917  
the commissioner shall proceed in accordance with section 918  
5703.70 of the Revised Code. 919

(C) (1) Except as provided in division (C) (2) of this 920  
section, interest on a refund applied for under this section, 921  
computed at the rate provided for in section 5703.47 of the 922  
Revised Code, shall be allowed from the later of the date the 923  
~~tax amount~~ was paid or the date the ~~tax~~ payment was due until 924  
the refund is paid. 925

(2) No interest shall be allowed under this section on an 926  
amount refunded to a person to the extent that the refund 927  
results from the allowance of a refundable credit against the 928  
tax imposed by section 5726.02 of the Revised Code. 929

**Sec. 5727.28.** (A) The tax commissioner shall refund to a 930  
natural gas company or combined company subject to the tax 931  
imposed by section 5727.24 of the Revised Code, ~~the amount of~~ 932  
~~tax amounts~~ paid illegally or erroneously, or paid on an 933  
illegal or erroneous assessment. Applications for a refund shall 934  
be filed with the tax commissioner, on a form prescribed by the 935  
commissioner, within four years of the illegal or erroneous 936  
payment ~~of the tax~~. 937



On the filing of the application, the commissioner shall 938  
determine the amount of refund to which the applicant is 939  
entitled. If the amount is not less than that claimed, the 940  
commissioner shall notify the director of budget and management 941  
and issue the refund from the tax refund fund under section 942  
5703.052 of the Revised Code. If the amount is less than that 943  
claimed, the commissioner shall proceed in accordance with 944  
section 5703.70 of the Revised Code. 945

If the application for refund is for ~~taxes paid on payment~~ 946  
of an illegal or erroneous assessment, the commissioner shall 947  
include in the certified amount interest calculated at the rate 948  
per annum prescribed by section 5703.47 of the Revised Code from 949  
the date of overpayment to the date of the commissioner's 950  
certification. 951

(B) If a natural gas company or combined company entitled 952  
to a refund ~~of taxes~~ under this section, or section 5703.70 of 953  
the Revised Code, is indebted to the state for any tax or fee 954  
administered by the tax commissioner that is paid to the state, 955  
or any charge, penalty, or interest arising from such a tax or 956  
fee, the amount refundable may be applied in satisfaction of 957  
that debt. If the amount refundable is less than the amount of 958  
the debt, it may be applied in partial satisfaction of the debt. 959  
If the amount refundable is greater than the amount of the debt, 960  
the amount remaining after satisfaction of the debt shall be 961  
refunded. 962

(C) In lieu of granting a refund under division (A) or (B) 963  
of this section, the tax commissioner may allow a natural gas 964  
company or combined company to claim a credit of the amount of 965  
the tax refund on the return for the period during which the tax 966  
became refundable. The commissioner may require the company to 967

submit information to support a claim for a credit under this 968  
division, and the commissioner may disallow the credit if the 969  
information is not provided. 970

**Sec. 5727.91.** (A) The treasurer of state shall refund the 971  
amount of tax paid under section 5727.81 or 5727.811 of the 972  
Revised Code that was paid illegally or erroneously, or paid on 973  
an illegal or erroneous assessment, or any penalty assessed with 974  
respect to such taxes. A natural gas distribution company, an 975  
electric distribution company, or a self-assessing purchaser 976  
shall file an application for a refund with the tax commissioner 977  
on a form prescribed by the commissioner, within four years of 978  
the illegal or erroneous payment ~~of the tax.~~ 979

On the filing of the application, the commissioner shall 980  
determine the amount of refund to which the applicant is 981  
entitled. If the amount is not less than that claimed, the 982  
commissioner shall certify that amount to the director of budget 983  
and management and the treasurer of state for payment from the 984  
tax refund fund under section 5703.052 of the Revised Code. If 985  
the amount is less than that claimed, the commissioner shall 986  
proceed in accordance with section 5703.70 of the Revised Code. 987

The commissioner shall include in the certified amount 988  
interest calculated at the rate per annum prescribed by section 989  
5703.47 of the Revised Code from the date of overpayment to the 990  
date of the commissioner's certification. 991

(B) If a natural gas distribution company or an electric 992  
distribution company entitled to a refund ~~of taxes~~ under this 993  
section, or section 5703.70 of the Revised Code, is indebted to 994  
the state for any tax or fee administered by the tax 995  
commissioner that is paid to the state, or any charge, penalty, 996  
or interest arising from such a tax or fee, the amount 997

refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the natural gas distribution company or electric distribution company has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

(C) (1) Any electric distribution company that can substantiate to the tax commissioner that the tax imposed by section 5727.81 of the Revised Code was paid on electricity distributed via wires and consumed at a location outside of this state may claim a refund in the manner and within the time period prescribed in division (A) of this section.

(2) Any natural gas distribution company that can substantiate to the tax commissioner that the tax imposed by section 5727.811 of the Revised Code was paid on natural gas distributed via its facilities and consumed at a location outside of this state may claim a refund in the manner and within the time period prescribed in division (A) of this section.

(3) If the commissioner certifies a refund based on an application filed under division (C) (1) or (2) of this section, the commissioner shall include in the certified amount interest calculated at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.

(D) Before a refund is issued under this section or

section 5703.70 of the Revised Code, a natural gas company or an 1028  
electric distribution company shall certify, as prescribed by 1029  
the tax commissioner, that it either did not include the tax 1030  
imposed by section 5727.81 of the Revised Code in the case of an 1031  
electric distribution company, or the tax imposed by section 1032  
5727.811 of the Revised Code in the case of a natural gas 1033  
distribution company, in its distribution charge to its customer 1034  
upon which a refund of the tax is claimed, or it has refunded or 1035  
credited to the customer the excess distribution charge related 1036  
to the tax that was erroneously included in the customer's 1037  
distribution charge. 1038

**Sec. 5728.061.** The treasurer of state shall refund the 1039  
amount of fuel use taxes overpaid, paid illegally or 1040  
erroneously, or paid on any illegal or erroneous assessment, or 1041  
any penalty assessed with respect to such taxes. Applications 1042  
for refund shall be filed with the tax commissioner, on the form 1043  
prescribed by the commissioner, within four years from the date 1044  
of the overpayment, the illegal or erroneous payment ~~of the tax,~~ 1045  
or the payment of the illegal or erroneous assessment. An 1046  
application shall be filed by the person who made the payment of 1047  
~~the tax~~ for which the refund is claimed. When a refund is 1048  
granted for payment of an illegal or erroneous assessment issued 1049  
by the commissioner, the refund shall include interest on the 1050  
amount of the refund from the date of the payment. The interest 1051  
shall be computed at the rate per annum prescribed by section 1052  
5703.47 of the Revised Code. 1053

On the filing of the application, the commissioner shall 1054  
determine the amount of refund to which the applicant is 1055  
entitled. If the amount is not less than that claimed, the 1056  
commissioner shall certify the amount to the director of budget 1057  
and management and treasurer of state for payment from the tax 1058

refund fund created by section 5703.052 of the Revised Code. If 1059  
the amount is less than that claimed, the commissioner shall 1060  
proceed in accordance with section 5703.70 of the Revised Code. 1061

**Sec. 5729.102.** (A) An application to refund to a foreign 1062  
insurance company any taxes imposed by section 3737.71 of the 1063  
Revised Code or amounts imposed under this chapter that are 1064  
overpaid, paid illegally or erroneously, or paid on any illegal, 1065  
erroneous, or excessive assessment, with interest thereon as 1066  
provided by section 5729.101 of the Revised Code, shall be filed 1067  
with the superintendent of insurance, on the form prescribed by 1068  
the superintendent, within three years after the date of the 1069  
illegal, erroneous, or excessive payment ~~of the tax~~. No refund 1070  
shall be allowed unless an application has been filed in 1071  
accordance with this section. The time limit imposed under this 1072  
division may be extended if both the foreign insurance company 1073  
and the superintendent of insurance agree in writing to the 1074  
extension. 1075

(B) Except as otherwise provided in this division, the 1076  
superintendent may make an assessment against a foreign 1077  
insurance company for any deficiency for the period for which a 1078  
report, tax return, or tax payment is due for any taxes imposed 1079  
by section 3737.71 of the Revised Code or this chapter, based on 1080  
any information in the superintendent's possession. No 1081  
assessment shall be made against a foreign insurance company 1082  
more than three years after the later of the final date the 1083  
report, tax return, or tax payment subject to the assessment was 1084  
required to be filed or paid, or the date the report or tax 1085  
return was filed, provided that there shall be no bar if the 1086  
foreign insurance company failed to file the required report or 1087  
tax return or if the deficiency results from fraud or any 1088  
felonious act. The time limit may be extended if both the 1089

foreign insurance company and the superintendent agree in 1090  
writing to the extension. For the purposes of this division, an 1091  
assessment is made on the date the notification of the 1092  
assessment is sent by the department of insurance or the date of 1093  
an invoice for the assessment from the treasurer of state, 1094  
whichever is earlier. 1095

**Sec. 5735.11.** (A) If the tax or any portion of the tax 1096  
imposed by this chapter, whether determined by the tax 1097  
commissioner or the motor fuel dealer, is not paid on or before 1098  
the date prescribed in section 5735.06 of the Revised Code, 1099  
interest shall be collected and paid in the same manner as the 1100  
tax upon the unpaid amount, computed at the rate per annum 1101  
prescribed by section 5703.47 of the Revised Code, from the date 1102  
prescribed for payment of the tax to the date of payment or to 1103  
the date an assessment is issued under section 5735.12 or 1104  
5735.121 of the Revised Code, whichever occurs first. Interest 1105  
may be collected by assessment in the manner provided in section 1106  
5735.12 or 5735.121 of the Revised Code. All interest shall be 1107  
paid in the same manner as the tax and shall be considered as 1108  
revenue arising from the portion of the tax described in 1109  
division (A) of section 5735.05 of the Revised Code. 1110

(B) Interest shall be allowed and paid upon any refund 1111  
granted in respect to the payment of an illegal or erroneous 1112  
assessment ~~for any tax~~ imposed under this chapter from the date 1113  
of the overpayment. The interest shall be computed at the rate 1114  
per annum prescribed by section 5703.47 of the Revised Code. 1115

**Sec. 5735.122.** The tax commissioner shall refund to 1116  
dealers or to any person assessed motor fuel tax ~~the amount of~~ 1117  
~~taxes amounts~~ paid illegally or erroneously or paid on an 1118  
illegal or erroneous assessment. Applications for refund shall 1119

be filed with the tax commissioner, on the form prescribed by 1120  
the commissioner, within four years from the date of the illegal 1121  
or erroneous payment. No person shall file a claim for the tax 1122  
on fewer than one hundred gallons of motor fuel. 1123

On the filing of the application, the commissioner shall 1124  
determine the amount of refund to which the applicant is 1125  
entitled. If the amount is not less than that claimed, the 1126  
commissioner shall certify the amount to the director of budget 1127  
and management and treasurer of state for payment from the tax 1128  
refund fund created by section 5703.052 of the Revised Code, 1129  
except that no refund shall be authorized or paid on a claim for 1130  
the tax on fewer than one hundred gallons of motor fuel. If the 1131  
amount is less than that claimed, the commissioner shall proceed 1132  
in accordance with section 5703.70 of the Revised Code. 1133

The refund authorized by this section or section 5703.70 1134  
of the Revised Code shall be reduced by the cents per gallon 1135  
amount of any qualified fuel credit received under section 1136  
5735.145 of the Revised Code, as determined by the commissioner, 1137  
for each gallon of qualified fuel included in the total 1138  
gallage of motor fuel upon which the refund is computed. 1139

**Sec. 5736.08.** (A) An application for refund to the 1140  
taxpayer of ~~the amount of taxes~~ amounts imposed under this 1141  
chapter that are overpaid, paid illegally or erroneously, or 1142  
paid on any illegal or erroneous assessment shall be filed by 1143  
the taxpayer with the tax commissioner, on the form prescribed 1144  
by the commissioner, within four years after the date of the 1145  
illegal or erroneous payment ~~of the tax~~, or within any 1146  
additional period allowed under division (F) of section 5736.09 1147  
of the Revised Code. The applicant shall provide the amount of 1148  
the requested refund along with the claimed reasons for, and 1149

documentation to support, the issuance of a refund. 1150

(B) On the filing of the refund application, the 1151  
commissioner shall determine the amount of refund to which the 1152  
applicant is entitled. If the amount is not less than that 1153  
claimed, the commissioner shall certify the amount to the 1154  
director of budget and management and treasurer of state for 1155  
payment from the tax refund fund created under section 5703.052 1156  
of the Revised Code. If the amount is less than that claimed, 1157  
the commissioner shall proceed in accordance with section 1158  
5703.70 of the Revised Code. 1159

(C) Interest on a refund applied for under this section, 1160  
computed at the rate provided for in section 5703.47 of the 1161  
Revised Code, shall be allowed from the later of the date the 1162  
~~tax amount~~ was paid or when the ~~tax~~ payment was due. 1163

(D) Except as provided in section 5736.081 of the Revised 1164  
Code, the commissioner may provide for the crediting against tax 1165  
due for a tax period the amount of any refund due the taxpayer 1166  
under this chapter for a preceding tax period. 1167

**Sec. 5739.01.** As used in this chapter: 1168

(A) "Person" includes individuals, receivers, assignees, 1169  
trustees in bankruptcy, estates, firms, partnerships, 1170  
associations, joint-stock companies, joint ventures, clubs, 1171  
societies, corporations, the state and its political 1172  
subdivisions, and combinations of individuals of any form. 1173

(B) "Sale" and "selling" include all of the following 1174  
transactions for a consideration in any manner, whether 1175  
absolutely or conditionally, whether for a price or rental, in 1176  
money or by exchange, and by any means whatsoever: 1177

(1) All transactions by which title or possession, or 1178



both, of tangible personal property, is or is to be transferred,	1179
or a license to use or consume tangible personal property is or	1180
is to be granted;	1181
(2) All transactions by which lodging by a hotel is or is	1182
to be furnished to transient guests;	1183
(3) All transactions by which:	1184
(a) An item of tangible personal property is or is to be	1185
repaired, except property, the purchase of which would not be	1186
subject to the tax imposed by section 5739.02 of the Revised	1187
Code;	1188
(b) An item of tangible personal property is or is to be	1189
installed, except property, the purchase of which would not be	1190
subject to the tax imposed by section 5739.02 of the Revised	1191
Code or property that is or is to be incorporated into and will	1192
become a part of a production, transmission, transportation, or	1193
distribution system for the delivery of a public utility	1194
service;	1195
(c) The service of washing, cleaning, waxing, polishing,	1196
or painting a motor vehicle is or is to be furnished;	1197
(d) Laundry and dry cleaning services are or are to be	1198
provided;	1199
(e) Automatic data processing, computer services, or	1200
electronic information services are or are to be provided for	1201
use in business when the true object of the transaction is the	1202
receipt by the consumer of automatic data processing, computer	1203
services, or electronic information services rather than the	1204
receipt of personal or professional services to which automatic	1205
data processing, computer services, or electronic information	1206
services are incidental or supplemental. Notwithstanding any	1207

other provision of this chapter, such transactions that occur 1208  
between members of an affiliated group are not sales. An 1209  
"affiliated group" means two or more persons related in such a 1210  
way that one person owns or controls the business operation of 1211  
another member of the group. In the case of corporations with 1212  
stock, one corporation owns or controls another if it owns more 1213  
than fifty per cent of the other corporation's common stock with 1214  
voting rights. 1215

(f) Telecommunications service, including prepaid calling 1216  
service, prepaid wireless calling service, or ancillary service, 1217  
is or is to be provided, but not including coin-operated 1218  
telephone service; 1219

(g) Landscaping and lawn care service is or is to be 1220  
provided; 1221

(h) Private investigation and security service is or is to 1222  
be provided; 1223

(i) Information services or tangible personal property is 1224  
provided or ordered by means of a nine hundred telephone call; 1225

(j) Building maintenance and janitorial service is or is 1226  
to be provided; 1227

(k) Exterminating service is or is to be provided; 1228

(l) Physical fitness facility service is or is to be 1229  
provided, unless such service is or is to be provided by an 1230  
organization described under section 501(c)(3) of the Internal 1231  
Revenue Code and exempt from federal income taxation under 1232  
section 501(a) of the Internal Revenue Code; 1233

(m) Recreation and sports club service is or is to be 1234  
provided, unless such service is or is to be provided by an 1235

organization described under section 501(c)(3) of the Internal 1236  
Revenue Code and exempt from federal income taxation under 1237  
section 501(a) of the Internal Revenue Code; 1238

(n) Satellite broadcasting service is or is to be 1239  
provided; 1240

(o) Personal care service is or is to be provided to an 1241  
individual. As used in this division, "personal care service" 1242  
includes skin care, the application of cosmetics, manicuring, 1243  
pedicuring, hair removal, tattooing, body piercing, tanning, 1244  
massage, and other similar services. "Personal care service" 1245  
does not include a service provided by or on the order of a 1246  
licensed physician or licensed chiropractor, or the cutting, 1247  
coloring, or styling of an individual's hair. 1248

(p) The transportation of persons by motor vehicle or 1249  
aircraft is or is to be provided, when the transportation is 1250  
entirely within this state, except for transportation provided 1251  
by an ambulance service, by a transit bus, as defined in section 1252  
5735.01 of the Revised Code, and transportation provided by a 1253  
citizen of the United States holding a certificate of public 1254  
convenience and necessity issued under 49 U.S.C. 41102; 1255

(q) Motor vehicle towing service is or is to be provided. 1256  
As used in this division, "motor vehicle towing service" means 1257  
the towing or conveyance of a wrecked, disabled, or illegally 1258  
parked motor vehicle. 1259

(r) Snow removal service is or is to be provided. As used 1260  
in this division, "snow removal service" means the removal of 1261  
snow by any mechanized means, but does not include the providing 1262  
of such service by a person that has less than five thousand 1263  
dollars in sales of such service during the calendar year. 1264

(s) Electronic publishing service is or is to be provided 1265  
to a consumer for use in business, except that such transactions 1266  
occurring between members of an affiliated group, as defined in 1267  
division (B) (3) (e) of this section, are not sales. 1268

(4) All transactions by which printed, imprinted, 1269  
overprinted, lithographic, multilithic, blueprinted, 1270  
photostatic, or other productions or reproductions of written or 1271  
graphic matter are or are to be furnished or transferred; 1272

(5) The production or fabrication of tangible personal 1273  
property for a consideration for consumers who furnish either 1274  
directly or indirectly the materials used in the production of 1275  
fabrication work; and include the furnishing, preparing, or 1276  
serving for a consideration of any tangible personal property 1277  
consumed on the premises of the person furnishing, preparing, or 1278  
serving such tangible personal property. Except as provided in 1279  
section 5739.03 of the Revised Code, a construction contract 1280  
pursuant to which tangible personal property is or is to be 1281  
incorporated into a structure or improvement on and becoming a 1282  
part of real property is not a sale of such tangible personal 1283  
property. The construction contractor is the consumer of such 1284  
tangible personal property, provided that the sale and 1285  
installation of carpeting, the sale and installation of 1286  
agricultural land tile, the sale and erection or installation of 1287  
portable grain bins, or the provision of landscaping and lawn 1288  
care service and the transfer of property as part of such 1289  
service is never a construction contract. 1290

As used in division (B) (5) of this section: 1291

(a) "Agricultural land tile" means fired clay or concrete 1292  
tile, or flexible or rigid perforated plastic pipe or tubing, 1293  
incorporated or to be incorporated into a subsurface drainage 1294

system appurtenant to land used or to be used primarily in 1295  
production by farming, agriculture, horticulture, or 1296  
floriculture. The term does not include such materials when they 1297  
are or are to be incorporated into a drainage system appurtenant 1298  
to a building or structure even if the building or structure is 1299  
used or to be used in such production. 1300

(b) "Portable grain bin" means a structure that is used or 1301  
to be used by a person engaged in farming or agriculture to 1302  
shelter the person's grain and that is designed to be 1303  
disassembled without significant damage to its component parts. 1304

(6) All transactions in which all of the shares of stock 1305  
of a closely held corporation are transferred, or an ownership 1306  
interest in a pass-through entity, as defined in section 5733.04 1307  
of the Revised Code, is transferred, if the corporation or pass- 1308  
through entity is not engaging in business and its entire assets 1309  
consist of boats, planes, motor vehicles, or other tangible 1310  
personal property operated primarily for the use and enjoyment 1311  
of the shareholders or owners; 1312

(7) All transactions in which a warranty, maintenance or 1313  
service contract, or similar agreement by which the vendor of 1314  
the warranty, contract, or agreement agrees to repair or 1315  
maintain the tangible personal property of the consumer is or is 1316  
to be provided; 1317

(8) The transfer of copyrighted motion picture films used 1318  
solely for advertising purposes, except that the transfer of 1319  
such films for exhibition purposes is not a sale; 1320

(9) All transactions by which tangible personal property 1321  
is or is to be stored, except such property that the consumer of 1322  
the storage holds for sale in the regular course of business; 1323

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11) (a) Except as provided in division (B) (11) (b) of this section, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

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

(12) All transactions by which a specified digital product

is provided for permanent use or less than permanent use, 1354  
regardless of whether continued payment is required. 1355

Except as provided in this section, "sale" and "selling" 1356  
do not include transfers of interest in leased property where 1357  
the original lessee and the terms of the original lease 1358  
agreement remain unchanged, or professional, insurance, or 1359  
personal service transactions that involve the transfer of 1360  
tangible personal property as an inconsequential element, for 1361  
which no separate charges are made. 1362

(C) "Vendor" means the person providing the service or by 1363  
whom the transfer effected or license given by a sale is or is 1364  
to be made or given and, for sales described in division (B) (3) 1365  
(i) of this section, the telecommunications service vendor that 1366  
provides the nine hundred telephone service; if two or more 1367  
persons are engaged in business at the same place of business 1368  
under a single trade name in which all collections on account of 1369  
sales by each are made, such persons shall constitute a single 1370  
vendor. 1371

Physicians, dentists, hospitals, and veterinarians who are 1372  
engaged in selling tangible personal property as received from 1373  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 1374  
articles, are vendors. Veterinarians who are engaged in 1375  
transferring to others for a consideration drugs, the dispensing 1376  
of which does not require an order of a licensed veterinarian or 1377  
physician under federal law, are vendors. 1378

The operator of any peer-to-peer car sharing program shall 1379  
be considered to be the vendor. 1380

(D) (1) "Consumer" means the person for whom the service is 1381  
provided, to whom the transfer effected or license given by a 1382

sale is or is to be made or given, to whom the service described 1383  
in division (B) (3) (f) or (i) of this section is charged, or to 1384  
whom the admission is granted. 1385

(2) Physicians, dentists, hospitals, and blood banks 1386  
operated by nonprofit institutions and persons licensed to 1387  
practice veterinary medicine, surgery, and dentistry are 1388  
consumers of all tangible personal property and services 1389  
purchased by them in connection with the practice of medicine, 1390  
dentistry, the rendition of hospital or blood bank service, or 1391  
the practice of veterinary medicine, surgery, and dentistry. In 1392  
addition to being consumers of drugs administered by them or by 1393  
their assistants according to their direction, veterinarians 1394  
also are consumers of drugs that under federal law may be 1395  
dispensed only by or upon the order of a licensed veterinarian 1396  
or physician, when transferred by them to others for a 1397  
consideration to provide treatment to animals as directed by the 1398  
veterinarian. 1399

(3) A person who performs a facility management, or 1400  
similar service contract for a contractee is a consumer of all 1401  
tangible personal property and services purchased for use in 1402  
connection with the performance of such contract, regardless of 1403  
whether title to any such property vests in the contractee. The 1404  
purchase of such property and services is not subject to the 1405  
exception for resale under division (E) of this section. 1406

(4) (a) In the case of a person who purchases printed 1407  
matter for the purpose of distributing it or having it 1408  
distributed to the public or to a designated segment of the 1409  
public, free of charge, that person is the consumer of that 1410  
printed matter, and the purchase of that printed matter for that 1411  
purpose is a sale. 1412



(b) In the case of a person who produces, rather than 1413  
purchases, printed matter for the purpose of distributing it or 1414  
having it distributed to the public or to a designated segment 1415  
of the public, free of charge, that person is the consumer of 1416  
all tangible personal property and services purchased for use or 1417  
consumption in the production of that printed matter. That 1418  
person is not entitled to claim exemption under division (B) (42) 1419  
(f) of section 5739.02 of the Revised Code for any material 1420  
incorporated into the printed matter or any equipment, supplies, 1421  
or services primarily used to produce the printed matter. 1422

(c) The distribution of printed matter to the public or to 1423  
a designated segment of the public, free of charge, is not a 1424  
sale to the members of the public to whom the printed matter is 1425  
distributed or to any persons who purchase space in the printed 1426  
matter for advertising or other purposes. 1427

(5) A person who makes sales of any of the services listed 1428  
in division (B) (3) of this section is the consumer of any 1429  
tangible personal property used in performing the service. The 1430  
purchase of that property is not subject to the resale exception 1431  
under division (E) of this section. 1432

(6) A person who engages in highway transportation for 1433  
hire is the consumer of all packaging materials purchased by 1434  
that person and used in performing the service, except for 1435  
packaging materials sold by such person in a transaction 1436  
separate from the service. 1437

(7) In the case of a transaction for health care services 1438  
under division (B) (11) of this section, a medicaid health 1439  
insuring corporation is the consumer of such services. The 1440  
purchase of such services by a medicaid health insuring 1441  
corporation is not subject to the exception for resale under 1442

division (E) of this section or to the exemptions provided under 1443  
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 1444  
the Revised Code. 1445

(E) "Retail sale" and "sales at retail" include all sales, 1446  
except those in which the purpose of the consumer is to resell 1447  
the thing transferred or benefit of the service provided, by a 1448  
person engaging in business, in the form in which the same is, 1449  
or is to be, received by the person. 1450

(F) "Business" includes any activity engaged in by any 1451  
person with the object of gain, benefit, or advantage, either 1452  
direct or indirect. "Business" does not include the activity of 1453  
a person in managing and investing the person's own funds. 1454

(G) "Engaging in business" means commencing, conducting, 1455  
or continuing in business, and liquidating a business when the 1456  
liquidator thereof holds itself out to the public as conducting 1457  
such business. Making a casual sale is not engaging in business. 1458

(H) (1) (a) "Price," except as provided in divisions (H) (2), 1459  
(3), and (4) of this section, means the total amount of 1460  
consideration, including cash, credit, property, and services, 1461  
for which tangible personal property or services are sold, 1462  
leased, or rented, valued in money, whether received in money or 1463  
otherwise, without any deduction for any of the following: 1464

(i) The vendor's cost of the property sold; 1465

(ii) The cost of materials used, labor or service costs, 1466  
interest, losses, all costs of transportation to the vendor, all 1467  
taxes imposed on the vendor, including the tax imposed under 1468  
Chapter 5751. of the Revised Code, and any other expense of the 1469  
vendor; 1470

(iii) Charges by the vendor for any services necessary to 1471

complete the sale;	1472
(iv) Delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.	1473 1474 1475 1476 1477
(v) Installation charges;	1478
(vi) Credit for any trade-in.	1479
(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:	1480 1481 1482 1483 1484 1485 1486 1487 1488
(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;	1489 1490 1491 1492 1493 1494
(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.	1495 1496 1497 1498 1499
(iii) The price reduction or discount is identified as a	1500

third party price reduction or discount on the invoice received 1501  
by the consumer, or on a coupon, certificate, or other document 1502  
presented by the consumer. 1503

(c) "Price" does not include any of the following: 1504

(i) Discounts, including cash, term, or coupons that are 1505  
not reimbursed by a third party that are allowed by a vendor and 1506  
taken by a consumer on a sale; 1507

(ii) Interest, financing, and carrying charges from credit 1508  
extended on the sale of tangible personal property or services, 1509  
if the amount is separately stated on the invoice, bill of sale, 1510  
or similar document given to the purchaser; 1511

(iii) Any taxes legally imposed directly on the consumer 1512  
that are separately stated on the invoice, bill of sale, or 1513  
similar document given to the consumer. For the purpose of this 1514  
division, the tax imposed under Chapter 5751. of the Revised 1515  
Code is not a tax directly on the consumer, even if the tax or a 1516  
portion thereof is separately stated. 1517

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 1518  
this section, any discount allowed by an automobile manufacturer 1519  
to its employee, or to the employee of a supplier, on the 1520  
purchase of a new motor vehicle from a new motor vehicle dealer 1521  
in this state. 1522

(v) The dollar value of a gift card that is not sold by a 1523  
vendor or purchased by a consumer and that is redeemed by the 1524  
consumer in purchasing tangible personal property or services if 1525  
the vendor is not reimbursed and does not receive compensation 1526  
from a third party to cover all or part of the gift card value. 1527  
For the purposes of this division, a gift card is not sold by a 1528  
vendor or purchased by a consumer if it is distributed pursuant 1529

to an awards, loyalty, or promotional program. Past and present 1530  
purchases of tangible personal property or services by the 1531  
consumer shall not be treated as consideration exchanged for a 1532  
gift card. 1533

(2) In the case of a sale of any new motor vehicle by a 1534  
new motor vehicle dealer, as defined in section 4517.01 of the 1535  
Revised Code, in which another motor vehicle is accepted by the 1536  
dealer as part of the consideration received, "price" has the 1537  
same meaning as in division (H)(1) of this section, reduced by 1538  
the credit afforded the consumer by the dealer for the motor 1539  
vehicle received in trade. 1540

(3) In the case of a sale of any watercraft or outboard 1541  
motor by a watercraft dealer licensed in accordance with section 1542  
1547.543 of the Revised Code, in which another watercraft, 1543  
watercraft and trailer, or outboard motor is accepted by the 1544  
dealer as part of the consideration received, "price" has the 1545  
same meaning as in division (H)(1) of this section, reduced by 1546  
the credit afforded the consumer by the dealer for the 1547  
watercraft, watercraft and trailer, or outboard motor received 1548  
in trade. As used in this division, "watercraft" includes an 1549  
outdrive unit attached to the watercraft. 1550

(4) In the case of transactions for health care services 1551  
under division (B)(11) of this section, "price" means the amount 1552  
of managed care premiums received each month by a medicaid 1553  
health insuring corporation. 1554

(I) "Receipts" means the total amount of the prices of the 1555  
sales of vendors, provided that the dollar value of gift cards 1556  
distributed pursuant to an awards, loyalty, or promotional 1557  
program, and cash discounts allowed and taken on sales at the 1558  
time they are consummated are not included, minus any amount 1559

deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

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

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

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

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in section 5739.091 of the Revised

Code. 1590

(N) "Transient guests" means persons occupying a room or 1591  
rooms for sleeping accommodations for less than thirty 1592  
consecutive days. 1593

(O) "Making retail sales" means the effecting of 1594  
transactions wherein one party is obligated to pay the price and 1595  
the other party is obligated to provide a service or to transfer 1596  
title to or possession of the item sold. "Making retail sales" 1597  
does not include the preliminary acts of promoting or soliciting 1598  
the retail sales, other than the distribution of printed matter 1599  
which displays or describes and prices the item offered for 1600  
sale, nor does it include delivery of a predetermined quantity 1601  
of tangible personal property or transportation of property or 1602  
personnel to or from a place where a service is performed. 1603

(P) "Used directly in the rendition of a public utility 1604  
service" means that property that is to be incorporated into and 1605  
will become a part of the consumer's production, transmission, 1606  
transportation, or distribution system and that retains its 1607  
classification as tangible personal property after such 1608  
incorporation; fuel or power used in the production, 1609  
transmission, transportation, or distribution system; and 1610  
tangible personal property used in the repair and maintenance of 1611  
the production, transmission, transportation, or distribution 1612  
system, including only such motor vehicles as are specially 1613  
designed and equipped for such use. Tangible personal property 1614  
and services used primarily in providing highway transportation 1615  
for hire are not used directly in the rendition of a public 1616  
utility service. In this definition, "public utility" includes a 1617  
citizen of the United States holding, and required to hold, a 1618  
certificate of public convenience and necessity issued under 49 1619

U.S.C. 41102.	1620
(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.	1621 1622 1623
(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.	1624 1625 1626
(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.	1627 1628 1629 1630 1631 1632 1633
(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.	1634 1635 1636 1637 1638 1639 1640
(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit	1641 1642 1643 1644 1645 1646 1647 1648



authority. County population shall be measured by the most 1649  
recent census taken by the United States census bureau. 1650

(V) "Legislative authority" means, with respect to a 1651  
regional transit authority, the board of trustees thereof, and 1652  
with respect to a county that is a transit authority, the board 1653  
of county commissioners. 1654

(W) "Territory of the transit authority" means all of the 1655  
area included within the territorial boundaries of a transit 1656  
authority as they from time to time exist. Such territorial 1657  
boundaries must at all times include all the area of a single 1658  
county or all the area of the most populous county that is a 1659  
part of such transit authority. County population shall be 1660  
measured by the most recent census taken by the United States 1661  
census bureau. 1662

(X) "Providing a service" means providing or furnishing 1663  
anything described in division (B) (3) of this section for 1664  
consideration. 1665

(Y) (1) (a) "Automatic data processing" means processing of 1666  
others' data, including keypunching or similar data entry 1667  
services together with verification thereof, or providing access 1668  
to computer equipment for the purpose of processing data. 1669

(b) "Computer services" means providing services 1670  
consisting of specifying computer hardware configurations and 1671  
evaluating technical processing characteristics, computer 1672  
programming, and training of computer programmers and operators, 1673  
provided in conjunction with and to support the sale, lease, or 1674  
operation of taxable computer equipment or systems. 1675

(c) "Electronic information services" means providing 1676  
access to computer equipment by means of telecommunications 1677

equipment for the purpose of either of the following: 1678

(i) Examining or acquiring data stored in or accessible to 1679  
the computer equipment; 1680

(ii) Placing data into the computer equipment to be 1681  
retrieved by designated recipients with access to the computer 1682  
equipment. 1683

"Electronic information services" does not include 1684  
electronic publishing. 1685

(d) "Automatic data processing, computer services, or 1686  
electronic information services" shall not include personal or 1687  
professional services. 1688

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 1689  
section, "personal and professional services" means all services 1690  
other than automatic data processing, computer services, or 1691  
electronic information services, including but not limited to: 1692

(a) Accounting and legal services such as advice on tax 1693  
matters, asset management, budgetary matters, quality control, 1694  
information security, and auditing and any other situation where 1695  
the service provider receives data or information and studies, 1696  
alters, analyzes, interprets, or adjusts such material; 1697

(b) Analyzing business policies and procedures; 1698

(c) Identifying management information needs; 1699

(d) Feasibility studies, including economic and technical 1700  
analysis of existing or potential computer hardware or software 1701  
needs and alternatives; 1702

(e) Designing policies, procedures, and custom software 1703  
for collecting business information, and determining how data 1704

should be summarized, sequenced, formatted, processed, 1705  
controlled, and reported so that it will be meaningful to 1706  
management; 1707

(f) Developing policies and procedures that document how 1708  
business events and transactions are to be authorized, executed, 1709  
and controlled; 1710

(g) Testing of business procedures; 1711

(h) Training personnel in business procedure applications; 1712

(i) Providing credit information to users of such 1713  
information by a consumer reporting agency, as defined in the 1714  
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 1715  
U.S.C. 1681a(f), or as hereafter amended, including but not 1716  
limited to gathering, organizing, analyzing, recording, and 1717  
furnishing such information by any oral, written, graphic, or 1718  
electronic medium; 1719

(j) Providing debt collection services by any oral, 1720  
written, graphic, or electronic means; 1721

(k) Providing digital advertising services; 1722

(l) Providing services to electronically file any federal, 1723  
state, or local individual income tax return, report, or other 1724  
related document or schedule with a federal, state, or local 1725  
government entity or to electronically remit a payment of any 1726  
such individual income tax to such an entity. For the purpose of 1727  
this division, "individual income tax" does not include federal, 1728  
state, or local taxes withheld by an employer from an employee's 1729  
compensation. 1730

The services listed in divisions (Y) (2) (a) to ~~(k)~~ (l) of 1731  
this section are not automatic data processing or computer 1732

services. 1733

(Z) "Highway transportation for hire" means the 1734  
transportation of personal property belonging to others for 1735  
consideration by any of the following: 1736

(1) The holder of a permit or certificate issued by this 1737  
state or the United States authorizing the holder to engage in 1738  
transportation of personal property belonging to others for 1739  
consideration over or on highways, roadways, streets, or any 1740  
similar public thoroughfare; 1741

(2) A person who engages in the transportation of personal 1742  
property belonging to others for consideration over or on 1743  
highways, roadways, streets, or any similar public thoroughfare 1744  
but who could not have engaged in such transportation on 1745  
December 11, 1985, unless the person was the holder of a permit 1746  
or certificate of the types described in division (Z) (1) of this 1747  
section; 1748

(3) A person who leases a motor vehicle to and operates it 1749  
for a person described by division (Z) (1) or (2) of this 1750  
section. 1751

(AA) (1) "Telecommunications service" means the electronic 1752  
transmission, conveyance, or routing of voice, data, audio, 1753  
video, or any other information or signals to a point, or 1754  
between or among points. "Telecommunications service" includes 1755  
such transmission, conveyance, or routing in which computer 1756  
processing applications are used to act on the form, code, or 1757  
protocol of the content for purposes of transmission, 1758  
conveyance, or routing without regard to whether the service is 1759  
referred to as voice-over internet protocol service or is 1760  
classified by the federal communications commission as enhanced 1761

or value-added. "Telecommunications service" does not include 1762  
any of the following: 1763

(a) Data processing and information services that allow 1764  
data to be generated, acquired, stored, processed, or retrieved 1765  
and delivered by an electronic transmission to a consumer where 1766  
the consumer's primary purpose for the underlying transaction is 1767  
the processed data or information; 1768

(b) Installation or maintenance of wiring or equipment on 1769  
a customer's premises; 1770

(c) Tangible personal property; 1771

(d) Advertising, including directory advertising; 1772

(e) Billing and collection services provided to third 1773  
parties; 1774

(f) Internet access service; 1775

(g) Radio and television audio and video programming 1776  
services, regardless of the medium, including the furnishing of 1777  
transmission, conveyance, and routing of such services by the 1778  
programming service provider. Radio and television audio and 1779  
video programming services include, but are not limited to, 1780  
cable service, as defined in 47 U.S.C. 522(6), and audio and 1781  
video programming services delivered by commercial mobile radio 1782  
service providers, as defined in 47 C.F.R. 20.3; 1783

(h) Ancillary service; 1784

(i) Digital products delivered electronically, including 1785  
software, music, video, reading materials, or ring tones. 1786

(2) "Ancillary service" means a service that is associated 1787  
with or incidental to the provision of telecommunications 1788

service, including conference bridging service, detailed 1789  
telecommunications billing service, directory assistance, 1790  
vertical service, and voice mail service. As used in this 1791  
division: 1792

(a) "Conference bridging service" means an ancillary 1793  
service that links two or more participants of an audio or video 1794  
conference call, including providing a telephone number. 1795  
"Conference bridging service" does not include 1796  
telecommunications services used to reach the conference bridge. 1797

(b) "Detailed telecommunications billing service" means an 1798  
ancillary service of separately stating information pertaining 1799  
to individual calls on a customer's billing statement. 1800

(c) "Directory assistance" means an ancillary service of 1801  
providing telephone number or address information. 1802

(d) "Vertical service" means an ancillary service that is 1803  
offered in connection with one or more telecommunications 1804  
services, which offers advanced calling features that allow 1805  
customers to identify callers and manage multiple calls and call 1806  
connections, including conference bridging service. 1807

(e) "Voice mail service" means an ancillary service that 1808  
enables the customer to store, send, or receive recorded 1809  
messages. "Voice mail service" does not include any vertical 1810  
services that the customer may be required to have in order to 1811  
utilize the voice mail service. 1812

(3) "900 service" means an inbound toll telecommunications 1813  
service purchased by a subscriber that allows the subscriber's 1814  
customers to call in to the subscriber's prerecorded 1815  
announcement or live service, and which is typically marketed 1816  
under the name "900 service" and any subsequent numbers 1817

designated by the federal communications commission. "900 1818  
service" does not include the charge for collection services 1819  
provided by the seller of the telecommunications service to the 1820  
subscriber, or services or products sold by the subscriber to 1821  
the subscriber's customer. 1822

(4) "Prepaid calling service" means the right to access 1823  
exclusively telecommunications services, which must be paid for 1824  
in advance and which enables the origination of calls using an 1825  
access number or authorization code, whether manually or 1826  
electronically dialed, and that is sold in predetermined units 1827  
or dollars of which the number declines with use in a known 1828  
amount. 1829

(5) "Prepaid wireless calling service" means a 1830  
telecommunications service that provides the right to utilize 1831  
mobile telecommunications service as well as other non- 1832  
telecommunications services, including the download of digital 1833  
products delivered electronically, and content and ancillary 1834  
services, that must be paid for in advance and that is sold in 1835  
predetermined units or dollars of which the number declines with 1836  
use in a known amount. 1837

(6) "Value-added non-voice data service" means a 1838  
telecommunications service in which computer processing 1839  
applications are used to act on the form, content, code, or 1840  
protocol of the information or data primarily for a purpose 1841  
other than transmission, conveyance, or routing. 1842

(7) "Coin-operated telephone service" means a 1843  
telecommunications service paid for by inserting money into a 1844  
telephone accepting direct deposits of money to operate. 1845

(8) "Customer" has the same meaning as in section 5739.034 1846

of the Revised Code. 1847

(BB) "Laundry and dry cleaning services" means removing 1848  
soil or dirt from towels, linens, articles of clothing, or other 1849  
fabric items that belong to others and supplying towels, linens, 1850  
articles of clothing, or other fabric items. "Laundry and dry 1851  
cleaning services" does not include the provision of self- 1852  
service facilities for use by consumers to remove soil or dirt 1853  
from towels, linens, articles of clothing, or other fabric 1854  
items. 1855

(CC) "Magazines distributed as controlled circulation 1856  
publications" means magazines containing at least twenty-four 1857  
pages, at least twenty-five per cent editorial content, issued 1858  
at regular intervals four or more times a year, and circulated 1859  
without charge to the recipient, provided that such magazines 1860  
are not owned or controlled by individuals or business concerns 1861  
which conduct such publications as an auxiliary to, and 1862  
essentially for the advancement of the main business or calling 1863  
of, those who own or control them. 1864

(DD) "Landscaping and lawn care service" means the 1865  
services of planting, seeding, sodding, removing, cutting, 1866  
trimming, pruning, mulching, aerating, applying chemicals, 1867  
watering, fertilizing, and providing similar services to 1868  
establish, promote, or control the growth of trees, shrubs, 1869  
flowers, grass, ground cover, and other flora, or otherwise 1870  
maintaining a lawn or landscape grown or maintained by the owner 1871  
for ornamentation or other nonagricultural purpose. However, 1872  
"landscaping and lawn care service" does not include the 1873  
providing of such services by a person who has less than five 1874  
thousand dollars in sales of such services during the calendar 1875  
year. 1876



(EE) "Private investigation and security service" means 1877  
the performance of any activity for which the provider of such 1878  
service is required to be licensed pursuant to Chapter 4749. of 1879  
the Revised Code, or would be required to be so licensed in 1880  
performing such services in this state, and also includes the 1881  
services of conducting polygraph examinations and of monitoring 1882  
or overseeing the activities on or in, or the condition of, the 1883  
consumer's home, business, or other facility by means of 1884  
electronic or similar monitoring devices. "Private investigation 1885  
and security service" does not include special duty services 1886  
provided by off-duty police officers, deputy sheriffs, and other 1887  
peace officers regularly employed by the state or a political 1888  
subdivision. 1889

(FF) "Information services" means providing conversation, 1890  
giving consultation or advice, playing or making a voice or 1891  
other recording, making or keeping a record of the number of 1892  
callers, and any other service provided to a consumer by means 1893  
of a nine hundred telephone call, except when the nine hundred 1894  
telephone call is the means by which the consumer makes a 1895  
contribution to a recognized charity. 1896

(GG) "Research and development" means designing, creating, 1897  
or formulating new or enhanced products, equipment, or 1898  
manufacturing processes, and also means conducting scientific or 1899  
technological inquiry and experimentation in the physical 1900  
sciences with the goal of increasing scientific knowledge which 1901  
may reveal the bases for new or enhanced products, equipment, or 1902  
manufacturing processes. 1903

(HH) "Qualified research and development equipment" means 1904  
capitalized tangible personal property, and leased personal 1905  
property that would be capitalized if purchased, used by a 1906

person primarily to perform research and development. Tangible 1907  
personal property primarily used in testing, as defined in 1908  
division (A) (4) of section 5739.011 of the Revised Code, or used 1909  
for recording or storing test results, is not qualified research 1910  
and development equipment unless such property is primarily used 1911  
by the consumer in testing the product, equipment, or 1912  
manufacturing process being created, designed, or formulated by 1913  
the consumer in the research and development activity or in 1914  
recording or storing such test results. 1915

(II) "Building maintenance and janitorial service" means 1916  
cleaning the interior or exterior of a building and any tangible 1917  
personal property located therein or thereon, including any 1918  
services incidental to such cleaning for which no separate 1919  
charge is made. However, "building maintenance and janitorial 1920  
service" does not include the providing of such service by a 1921  
person who has less than five thousand dollars in sales of such 1922  
service during the calendar year. As used in this division, 1923  
"cleaning" does not include sanitation services necessary for an 1924  
establishment described in 21 U.S.C. 608 to comply with rules 1925  
and regulations adopted pursuant to that section. 1926

(JJ) "Exterminating service" means eradicating or 1927  
attempting to eradicate vermin infestations from a building or 1928  
structure, or the area surrounding a building or structure, and 1929  
includes activities to inspect, detect, or prevent vermin 1930  
infestation of a building or structure. 1931

(KK) "Physical fitness facility service" means all 1932  
transactions by which a membership is granted, maintained, or 1933  
renewed, including initiation fees, membership dues, renewal 1934  
fees, monthly minimum fees, and other similar fees and dues, by 1935  
a physical fitness facility such as an athletic club, health 1936

spa, or gymnasium, which entitles the member to use the facility 1937  
for physical exercise. 1938

(LL) "Recreation and sports club service" means all 1939  
transactions by which a membership is granted, maintained, or 1940  
renewed, including initiation fees, membership dues, renewal 1941  
fees, monthly minimum fees, and other similar fees and dues, by 1942  
a recreation and sports club, which entitles the member to use 1943  
the facilities of the organization. "Recreation and sports club" 1944  
means an organization that has ownership of, or controls or 1945  
leases on a continuing, long-term basis, the facilities used by 1946  
its members and includes an aviation club, gun or shooting club, 1947  
yacht club, card club, swimming club, tennis club, golf club, 1948  
country club, riding club, amateur sports club, or similar 1949  
organization. 1950

(MM) "Livestock" means farm animals commonly raised for 1951  
food, food production, or other agricultural purposes, 1952  
including, but not limited to, cattle, sheep, goats, swine, 1953  
poultry, and captive deer. "Livestock" does not include 1954  
invertebrates, amphibians, reptiles, domestic pets, animals for 1955  
use in laboratories or for exhibition, or other animals not 1956  
commonly raised for food or food production. 1957

(NN) "Livestock structure" means a building or structure 1958  
used exclusively for the housing, raising, feeding, or 1959  
sheltering of livestock, and includes feed storage or handling 1960  
structures and structures for livestock waste handling. 1961

(OO) "Horticulture" means the growing, cultivation, and 1962  
production of flowers, fruits, herbs, vegetables, sod, 1963  
mushrooms, and nursery stock. As used in this division, "nursery 1964  
stock" has the same meaning as in section 927.51 of the Revised 1965  
Code. 1966

(PP) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(QQ) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(RR) (1) "Feminine hygiene products" means tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle, but does not include grooming and hygiene products.

(2) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, regardless of whether any of these products are over-the-counter drugs.

(3) "Over-the-counter drugs" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66, which label includes a drug facts panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.

(SS) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed

or indefinite term, for consideration. "Lease" or "rental" 1996  
includes future options to purchase or extend, and agreements 1997  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1998  
trailers where the amount of consideration may be increased or 1999  
decreased by reference to the amount realized upon the sale or 2000  
disposition of the property. "Lease" or "rental" does not 2001  
include: 2002

(a) A transfer of possession or control of tangible 2003  
personal property under a security agreement or a deferred 2004  
payment plan that requires the transfer of title upon completion 2005  
of the required payments; 2006

(b) A transfer of possession or control of tangible 2007  
personal property under an agreement that requires the transfer 2008  
of title upon completion of required payments and payment of an 2009  
option price that does not exceed the greater of one hundred 2010  
dollars or one per cent of the total required payments; 2011

(c) Providing tangible personal property along with an 2012  
operator for a fixed or indefinite period of time, if the 2013  
operator is necessary for the property to perform as designed. 2014  
For purposes of this division, the operator must do more than 2015  
maintain, inspect, or set up the tangible personal property. 2016

(2) "Lease" and "rental," as defined in division (SS) of 2017  
this section, shall not apply to leases or rentals that exist 2018  
before June 26, 2003. 2019

(3) "Lease" and "rental" have the same meaning as in 2020  
division (SS) (1) of this section regardless of whether a 2021  
transaction is characterized as a lease or rental under 2022  
generally accepted accounting principles, the Internal Revenue 2023  
Code, Title XIII of the Revised Code, or other federal, state, 2024

or local laws. 2025

(TT) "Mobile telecommunications service" has the same 2026  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 2027  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 2028  
amended, and, on and after August 1, 2003, includes related fees 2029  
and ancillary services, including universal service fees, 2030  
detailed billing service, directory assistance, service 2031  
initiation, voice mail service, and vertical services, such as 2032  
caller ID and three-way calling. 2033

(UU) "Certified service provider" has the same meaning as 2034  
in section 5740.01 of the Revised Code. 2035

(VV) "Satellite broadcasting service" means the 2036  
distribution or broadcasting of programming or services by 2037  
satellite directly to the subscriber's receiving equipment 2038  
without the use of ground receiving or distribution equipment, 2039  
except the subscriber's receiving equipment or equipment used in 2040  
the uplink process to the satellite, and includes all service 2041  
and rental charges, premium channels or other special services, 2042  
installation and repair service charges, and any other charges 2043  
having any connection with the provision of the satellite 2044  
broadcasting service. 2045

(WW) "Tangible personal property" means personal property 2046  
that can be seen, weighed, measured, felt, or touched, or that 2047  
is in any other manner perceptible to the senses. For purposes 2048  
of this chapter and Chapter 5741. of the Revised Code, "tangible 2049  
personal property" includes motor vehicles, electricity, water, 2050  
gas, steam, and prewritten computer software. 2051

(XX) "Municipal gas utility" means a municipal corporation 2052  
that owns or operates a system for the distribution of natural 2053

gas. 2054

(YY) "Computer" means an electronic device that accepts 2055  
information in digital or similar form and manipulates it for a 2056  
result based on a sequence of instructions. 2057

(ZZ) "Computer software" means a set of coded instructions 2058  
designed to cause a computer or automatic data processing 2059  
equipment to perform a task. 2060

(AAA) "Delivered electronically" means delivery of 2061  
computer software from the seller to the purchaser by means 2062  
other than tangible storage media. 2063

(BBB) "Prewritten computer software" means computer 2064  
software, including prewritten upgrades, that is not designed 2065  
and developed by the author or other creator to the 2066  
specifications of a specific purchaser. The combining of two or 2067  
more prewritten computer software programs or prewritten 2068  
portions thereof does not cause the combination to be other than 2069  
prewritten computer software. "Prewritten computer software" 2070  
includes software designed and developed by the author or other 2071  
creator to the specifications of a specific purchaser when it is 2072  
sold to a person other than the purchaser. If a person modifies 2073  
or enhances computer software of which the person is not the 2074  
author or creator, the person shall be deemed to be the author 2075  
or creator only of such person's modifications or enhancements. 2076  
Prewritten computer software or a prewritten portion thereof 2077  
that is modified or enhanced to any degree, where such 2078  
modification or enhancement is designed and developed to the 2079  
specifications of a specific purchaser, remains prewritten 2080  
computer software; provided, however, that where there is a 2081  
reasonable, separately stated charge or an invoice or other 2082  
statement of the price given to the purchaser for the 2083

modification or enhancement, the modification or enhancement 2084  
shall not constitute prewritten computer software. 2085

(CCC) (1) "Food" means substances, whether in liquid, 2086  
concentrated, solid, frozen, dried, or dehydrated form, that are 2087  
sold for ingestion or chewing by humans and are consumed for 2088  
their taste or nutritional value. "Food" does not include 2089  
alcoholic beverages, dietary supplements, soft drinks, or 2090  
tobacco. 2091

(2) As used in division (CCC) (1) of this section: 2092

(a) "Alcoholic beverages" means beverages that are 2093  
suitable for human consumption and contain one-half of one per 2094  
cent or more of alcohol by volume. 2095

(b) "Dietary supplements" means any product, other than 2096  
tobacco, that is intended to supplement the diet and that is 2097  
intended for ingestion in tablet, capsule, powder, softgel, 2098  
gelcap, or liquid form, or, if not intended for ingestion in 2099  
such a form, is not represented as conventional food for use as 2100  
a sole item of a meal or of the diet; that is required to be 2101  
labeled as a dietary supplement, identifiable by the "supplement 2102  
facts" box found on the label, as required by 21 C.F.R. 101.36; 2103  
and that contains one or more of the following dietary 2104  
ingredients: 2105

(i) A vitamin; 2106

(ii) A mineral; 2107

(iii) An herb or other botanical; 2108

(iv) An amino acid; 2109

(v) A dietary substance for use by humans to supplement 2110  
the diet by increasing the total dietary intake; 2111



(vi) A concentrate, metabolite, constituent, extract, or 2112  
combination of any ingredient described in divisions (CCC) (2) (b) 2113  
(i) to (v) of this section. 2114

(c) "Soft drinks" means nonalcoholic beverages that 2115  
contain natural or artificial sweeteners. "Soft drinks" does not 2116  
include beverages that contain milk or milk products, soy, rice, 2117  
or similar milk substitutes, or that contains greater than fifty 2118  
per cent vegetable or fruit juice by volume. 2119

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 2120  
tobacco, or any other item that contains tobacco. 2121

(DDD) "Drug" means a compound, substance, or preparation, 2122  
and any component of a compound, substance, or preparation, 2123  
other than food, dietary supplements, or alcoholic beverages 2124  
that is recognized in the official United States pharmacopoeia, 2125  
official homeopathic pharmacopoeia of the United States, or 2126  
official national formulary, and supplements to them; is 2127  
intended for use in the diagnosis, cure, mitigation, treatment, 2128  
or prevention of disease; or is intended to affect the structure 2129  
or any function of the body. 2130

(EEE) "Prescription" means an order, formula, or recipe 2131  
issued in any form of oral, written, electronic, or other means 2132  
of transmission by a duly licensed practitioner authorized by 2133  
the laws of this state to issue a prescription. 2134

(FFF) "Durable medical equipment" means equipment, 2135  
including repair and replacement parts for such equipment, that 2136  
can withstand repeated use, is primarily and customarily used to 2137  
serve a medical purpose, generally is not useful to a person in 2138  
the absence of illness or injury, and is not worn in or on the 2139  
body. "Durable medical equipment" does not include mobility 2140

enhancing equipment. 2141

(GGG) "Mobility enhancing equipment" means equipment, 2142  
including repair and replacement parts for such equipment, that 2143  
is primarily and customarily used to provide or increase the 2144  
ability to move from one place to another and is appropriate for 2145  
use either in a home or a motor vehicle, that is not generally 2146  
used by persons with normal mobility, and that does not include 2147  
any motor vehicle or equipment on a motor vehicle normally 2148  
provided by a motor vehicle manufacturer. "Mobility enhancing 2149  
equipment" does not include durable medical equipment. 2150

(HHH) "Prosthetic device" means a replacement, corrective, 2151  
or supportive device, including repair and replacement parts for 2152  
the device, worn on or in the human body to artificially replace 2153  
a missing portion of the body, prevent or correct physical 2154  
deformity or malfunction, or support a weak or deformed portion 2155  
of the body. As used in this division, before July 1, 2019, 2156  
"prosthetic device" does not include corrective eyeglasses, 2157  
contact lenses, or dental prosthesis. On or after July 1, 2019, 2158  
"prosthetic device" does not include dental prosthesis but does 2159  
include corrective eyeglasses or contact lenses. 2160

(III) (1) "Fractional aircraft ownership program" means a 2161  
program in which persons within an affiliated group sell and 2162  
manage fractional ownership program aircraft, provided that at 2163  
least one hundred airworthy aircraft are operated in the program 2164  
and the program meets all of the following criteria: 2165

(a) Management services are provided by at least one 2166  
program manager within an affiliated group on behalf of the 2167  
fractional owners. 2168

(b) Each program aircraft is owned or possessed by at 2169

least one fractional owner.	2170
(c) Each fractional owner owns or possesses at least a	2171
one-sixteenth interest in at least one fixed-wing program	2172
aircraft.	2173
(d) A dry-lease aircraft interchange arrangement is in	2174
effect among all of the fractional owners.	2175
(e) Multi-year program agreements are in effect regarding	2176
the fractional ownership, management services, and dry-lease	2177
aircraft interchange arrangement aspects of the program.	2178
(2) As used in division (III) (1) of this section:	2179
(a) "Affiliated group" has the same meaning as in division	2180
(B) (3) (e) of this section.	2181
(b) "Fractional owner" means a person that owns or	2182
possesses at least a one-sixteenth interest in a program	2183
aircraft and has entered into the agreements described in	2184
division (III) (1) (e) of this section.	2185
(c) "Fractional ownership program aircraft" or "program	2186
aircraft" means a turbojet aircraft that is owned or possessed	2187
by a fractional owner and that has been included in a dry-lease	2188
aircraft interchange arrangement and agreement under divisions	2189
(III) (1) (d) and (e) of this section, or an aircraft a program	2190
manager owns or possesses primarily for use in a fractional	2191
aircraft ownership program.	2192
(d) "Management services" means administrative and	2193
aviation support services furnished under a fractional aircraft	2194
ownership program in accordance with a management services	2195
agreement under division (III) (1) (e) of this section, and	2196
offered by the program manager to the fractional owners,	2197

including, at a minimum, the establishment and implementation of 2198  
safety guidelines; the coordination of the scheduling of the 2199  
program aircraft and crews; program aircraft maintenance; 2200  
program aircraft insurance; crew training for crews employed, 2201  
furnished, or contracted by the program manager or the 2202  
fractional owner; the satisfaction of record-keeping 2203  
requirements; and the development and use of an operations 2204  
manual and a maintenance manual for the fractional aircraft 2205  
ownership program. 2206

(e) "Program manager" means the person that offers 2207  
management services to fractional owners pursuant to a 2208  
management services agreement under division (III) (1) (e) of this 2209  
section. 2210

(JJJ) "Electronic publishing" means providing access to 2211  
one or more of the following primarily for business customers, 2212  
including the federal government or a state government or a 2213  
political subdivision thereof, to conduct research: news; 2214  
business, financial, legal, consumer, or credit materials; 2215  
editorials, columns, reader commentary, or features; photos or 2216  
images; archival or research material; legal notices, identity 2217  
verification, or public records; scientific, educational, 2218  
instructional, technical, professional, trade, or other literary 2219  
materials; or other similar information which has been gathered 2220  
and made available by the provider to the consumer in an 2221  
electronic format. Providing electronic publishing includes the 2222  
functions necessary for the acquisition, formatting, editing, 2223  
storage, and dissemination of data or information that is the 2224  
subject of a sale. 2225

(KKK) "Medicaid health insuring corporation" means a 2226  
health insuring corporation that holds a certificate of 2227

authority under Chapter 1751. of the Revised Code and is under 2228  
contract with the department of medicaid pursuant to section 2229  
5167.10 of the Revised Code. 2230

(LLL) "Managed care premium" means any premium, 2231  
capitation, or other payment a medicaid health insuring 2232  
corporation receives for providing or arranging for the 2233  
provision of health care services to its members or enrollees 2234  
residing in this state. 2235

(MMM) "Captive deer" means deer and other cervidae that 2236  
have been legally acquired, or their offspring, that are 2237  
privately owned for agricultural or farming purposes. 2238

(NNN) "Gift card" means a document, card, certificate, or 2239  
other record, whether tangible or intangible, that may be 2240  
redeemed by a consumer for a dollar value when making a purchase 2241  
of tangible personal property or services. 2242

(OOO) "Specified digital product" means an electronically 2243  
transferred digital audiovisual work, digital audio work, or 2244  
digital book. 2245

As used in division (OOO) of this section: 2246

(1) "Digital audiovisual work" means a series of related 2247  
images that, when shown in succession, impart an impression of 2248  
motion, together with accompanying sounds, if any. 2249

(2) "Digital audio work" means a work that results from 2250  
the fixation of a series of musical, spoken, or other sounds, 2251  
including digitized sound files that are downloaded onto a 2252  
device and that may be used to alert the customer with respect 2253  
to a communication. 2254

(3) "Digital book" means a work that is generally 2255

recognized in the ordinary and usual sense as a book. 2256

(4) "Electronically transferred" means obtained by the 2257  
purchaser by means other than tangible storage media. 2258

(PPP) "Digital advertising services" means providing 2259  
access, by means of telecommunications equipment, to computer 2260  
equipment that is used to enter, upload, download, review, 2261  
manipulate, store, add, or delete data for the purpose of 2262  
electronically displaying, delivering, placing, or transferring 2263  
promotional advertisements to potential customers about products 2264  
or services or about industry or business brands. 2265

(QQQ) "Peer-to-peer car sharing program" has the same 2266  
meaning as in section 4516.01 of the Revised Code. 2267

**Sec. 5739.02.** For the purpose of providing revenue with 2268  
which to meet the needs of the state, for the use of the general 2269  
revenue fund of the state, for the purpose of securing a 2270  
thorough and efficient system of common schools throughout the 2271  
state, for the purpose of affording revenues, in addition to 2272  
those from general property taxes, permitted under 2273  
constitutional limitations, and from other sources, for the 2274  
support of local governmental functions, and for the purpose of 2275  
reimbursing the state for the expense of administering this 2276  
chapter, an excise tax is hereby levied on each retail sale made 2277  
in this state. 2278

(A) (1) The tax shall be collected as provided in section 2279  
5739.025 of the Revised Code. The rate of the tax shall be five 2280  
and three-fourths per cent. The tax applies and is collectible 2281  
when the sale is made, regardless of the time when the price is 2282  
paid or delivered. 2283

(2) In the case of the lease or rental, with a fixed term 2284

of more than thirty days or an indefinite term with a minimum 2285  
period of more than thirty days, of any motor vehicles designed 2286  
by the manufacturer to carry a load of not more than one ton, 2287  
watercraft, outboard motor, or aircraft, or of any tangible 2288  
personal property, other than motor vehicles designed by the 2289  
manufacturer to carry a load of more than one ton, to be used by 2290  
the lessee or renter primarily for business purposes, the tax 2291  
shall be collected by the vendor at the time the lease or rental 2292  
is consummated and shall be calculated by the vendor on the 2293  
basis of the total amount to be paid by the lessee or renter 2294  
under the lease agreement. If the total amount of the 2295  
consideration for the lease or rental includes amounts that are 2296  
not calculated at the time the lease or rental is executed, the 2297  
tax shall be calculated and collected by the vendor at the time 2298  
such amounts are billed to the lessee or renter. In the case of 2299  
an open-end lease or rental, the tax shall be calculated by the 2300  
vendor on the basis of the total amount to be paid during the 2301  
initial fixed term of the lease or rental, and for each 2302  
subsequent renewal period as it comes due. As used in this 2303  
division, "motor vehicle" has the same meaning as in section 2304  
4501.01 of the Revised Code, and "watercraft" includes an 2305  
outdrive unit attached to the watercraft. 2306

A lease with a renewal clause and a termination penalty or 2307  
similar provision that applies if the renewal clause is not 2308  
exercised is presumed to be a sham transaction. In such a case, 2309  
the tax shall be calculated and paid on the basis of the entire 2310  
length of the lease period, including any renewal periods, until 2311  
the termination penalty or similar provision no longer applies. 2312  
The taxpayer shall bear the burden, by a preponderance of the 2313  
evidence, that the transaction or series of transactions is not 2314  
a sham transaction. 2315

(3) Except as provided in division (A) (2) of this section, 2316  
in the case of a sale, the price of which consists in whole or 2317  
in part of the lease or rental of tangible personal property, 2318  
the tax shall be measured by the installments of that lease or 2319  
rental. 2320

(4) In the case of a sale of a physical fitness facility 2321  
service or recreation and sports club service, the price of 2322  
which consists in whole or in part of a membership for the 2323  
receipt of the benefit of the service, the tax applicable to the 2324  
sale shall be measured by the installments thereof. 2325

(B) The tax does not apply to the following: 2326

(1) Sales to the state or any of its political 2327  
subdivisions, or to any other state or its political 2328  
subdivisions if the laws of that state exempt from taxation 2329  
sales made to this state and its political subdivisions; 2330

(2) Sales of food for human consumption off the premises 2331  
where sold; 2332

(3) Sales of food sold to students only in a cafeteria, 2333  
dormitory, fraternity, or sorority maintained in a private, 2334  
public, or parochial school, college, or university; 2335

(4) Sales of newspapers and sales or transfers of 2336  
magazines distributed as controlled circulation publications; 2337

(5) The furnishing, preparing, or serving of meals without 2338  
charge by an employer to an employee provided the employer 2339  
records the meals as part compensation for services performed or 2340  
work done; 2341

(6) (a) Sales of motor fuel upon receipt, use, 2342  
distribution, or sale of which in this state a tax is imposed by 2343



the law of this state, but this exemption shall not apply to the 2344  
sale of motor fuel on which a refund of the tax is allowable 2345  
under division (A) of section 5735.14 of the Revised Code; and 2346  
the tax commissioner may deduct the amount of tax levied by this 2347  
section applicable to the price of motor fuel when granting a 2348  
refund of motor fuel tax pursuant to division (A) of section 2349  
5735.14 of the Revised Code and shall cause the amount deducted 2350  
to be paid into the general revenue fund of this state; 2351

(b) Sales of motor fuel other than that described in 2352  
division (B) (6) (a) of this section and used for powering a 2353  
refrigeration unit on a vehicle other than one used primarily to 2354  
provide comfort to the operator or occupants of the vehicle. 2355

(7) Sales of natural gas by a natural gas company or 2356  
municipal gas utility, of water by a water-works company, or of 2357  
steam by a heating company, if in each case the thing sold is 2358  
delivered to consumers through pipes or conduits, and all sales 2359  
of communications services by a telegraph company, all terms as 2360  
defined in section 5727.01 of the Revised Code, and sales of 2361  
electricity delivered through wires; 2362

(8) Casual sales by a person, or auctioneer employed 2363  
directly by the person to conduct such sales, except as to such 2364  
sales of motor vehicles, watercraft or outboard motors required 2365  
to be titled under section 1548.06 of the Revised Code, 2366  
watercraft documented with the United States coast guard, 2367  
snowmobiles, and all-purpose vehicles as defined in section 2368  
4519.01 of the Revised Code; 2369

(9) (a) Sales of services or tangible personal property, 2370  
other than motor vehicles, mobile homes, and manufactured homes, 2371  
by churches, organizations exempt from taxation under section 2372  
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 2373

organizations operated exclusively for charitable purposes as 2374  
defined in division (B) (12) of this section, provided that the 2375  
number of days on which such tangible personal property or 2376  
services, other than items never subject to the tax, are sold 2377  
does not exceed six in any calendar year, except as otherwise 2378  
provided in division (B) (9) (b) of this section. If the number of 2379  
days on which such sales are made exceeds six in any calendar 2380  
year, the church or organization shall be considered to be 2381  
engaged in business and all subsequent sales by it shall be 2382  
subject to the tax. In counting the number of days, all sales by 2383  
groups within a church or within an organization shall be 2384  
considered to be sales of that church or organization. 2385

(b) The limitation on the number of days on which tax- 2386  
exempt sales may be made by a church or organization under 2387  
division (B) (9) (a) of this section does not apply to sales made 2388  
by student clubs and other groups of students of a primary or 2389  
secondary school, or a parent-teacher association, booster 2390  
group, or similar organization that raises money to support or 2391  
fund curricular or extracurricular activities of a primary or 2392  
secondary school. 2393

(c) Divisions (B) (9) (a) and (b) of this section do not 2394  
apply to sales by a noncommercial educational radio or 2395  
television broadcasting station. 2396

(10) Sales not within the taxing power of this state under 2397  
the Constitution or laws of the United States or the 2398  
Constitution of this state; 2399

(11) Except for transactions that are sales under division 2400  
(B) (3) (p) of section 5739.01 of the Revised Code, the 2401  
transportation of persons or property, unless the transportation 2402  
is by a private investigation and security service; 2403

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

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

operation of a community or area center in which presentations 2435  
in music, dramatics, the arts, and related fields are made in 2436  
order to foster public interest and education therein; the 2437  
production of performances in music, dramatics, and the arts; or 2438  
the promotion of education by an organization engaged in 2439  
carrying on research in, or the dissemination of, scientific and 2440  
technological knowledge and information primarily for the 2441  
public. 2442

Nothing in this division shall be deemed to exempt sales 2443  
to any organization for use in the operation or carrying on of a 2444  
trade or business, or sales to a home for the aged for use in 2445  
the operation of independent living facilities as defined in 2446  
division (A) of section 5709.12 of the Revised Code. 2447

(13) Building and construction materials and services sold 2448  
to construction contractors for incorporation into a structure 2449  
or improvement to real property under a construction contract 2450  
with this state or a political subdivision of this state, or 2451  
with the United States government or any of its agencies; 2452  
building and construction materials and services sold to 2453  
construction contractors for incorporation into a structure or 2454  
improvement to real property that are accepted for ownership by 2455  
this state or any of its political subdivisions, or by the 2456  
United States government or any of its agencies at the time of 2457  
completion of the structures or improvements; building and 2458  
construction materials sold to construction contractors for 2459  
incorporation into a horticulture structure or livestock 2460  
structure for a person engaged in the business of horticulture 2461  
or producing livestock; building materials and services sold to 2462  
a construction contractor for incorporation into a house of 2463  
public worship or religious education, or a building used 2464  
exclusively for charitable purposes under a construction 2465

contract with an organization whose purpose is as described in 2466  
division (B) (12) of this section; building materials and 2467  
services sold to a construction contractor for incorporation 2468  
into a building under a construction contract with an 2469  
organization exempt from taxation under section 501(c) (3) of the 2470  
Internal Revenue Code of 1986 when the building is to be used 2471  
exclusively for the organization's exempt purposes; building and 2472  
construction materials sold for incorporation into the original 2473  
construction of a sports facility under section 307.696 of the 2474  
Revised Code; building and construction materials and services 2475  
sold to a construction contractor for incorporation into real 2476  
property outside this state if such materials and services, when 2477  
sold to a construction contractor in the state in which the real 2478  
property is located for incorporation into real property in that 2479  
state, would be exempt from a tax on sales levied by that state; 2480  
building and construction materials for incorporation into a 2481  
transportation facility pursuant to a public-private agreement 2482  
entered into under sections 5501.70 to 5501.83 of the Revised 2483  
Code; and, until one calendar year after the construction of a 2484  
convention center that qualifies for property tax exemption 2485  
under section 5709.084 of the Revised Code is completed, 2486  
building and construction materials and services sold to a 2487  
construction contractor for incorporation into the real property 2488  
comprising that convention center; 2489

(14) Sales of ships or vessels or rail rolling stock used 2490  
or to be used principally in interstate or foreign commerce, and 2491  
repairs, alterations, fuel, and lubricants for such ships or 2492  
vessels or rail rolling stock; 2493

(15) Sales to persons primarily engaged in any of the 2494  
activities mentioned in division (B) (42) (a), (g), or (h) of this 2495  
section, to persons engaged in making retail sales, or to 2496

persons who purchase for sale from a manufacturer tangible 2497  
personal property that was produced by the manufacturer in 2498  
accordance with specific designs provided by the purchaser, of 2499  
packages, including material, labels, and parts for packages, 2500  
and of machinery, equipment, and material for use primarily in 2501  
packaging tangible personal property produced for sale, 2502  
including any machinery, equipment, and supplies used to make 2503  
labels or packages, to prepare packages or products for 2504  
labeling, or to label packages or products, by or on the order 2505  
of the person doing the packaging, or sold at retail. "Packages" 2506  
includes bags, baskets, cartons, crates, boxes, cans, bottles, 2507  
bindings, wrappings, and other similar devices and containers, 2508  
but does not include motor vehicles or bulk tanks, trailers, or 2509  
similar devices attached to motor vehicles. "Packaging" means 2510  
placing in a package. Division (B) (15) of this section does not 2511  
apply to persons engaged in highway transportation for hire. 2512

(16) Sales of food to persons using supplemental nutrition 2513  
assistance program benefits to purchase the food. As used in 2514  
this division, "food" has the same meaning as in 7 U.S.C. 2012 2515  
and federal regulations adopted pursuant to the Food and 2516  
Nutrition Act of 2008. 2517

(17) Sales to persons engaged in farming, agriculture, 2518  
horticulture, or floriculture, of tangible personal property for 2519  
use or consumption primarily in the production by farming, 2520  
agriculture, horticulture, or floriculture of other tangible 2521  
personal property for use or consumption primarily in the 2522  
production of tangible personal property for sale by farming, 2523  
agriculture, horticulture, or floriculture; or material and 2524  
parts for incorporation into any such tangible personal property 2525  
for use or consumption in production; and of tangible personal 2526  
property for such use or consumption in the conditioning or 2527

holding of products produced by and for such use, consumption, 2528  
or sale by persons engaged in farming, agriculture, 2529  
horticulture, or floriculture, except where such property is 2530  
incorporated into real property; 2531

(18) Sales of drugs for a human being that may be 2532  
dispensed only pursuant to a prescription; insulin as recognized 2533  
in the official United States pharmacopoeia; urine and blood 2534  
testing materials when used by diabetics or persons with 2535  
hypoglycemia to test for glucose or acetone; hypodermic syringes 2536  
and needles when used by diabetics for insulin injections; 2537  
epoetin alfa when purchased for use in the treatment of persons 2538  
with medical disease; hospital beds when purchased by hospitals, 2539  
nursing homes, or other medical facilities; and medical oxygen 2540  
and medical oxygen-dispensing equipment when purchased by 2541  
hospitals, nursing homes, or other medical facilities; 2542

(19) Sales of prosthetic devices, durable medical 2543  
equipment for home use, or mobility enhancing equipment, when 2544  
made pursuant to a prescription and when such devices or 2545  
equipment are for use by a human being. 2546

(20) Sales of emergency and fire protection vehicles and 2547  
equipment to nonprofit organizations for use solely in providing 2548  
fire protection and emergency services, including trauma care 2549  
and emergency medical services, for political subdivisions of 2550  
the state; 2551

(21) Sales of tangible personal property manufactured in 2552  
this state, if sold by the manufacturer in this state to a 2553  
retailer for use in the retail business of the retailer outside 2554  
of this state and if possession is taken from the manufacturer 2555  
by the purchaser within this state for the sole purpose of 2556  
immediately removing the same from this state in a vehicle owned 2557

by the purchaser;	2558
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	2559 2560 2561 2562 2563
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	2564 2565 2566
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	2567 2568 2569 2570 2571 2572 2573 2574 2575 2576 2577 2578 2579 2580 2581
(25) (a) Sales of water to a consumer for residential use;	2582
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	2583 2584 2585 2586



(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2587 2588
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	2589 2590 2591 2592
(a) To prepare food for human consumption for sale;	2593
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	2594 2595 2596 2597
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2598 2599
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2600 2601
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	2602 2603 2604 2605
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	2606 2607 2608
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	2609 2610 2611
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal	2612 2613 2614

property belonging to others by a person engaged in highway 2615  
transportation for hire, except for packages and packaging used 2616  
for the transportation of tangible personal property; 2617

(33) Sales to the state headquarters of any veterans' 2618  
organization in this state that is either incorporated and 2619  
issued a charter by the congress of the United States or is 2620  
recognized by the United States veterans administration, for use 2621  
by the headquarters; 2622

(34) Sales to a telecommunications service vendor, mobile 2623  
telecommunications service vendor, or satellite broadcasting 2624  
service vendor of tangible personal property and services used 2625  
directly and primarily in transmitting, receiving, switching, or 2626  
recording any interactive, one- or two-way electromagnetic 2627  
communications, including voice, image, data, and information, 2628  
through the use of any medium, including, but not limited to, 2629  
poles, wires, cables, switching equipment, computers, and record 2630  
storage devices and media, and component parts for the tangible 2631  
personal property. The exemption provided in this division shall 2632  
be in lieu of all other exemptions under division (B) (42) (a) or 2633  
(n) of this section to which the vendor may otherwise be 2634  
entitled, based upon the use of the thing purchased in providing 2635  
the telecommunications, mobile telecommunications, or satellite 2636  
broadcasting service. 2637

(35) (a) Sales where the purpose of the consumer is to use 2638  
or consume the things transferred in making retail sales and 2639  
consisting of newspaper inserts, catalogues, coupons, flyers, 2640  
gift certificates, or other advertising material that prices and 2641  
describes tangible personal property offered for retail sale. 2642

(b) Sales to direct marketing vendors of preliminary 2643  
materials such as photographs, artwork, and typesetting that 2644

will be used in printing advertising material; and of printed 2645  
matter that offers free merchandise or chances to win sweepstake 2646  
prizes and that is mailed to potential customers with 2647  
advertising material described in division (B) (35) (a) of this 2648  
section; 2649

(c) Sales of equipment such as telephones, computers, 2650  
facsimile machines, and similar tangible personal property 2651  
primarily used to accept orders for direct marketing retail 2652  
sales. 2653

(d) Sales of automatic food vending machines that preserve 2654  
food with a shelf life of forty-five days or less by 2655  
refrigeration and dispense it to the consumer. 2656

For purposes of division (B) (35) of this section, "direct 2657  
marketing" means the method of selling where consumers order 2658  
tangible personal property by United States mail, delivery 2659  
service, or telecommunication and the vendor delivers or ships 2660  
the tangible personal property sold to the consumer from a 2661  
warehouse, catalogue distribution center, or similar fulfillment 2662  
facility by means of the United States mail, delivery service, 2663  
or common carrier. 2664

(36) Sales to a person engaged in the business of 2665  
horticulture or producing livestock of materials to be 2666  
incorporated into a horticulture structure or livestock 2667  
structure; 2668

(37) Sales of personal computers, computer monitors, 2669  
computer keyboards, modems, and other peripheral computer 2670  
equipment to an individual who is licensed or certified to teach 2671  
in an elementary or a secondary school in this state for use by 2672  
that individual in preparation for teaching elementary or 2673

secondary school students; 2674

(38) Sales of tangible personal property that is not 2675  
required to be registered or licensed under the laws of this 2676  
state to a citizen of a foreign nation that is not a citizen of 2677  
the United States, provided the property is delivered to a 2678  
person in this state that is not a related member of the 2679  
purchaser, is physically present in this state for the sole 2680  
purpose of temporary storage and package consolidation, and is 2681  
subsequently delivered to the purchaser at a delivery address in 2682  
a foreign nation. As used in division (B) (38) of this section, 2683  
"related member" has the same meaning as in section 5733.042 of 2684  
the Revised Code, and "temporary storage" means the storage of 2685  
tangible personal property for a period of not more than sixty 2686  
days. 2687

(39) Sales of used manufactured homes and used mobile 2688  
homes, as defined in section 5739.0210 of the Revised Code, made 2689  
on or after January 1, 2000; 2690

(40) Sales of tangible personal property and services to a 2691  
provider of electricity used or consumed directly and primarily 2692  
in generating, transmitting, or distributing electricity for use 2693  
by others, including property that is or is to be incorporated 2694  
into and will become a part of the consumer's production, 2695  
transmission, or distribution system and that retains its 2696  
classification as tangible personal property after 2697  
incorporation; fuel or power used in the production, 2698  
transmission, or distribution of electricity; energy conversion 2699  
equipment as defined in section 5727.01 of the Revised Code; and 2700  
tangible personal property and services used in the repair and 2701  
maintenance of the production, transmission, or distribution 2702  
system, including only those motor vehicles as are specially 2703

designed and equipped for such use. The exemption provided in 2704  
this division shall be in lieu of all other exemptions in 2705  
division (B) (42) (a) or (n) of this section to which a provider 2706  
of electricity may otherwise be entitled based on the use of the 2707  
tangible personal property or service purchased in generating, 2708  
transmitting, or distributing electricity. 2709

(41) Sales to a person providing services under division 2710  
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 2711  
personal property and services used directly and primarily in 2712  
providing taxable services under that section. 2713

(42) Sales where the purpose of the purchaser is to do any 2714  
of the following: 2715

(a) To incorporate the thing transferred as a material or 2716  
a part into tangible personal property to be produced for sale 2717  
by manufacturing, assembling, processing, or refining; or to use 2718  
or consume the thing transferred directly in producing tangible 2719  
personal property for sale by mining, including, without 2720  
limitation, the extraction from the earth of all substances that 2721  
are classed geologically as minerals, or directly in the 2722  
rendition of a public utility service, except that the sales tax 2723  
levied by this section shall be collected upon all meals, 2724  
drinks, and food for human consumption sold when transporting 2725  
persons. This paragraph does not exempt from "retail sale" or 2726  
"sales at retail" the sale of tangible personal property that is 2727  
to be incorporated into a structure or improvement to real 2728  
property. 2729

(b) To hold the thing transferred as security for the 2730  
performance of an obligation of the vendor; 2731

(c) To resell, hold, use, or consume the thing transferred 2732

as evidence of a contract of insurance;	2733
(d) To use or consume the thing directly in commercial fishing;	2734 2735
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	2736 2737 2738 2739
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	2740 2741 2742 2743 2744
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	2745 2746 2747
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	2748 2749 2750 2751 2752 2753
(i) To use the thing transferred as qualified research and development equipment;	2754 2755
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to	2756 2757 2758 2759 2760 2761

retail stores of an affiliated group of which that person is a 2762  
member, or by means of direct marketing. This division does not 2763  
apply to motor vehicles registered for operation on the public 2764  
highways. As used in this division, "affiliated group" has the 2765  
same meaning as in division (B) (3) (e) of section 5739.01 of the 2766  
Revised Code and "direct marketing" has the same meaning as in 2767  
division (B) (35) of this section. 2768

(k) To use or consume the thing transferred to fulfill a 2769  
contractual obligation incurred by a warrantor pursuant to a 2770  
warranty provided as a part of the price of the tangible 2771  
personal property sold or by a vendor of a warranty, maintenance 2772  
or service contract, or similar agreement the provision of which 2773  
is defined as a sale under division (B) (7) of section 5739.01 of 2774  
the Revised Code; 2775

(l) To use or consume the thing transferred in the 2776  
production of a newspaper for distribution to the public; 2777

(m) To use tangible personal property to perform a service 2778  
listed in division (B) (3) of section 5739.01 of the Revised 2779  
Code, if the property is or is to be permanently transferred to 2780  
the consumer of the service as an integral part of the 2781  
performance of the service; 2782

(n) To use or consume the thing transferred primarily in 2783  
producing tangible personal property for sale by farming, 2784  
agriculture, horticulture, or floriculture. Persons engaged in 2785  
rendering farming, agriculture, horticulture, or floriculture 2786  
services for others are deemed engaged primarily in farming, 2787  
agriculture, horticulture, or floriculture. This paragraph does 2788  
not exempt from "retail sale" or "sales at retail" the sale of 2789  
tangible personal property that is to be incorporated into a 2790  
structure or improvement to real property. 2791

(o) To use or consume the thing transferred in acquiring, 2792  
formatting, editing, storing, and disseminating data or 2793  
information by electronic publishing; 2794

(p) To provide the thing transferred to the owner or 2795  
lessee of a motor vehicle that is being repaired or serviced, if 2796  
the thing transferred is a rented motor vehicle and the 2797  
purchaser is reimbursed for the cost of the rented motor vehicle 2798  
by a manufacturer, warrantor, or provider of a maintenance, 2799  
service, or other similar contract or agreement, with respect to 2800  
the motor vehicle that is being repaired or serviced; 2801

(q) To use or consume the thing transferred directly in 2802  
production of crude oil and natural gas for sale. Persons 2803  
engaged in rendering production services for others are deemed 2804  
engaged in production. 2805

As used in division (B) (42) (q) of this section, 2806  
"production" means operations and tangible personal property 2807  
directly used to expose and evaluate an underground reservoir 2808  
that may contain hydrocarbon resources, prepare the wellbore for 2809  
production, and lift and control all substances yielded by the 2810  
reservoir to the surface of the earth. 2811

(i) For the purposes of division (B) (42) (q) of this 2812  
section, the "thing transferred" includes, but is not limited 2813  
to, any of the following: 2814

(I) Services provided in the construction of permanent 2815  
access roads, services provided in the construction of the well 2816  
site, and services provided in the construction of temporary 2817  
impoundments; 2818

(II) Equipment and rigging used for the specific purpose 2819  
of creating with integrity a wellbore pathway to underground 2820



reservoirs;	2821
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	2822 2823 2824
(IV) Casing, tubulars, and float and centralizing equipment;	2825 2826
(V) Trailers to which production equipment is attached;	2827
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	2828 2829 2830
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	2831 2832 2833
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	2834 2835 2836 2837
(IX) Pressure pumping equipment;	2838
(X) Artificial lift systems equipment;	2839
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	2840 2841 2842
(XII) Tangible personal property directly used to control production equipment.	2843 2844
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	2845 2846 2847

(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	2848 2849 2850
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	2851 2852 2853
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	2854 2855 2856
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	2857 2858 2859 2860
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	2861 2862 2863 2864
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	2865 2866
(VII) Well site fencing, lighting, or security systems;	2867
(VIII) Communication devices or services;	2868
(IX) Office supplies;	2869
(X) Trailers used as offices or lodging;	2870
(XI) Motor vehicles of any kind;	2871
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	2872 2873
(XIII) Tangible personal property used primarily as a	2874

safety device;	2875
(XIV) Data collection or monitoring devices;	2876
(XV) Access ladders, stairs, or platforms attached to storage tanks.	2877 2878
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	2879 2880 2881 2882 2883
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	2884 2885 2886 2887
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	2888 2889 2890
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	2891 2892 2893 2894 2895 2896 2897
(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.	2898 2899 2900 2901 2902 2903

(45) Sales of telecommunications service that is used 2904  
directly and primarily to perform the functions of a call 2905  
center. As used in this division, "call center" means any 2906  
physical location where telephone calls are placed or received 2907  
in high volume for the purpose of making sales, marketing, 2908  
customer service, technical support, or other specialized 2909  
business activity, and that employs at least fifty individuals 2910  
that engage in call center activities on a full-time basis, or 2911  
sufficient individuals to fill fifty full-time equivalent 2912  
positions. 2913

(46) Sales by a telecommunications service vendor of 900 2914  
service to a subscriber. This division does not apply to 2915  
information services. 2916

(47) Sales of value-added non-voice data service. This 2917  
division does not apply to any similar service that is not 2918  
otherwise a telecommunications service. 2919

(48) Sales of feminine hygiene products. 2920

(49) Sales of materials, parts, equipment, or engines used 2921  
in the repair or maintenance of aircraft or avionics systems of 2922  
such aircraft, and sales of repair, remodeling, replacement, or 2923  
maintenance services in this state performed on aircraft or on 2924  
an aircraft's avionics, engine, or component materials or parts. 2925  
As used in division (B) (49) of this section, "aircraft" means 2926  
aircraft of more than six thousand pounds maximum certified 2927  
takeoff weight or used exclusively in general aviation. 2928

(50) Sales of full flight simulators that are used for 2929  
pilot or flight-crew training, sales of repair or replacement 2930  
parts or components, and sales of repair or maintenance services 2931  
for such full flight simulators. "Full flight simulator" means a 2932

replica of a specific type, or make, model, and series of 2933  
aircraft cockpit. It includes the assemblage of equipment and 2934  
computer programs necessary to represent aircraft operations in 2935  
ground and flight conditions, a visual system providing an out- 2936  
of-the-cockpit view, and a system that provides cues at least 2937  
equivalent to those of a three-degree-of-freedom motion system, 2938  
and has the full range of capabilities of the systems installed 2939  
in the device as described in appendices A and B of part 60 of 2940  
chapter 1 of title 14 of the Code of Federal Regulations. 2941

(51) Any transfer or lease of tangible personal property 2942  
between the state and JobsOhio in accordance with section 2943  
4313.02 of the Revised Code. 2944

(52) (a) Sales to a qualifying corporation. 2945

(b) As used in division (B) (52) of this section: 2946

(i) "Qualifying corporation" means a nonprofit corporation 2947  
organized in this state that leases from an eligible county 2948  
land, buildings, structures, fixtures, and improvements to the 2949  
land that are part of or used in a public recreational facility 2950  
used by a major league professional athletic team or a class A 2951  
to class AAA minor league affiliate of a major league 2952  
professional athletic team for a significant portion of the 2953  
team's home schedule, provided the following apply: 2954

(I) The facility is leased from the eligible county 2955  
pursuant to a lease that requires substantially all of the 2956  
revenue from the operation of the business or activity conducted 2957  
by the nonprofit corporation at the facility in excess of 2958  
operating costs, capital expenditures, and reserves to be paid 2959  
to the eligible county at least once per calendar year. 2960

(II) Upon dissolution and liquidation of the nonprofit 2961

corporation, all of its net assets are distributable to the 2962  
board of commissioners of the eligible county from which the 2963  
corporation leases the facility. 2964

(ii) "Eligible county" has the same meaning as in section 2965  
307.695 of the Revised Code. 2966

(53) Sales to or by a cable service provider, video 2967  
service provider, or radio or television broadcast station 2968  
regulated by the federal government of cable service or 2969  
programming, video service or programming, audio service or 2970  
programming, or electronically transferred digital audiovisual 2971  
or audio work. As used in division (B) (53) of this section, 2972  
"cable service" and "cable service provider" have the same 2973  
meanings as in section 1332.01 of the Revised Code, and "video 2974  
service," "video service provider," and "video programming" have 2975  
the same meanings as in section 1332.21 of the Revised Code. 2976

(54) Sales of a digital audio work electronically 2977  
transferred for delivery through use of a machine, such as a 2978  
juke box, that does all of the following: 2979

(a) Accepts direct payments to operate; 2980

(b) Automatically plays a selected digital audio work for 2981  
a single play upon receipt of a payment described in division 2982  
(B) (54) (a) of this section; 2983

(c) Operates exclusively for the purpose of playing 2984  
digital audio works in a commercial establishment. 2985

(55) (a) Sales of the following occurring on the first 2986  
Friday of August and the following Saturday and Sunday of each 2987  
year, beginning in 2018: 2988

(i) An item of clothing, the price of which is seventy- 2989

five dollars or less;	2990
(ii) An item of school supplies, the price of which is	2991
twenty dollars or less;	2992
(iii) An item of school instructional material, the price	2993
of which is twenty dollars or less.	2994
(b) As used in division (B) (55) of this section:	2995
(i) "Clothing" means all human wearing apparel suitable	2996
for general use. "Clothing" includes, but is not limited to,	2997
aprons, household and shop; athletic supporters; baby receiving	2998
blankets; bathing suits and caps; beach capes and coats; belts	2999
and suspenders; boots; coats and jackets; costumes; diapers,	3000
children and adult, including disposable diapers; earmuffs;	3001
footlets; formal wear; garters and garter belts; girdles; gloves	3002
and mittens for general use; hats and caps; hosiery; insoles for	3003
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	3004
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	3005
sneakers; socks and stockings; steel-toed shoes; underwear;	3006
uniforms, athletic and nonathletic; and wedding apparel.	3007
"Clothing" does not include items purchased for use in a trade	3008
or business; clothing accessories or equipment; protective	3009
equipment; sports or recreational equipment; belt buckles sold	3010
separately; costume masks sold separately; patches and emblems	3011
sold separately; sewing equipment and supplies including, but	3012
not limited to, knitting needles, patterns, pins, scissors,	3013
sewing machines, sewing needles, tape measures, and thimbles;	3014
and sewing materials that become part of "clothing" including,	3015
but not limited to, buttons, fabric, lace, thread, yarn, and	3016
zippers.	3017
(ii) "School supplies" means items commonly used by a	3018

student in a course of study. "School supplies" includes only 3019  
the following items: binders; book bags; calculators; cellophane 3020  
tape; blackboard chalk; compasses; composition books; crayons; 3021  
erasers; folders, expandable, pocket, plastic, and manila; glue, 3022  
paste, and paste sticks; highlighters; index cards; index card 3023  
boxes; legal pads; lunch boxes; markers; notebooks; paper, 3024  
loose-leaf ruled notebook paper, copy paper, graph paper, 3025  
tracing paper, manila paper, colored paper, poster board, and 3026  
construction paper; pencil boxes and other school supply boxes; 3027  
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 3028  
and writing tablets. "School supplies" does not include any item 3029  
purchased for use in a trade or business. 3030

(iii) "School instructional material" means written 3031  
material commonly used by a student in a course of study as a 3032  
reference and to learn the subject being taught. "School 3033  
instructional material" includes only the following items: 3034  
reference books, reference maps and globes, textbooks, and 3035  
workbooks. "School instructional material" does not include any 3036  
material purchased for use in a trade or business. 3037

(56) (a) Sales of diapers or incontinence underpads sold 3038  
pursuant to a prescription, for the benefit of a medicaid 3039  
recipient with a diagnosis of incontinence, and by a medicaid 3040  
provider that maintains a valid provider agreement under section 3041  
5164.30 of the Revised Code with the department of medicaid, 3042  
provided that the medicaid program covers diapers or 3043  
incontinence underpads as an incontinence garment. 3044

(b) As used in division (B) (56) (a) of this section: 3045

(i) "Diaper" means an absorbent garment worn by humans who 3046  
are incapable of, or have difficulty, controlling their bladder 3047  
or bowel movements. 3048



(ii) "Incontinence underpad" means an absorbent product, 3049  
not worn on the body, designed to protect furniture or other 3050  
tangible personal property from soiling or damage due to human 3051  
incontinence. 3052

(57) Sales of investment metal bullion and investment 3053  
coins. "Investment metal bullion" means any bullion described in 3054  
section 408(m)(3)(B) of the Internal Revenue Code, regardless of 3055  
whether that bullion is in the physical possession of a trustee. 3056  
"Investment coin" means any coin composed primarily of gold, 3057  
silver, platinum, or palladium. 3058

(58) Documentary services charges imposed pursuant to 3059  
section 4517.261 or 4781.24 of the Revised Code. 3060

(C) For the purpose of the proper administration of this 3061  
chapter, and to prevent the evasion of the tax, it is presumed 3062  
that all sales made in this state are subject to the tax until 3063  
the contrary is established. 3064

(D) The tax collected by the vendor from the consumer 3065  
under this chapter is not part of the price, but is a tax 3066  
collection for the benefit of the state, and of counties levying 3067  
an additional sales tax pursuant to section 5739.021 or 5739.026 3068  
of the Revised Code and of transit authorities levying an 3069  
additional sales tax pursuant to section 5739.023 of the Revised 3070  
Code. Except for the discount authorized under section 5739.12 3071  
of the Revised Code and the effects of any rounding pursuant to 3072  
section 5703.055 of the Revised Code, no person other than the 3073  
state or such a county or transit authority shall derive any 3074  
benefit from the collection or payment of the tax levied by this 3075  
section or section 5739.021, 5739.023, or 5739.026 of the 3076  
Revised Code. 3077

**Sec. 5739.03.** (A) Except as provided in section 5739.05 or 3078  
section 5739.051 of the Revised Code, the tax imposed by or 3079  
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 3080  
the Revised Code shall be paid by the consumer to the vendor, 3081  
and each vendor shall collect from the consumer, as a trustee 3082  
for the state of Ohio, the full and exact amount of the tax 3083  
payable on each taxable sale, in the manner and at the times 3084  
provided as follows: 3085

(1) If the price is, at or prior to the provision of the 3086  
service or the delivery of possession of the thing sold to the 3087  
consumer, paid in currency passed from hand to hand by the 3088  
consumer or the consumer's agent to the vendor or the vendor's 3089  
agent, the vendor or the vendor's agent shall collect the tax 3090  
with and at the same time as the price; 3091

(2) If the price is otherwise paid or to be paid, the 3092  
vendor or the vendor's agent shall, at or prior to the provision 3093  
of the service or the delivery of possession of the thing sold 3094  
to the consumer, charge the tax imposed by or pursuant to 3095  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 3096  
Code to the account of the consumer, which amount shall be 3097  
collected by the vendor from the consumer in addition to the 3098  
price. Such sale shall be reported on and the amount of the tax 3099  
applicable thereto shall be remitted with the return for the 3100  
period in which the sale is made, and the amount of the tax 3101  
shall become a legal charge in favor of the vendor and against 3102  
the consumer. 3103

(B) (1) (a) If any sale is claimed to be exempt under 3104  
division (E) of section 5739.01 of the Revised Code or under 3105  
section 5739.02 of the Revised Code, with the exception of 3106  
divisions (B) (1) to (11), (28), (48), ~~or (55)~~, or (58) of 3107

section 5739.02 of the Revised Code, the consumer must provide 3108  
to the vendor, and the vendor must obtain from the consumer, a 3109  
certificate specifying the reason that the sale is not legally 3110  
subject to the tax. The certificate shall be in such form, and 3111  
shall be provided either in a hard copy form or electronic form, 3112  
as the tax commissioner prescribes. 3113

(b) A vendor that obtains a fully completed exemption 3114  
certificate from a consumer is relieved of liability for 3115  
collecting and remitting tax on any sale covered by that 3116  
certificate. If it is determined the exemption was improperly 3117  
claimed, the consumer shall be liable for any tax due on that 3118  
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 3119  
Chapter 5741. of the Revised Code. Relief under this division 3120  
from liability does not apply to any of the following: 3121

(i) A vendor that fraudulently fails to collect tax; 3122

(ii) A vendor that solicits consumers to participate in 3123  
the unlawful claim of an exemption; 3124

(iii) A vendor that accepts an exemption certificate from 3125  
a consumer that claims an exemption based on who purchases or 3126  
who sells property or a service, when the subject of the 3127  
transaction sought to be covered by the exemption certificate is 3128  
actually received by the consumer at a location operated by the 3129  
vendor in this state, and this state has posted to its web site 3130  
an exemption certificate form that clearly and affirmatively 3131  
indicates that the claimed exemption is not available in this 3132  
state; 3133

(iv) A vendor that accepts an exemption certificate from a 3134  
consumer who claims a multiple points of use exemption under 3135  
division (D) of section 5739.033 of the Revised Code, if the 3136

item purchased is tangible personal property, other than 3137  
prewritten computer software. 3138

(2) The vendor shall maintain records, including exemption 3139  
certificates, of all sales on which a consumer has claimed an 3140  
exemption, and provide them to the tax commissioner on request. 3141

(3) The tax commissioner may establish an identification 3142  
system whereby the commissioner issues an identification number 3143  
to a consumer that is exempt from payment of the tax. The 3144  
consumer must present the number to the vendor, if any sale is 3145  
claimed to be exempt as provided in this section. 3146

(4) If no certificate is provided or obtained within 3147  
ninety days after the date on which such sale is consummated, it 3148  
shall be presumed that the tax applies. Failure to have so 3149  
provided or obtained a certificate shall not preclude a vendor, 3150  
within one hundred twenty days after the tax commissioner gives 3151  
written notice of intent to levy an assessment, from either 3152  
establishing that the sale is not subject to the tax, or 3153  
obtaining, in good faith, a fully completed exemption 3154  
certificate. 3155

(5) Certificates need not be obtained nor provided where 3156  
the identity of the consumer is such that the transaction is 3157  
never subject to the tax imposed or where the item of tangible 3158  
personal property sold or the service provided is never subject 3159  
to the tax imposed, regardless of use, or when the sale is in 3160  
interstate commerce. 3161

(6) If a transaction is claimed to be exempt under 3162  
division (B) (13) of section 5739.02 of the Revised Code, the 3163  
contractor shall obtain certification of the claimed exemption 3164  
from the contractee. This certification shall be in addition to 3165

an exemption certificate provided by the contractor to the 3166  
vendor. A contractee that provides a certification under this 3167  
division shall be deemed to be the consumer of all items 3168  
purchased by the contractor under the claim of exemption, if it 3169  
is subsequently determined that the exemption is not properly 3170  
claimed. The certification shall be in such form as the tax 3171  
commissioner prescribes. 3172

(C) As used in this division, "contractee" means a person 3173  
who seeks to enter or enters into a contract or agreement with a 3174  
contractor or vendor for the construction of real property or 3175  
for the sale and installation onto real property of tangible 3176  
personal property. 3177

Any contractor or vendor may request from any contractee a 3178  
certification of what portion of the property to be transferred 3179  
under such contract or agreement is to be incorporated into the 3180  
realty and what portion will retain its status as tangible 3181  
personal property after installation is completed. The 3182  
contractor or vendor shall request the certification by 3183  
certified mail delivered to the contractee, return receipt 3184  
requested. Upon receipt of such request and prior to entering 3185  
into the contract or agreement, the contractee shall provide to 3186  
the contractor or vendor a certification sufficiently detailed 3187  
to enable the contractor or vendor to ascertain the resulting 3188  
classification of all materials purchased or fabricated by the 3189  
contractor or vendor and transferred to the contractee. This 3190  
requirement applies to a contractee regardless of whether the 3191  
contractee holds a direct payment permit under section 5739.031 3192  
of the Revised Code or provides to the contractor or vendor an 3193  
exemption certificate as provided under this section. 3194

For the purposes of the taxes levied by this chapter and 3195

Chapter 5741. of the Revised Code, the contractor or vendor may 3196  
in good faith rely on the contractee's certification. 3197  
Notwithstanding division (B) of section 5739.01 of the Revised 3198  
Code, if the tax commissioner determines that certain property 3199  
certified by the contractee as tangible personal property 3200  
pursuant to this division is, in fact, real property, the 3201  
contractee shall be considered to be the consumer of all 3202  
materials so incorporated into that real property and shall be 3203  
liable for the applicable tax, and the contractor or vendor 3204  
shall be excused from any liability on those materials. 3205

    If a contractee fails to provide such certification upon 3206  
the request of the contractor or vendor, the contractor or 3207  
vendor shall comply with the provisions of this chapter and 3208  
Chapter 5741. of the Revised Code without the certification. If 3209  
the tax commissioner determines that such compliance has been 3210  
performed in good faith and that certain property treated as 3211  
tangible personal property by the contractor or vendor is, in 3212  
fact, real property, the contractee shall be considered to be 3213  
the consumer of all materials so incorporated into that real 3214  
property and shall be liable for the applicable tax, and the 3215  
construction contractor or vendor shall be excused from any 3216  
liability on those materials. 3217

    This division does not apply to any contract or agreement 3218  
where the tax commissioner determines as a fact that a 3219  
certification under this division was made solely on the 3220  
decision or advice of the contractor or vendor. 3221

    (D) Notwithstanding division (B) of section 5739.01 of the 3222  
Revised Code, whenever the total rate of tax imposed under this 3223  
chapter is increased after the date after a construction 3224  
contract is entered into, the contractee shall reimburse the 3225

construction contractor for any additional tax paid on tangible 3226  
property consumed or services received pursuant to the contract. 3227

(E) A vendor who files a petition for reassessment 3228  
contesting the assessment of tax on sales for which the vendor 3229  
obtained no valid exemption certificates and for which the 3230  
vendor failed to establish that the sales were properly not 3231  
subject to the tax during the one-hundred-twenty-day period 3232  
allowed under division (B) of this section, may present to the 3233  
tax commissioner additional evidence to prove that the sales 3234  
were properly subject to a claim of exception or exemption. The 3235  
vendor shall file such evidence within ninety days of the 3236  
receipt by the vendor of the notice of assessment, except that, 3237  
upon application and for reasonable cause, the period for 3238  
submitting such evidence shall be extended thirty days. 3239

The commissioner shall consider such additional evidence 3240  
in reaching the final determination on the assessment and 3241  
petition for reassessment. 3242

(F) Whenever a vendor refunds the price, minus any 3243  
separately stated delivery charge, of an item of tangible 3244  
personal property on which the tax imposed under this chapter 3245  
has been paid, the vendor shall also refund the amount of tax 3246  
paid, minus the amount of tax attributable to the delivery 3247  
charge. 3248

**Sec. 5739.07.** (A) When, pursuant to this chapter, a vendor 3249  
has paid taxes to the treasurer of state or the treasurer of 3250  
state's agent, or to the tax commissioner or the commissioner's 3251  
agent, the commissioner shall refund to the vendor the amount of 3252  
taxes paid, and any penalties assessed with respect to such 3253  
taxes, if the vendor has refunded to the consumer the full 3254  
amount of taxes the consumer paid illegally or erroneously or if 3255

the vendor has illegally or erroneously billed the consumer but 3256  
has not collected the taxes from the consumer. 3257

(B) When, pursuant to this chapter, a consumer has paid 3258  
taxes directly to the treasurer of state or the treasurer of 3259  
state's agent, or to the tax commissioner or the commissioner's 3260  
agent, and the payment or assessment was illegal or erroneous, 3261  
the commissioner shall refund to the consumer the full amount of 3262  
illegal or erroneous taxes paid and any penalties assessed with 3263  
respect to such taxes. 3264

(C) The commissioner shall refund to the consumer ~~taxes~~ 3265  
amounts paid illegally or erroneously to a vendor only if: 3266

(1) The commissioner has not refunded the tax to the 3267  
vendor and the vendor has not refunded the tax to the consumer; 3268  
or 3269

(2) The consumer has received a refund from a manufacturer 3270  
or other person, other than the vendor, of the full purchase 3271  
price, but not the tax, paid to the vendor in settlement of a 3272  
complaint by the consumer about the property or service 3273  
purchased. 3274

The commissioner may require the consumer to obtain or the 3275  
vendor to provide a written statement confirming that the vendor 3276  
has not refunded the tax to the consumer and has not filed an 3277  
application for refund of the tax with the commissioner. 3278

(D) Subject to division (E) of this section, an 3279  
application for refund shall be filed with the tax commissioner 3280  
on the form prescribed by the commissioner within four years 3281  
from the date of the illegal or erroneous payment ~~of the tax,~~ 3282  
unless the vendor or consumer waives the time limitation under 3283  
division (A) (3) of section 5739.16 of the Revised Code. If the 3284



time limitation is waived, the refund application period shall 3285  
be extended for the same period as the waiver. 3286

(E) An application for refund shall be filed in accordance 3287  
with division (D) of this section unless a person is subject to 3288  
an assessment that is subject to the time limit of division (B) 3289  
of section 5703.58 of the Revised Code for ~~a tax~~ amounts not 3290  
reported and paid between the four-year time limit described in 3291  
division (D) of this section and the seven-year limit described 3292  
in division (B) of section 5703.58 of the Revised Code, in which 3293  
case the person may file an application within six months after 3294  
the date the assessment is issued. Any refund allowed under this 3295  
division shall not exceed the amount of the assessment due for 3296  
the same period. 3297

(F) On the filing of an application for a refund, the 3298  
commissioner shall determine the amount of refund to which the 3299  
applicant is entitled. If the amount is not less than that 3300  
claimed, the commissioner shall certify that amount to the 3301  
director of budget and management and the treasurer of state for 3302  
payment from the tax refund fund created by section 5703.052 of 3303  
the Revised Code. If the amount is less than that claimed, the 3304  
commissioner shall proceed in accordance with section 5703.70 of 3305  
the Revised Code. 3306

(G) When a refund is granted under this section, it shall 3307  
include interest thereon as provided by section 5739.132 of the 3308  
Revised Code. 3309

**Sec. 5739.104.** The tax commissioner shall refund to a 3310  
person subject to a tax under section 5739.101 of the Revised 3311  
Code ~~the amount of taxes~~ amounts paid illegally or erroneously 3312  
or paid on an illegal or erroneous assessment. Applications for 3313  
a refund shall be filed with the commissioner, on a form 3314

prescribed by the commissioner, within four years from the date 3315  
of the illegal or erroneous payment ~~of the tax~~, except where the 3316  
person subject to the tax waives the time limitation under 3317  
division (C) of section 5739.16 of the Revised Code, in which 3318  
case the four-year refund limitation shall be extended for the 3319  
same period of time as the waiver. 3320

On the filing of an application for a refund, the 3321  
commissioner shall determine the amount of refund to which the 3322  
applicant is entitled. If the amount is not less than that 3323  
claimed, the commissioner shall certify the amount to the 3324  
treasurer of state for payment from the current resort area 3325  
excise tax receipts of the municipal corporation or township 3326  
from which the refund is due. If the amount is less than that 3327  
claimed, the commissioner shall proceed in accordance with 3328  
section 5703.70 of the Revised Code. 3329

If a refund is granted for payment of an illegal or 3330  
erroneous assessment issued by the commissioner, the refund 3331  
shall include interest computed at the rate per annum prescribed 3332  
under section 5703.47 of the Revised Code. 3333

**Sec. 5741.02.** (A) (1) For the use of the general revenue 3334  
fund of the state, an excise tax is hereby levied on the 3335  
storage, use, or other consumption in this state of tangible 3336  
personal property or the benefit realized in this state of any 3337  
service provided. The tax shall be collected as provided in 3338  
section 5739.025 of the Revised Code. The rate of the tax shall 3339  
be five and three-fourths per cent. 3340

(2) In the case of the lease or rental, with a fixed term 3341  
of more than thirty days or an indefinite term with a minimum 3342  
period of more than thirty days, of any motor vehicles designed 3343  
by the manufacturer to carry a load of not more than one ton, 3344

watercraft, outboard motor, or aircraft, or of any tangible 3345  
personal property, other than motor vehicles designed by the 3346  
manufacturer to carry a load of more than one ton, to be used by 3347  
the lessee or renter primarily for business purposes, the tax 3348  
shall be collected by the seller at the time the lease or rental 3349  
is consummated and shall be calculated by the seller on the 3350  
basis of the total amount to be paid by the lessee or renter 3351  
under the lease or rental agreement. If the total amount of the 3352  
consideration for the lease or rental includes amounts that are 3353  
not calculated at the time the lease or rental is executed, the 3354  
tax shall be calculated and collected by the seller at the time 3355  
such amounts are billed to the lessee or renter. In the case of 3356  
an open-end lease or rental, the tax shall be calculated by the 3357  
seller on the basis of the total amount to be paid during the 3358  
initial fixed term of the lease or rental, and for each 3359  
subsequent renewal period as it comes due. As used in this 3360  
division, "motor vehicle" has the same meaning as in section 3361  
4501.01 of the Revised Code, and "watercraft" includes an 3362  
outdrive unit attached to the watercraft. 3363

(3) Except as provided in division (A) (2) of this section, 3364  
in the case of a transaction, the price of which consists in 3365  
whole or part of the lease or rental of tangible personal 3366  
property, the tax shall be measured by the installments of those 3367  
leases or rentals. 3368

(B) Each consumer, storing, using, or otherwise consuming 3369  
in this state tangible personal property or realizing in this 3370  
state the benefit of any service provided, shall be liable for 3371  
the tax, and such liability shall not be extinguished until the 3372  
tax has been paid to this state; provided, that the consumer 3373  
shall be relieved from further liability for the tax if the tax 3374  
has been paid to a seller in accordance with section 5741.04 of 3375

the Revised Code or prepaid by the seller in accordance with 3376  
section 5741.06 of the Revised Code. 3377

(C) The tax does not apply to the storage, use, or 3378  
consumption in this state of the following described tangible 3379  
personal property or services, nor to the storage, use, or 3380  
consumption or benefit in this state of tangible personal 3381  
property or services purchased under the following described 3382  
circumstances: 3383

(1) When the sale of property or service in this state is 3384  
subject to the excise tax imposed by sections 5739.01 to 5739.31 3385  
of the Revised Code, provided said tax has been paid; 3386

(2) Except as provided in division (D) of this section, 3387  
tangible personal property or services, the acquisition of 3388  
which, if made in Ohio, would be a sale not subject to the tax 3389  
imposed by sections 5739.01 to 5739.31 of the Revised Code; 3390

(3) Property or services, the storage, use, or other 3391  
consumption of or benefit from which this state is prohibited 3392  
from taxing by the Constitution of the United States, laws of 3393  
the United States, or the Constitution of this state. This 3394  
exemption shall not exempt from the application of the tax 3395  
imposed by this section the storage, use, or consumption of 3396  
tangible personal property that was purchased in interstate 3397  
commerce, but that has come to rest in this state, provided that 3398  
fuel to be used or transported in carrying on interstate 3399  
commerce that is stopped within this state pending transfer from 3400  
one conveyance to another is exempt from the excise tax imposed 3401  
by this section and section 5739.02 of the Revised Code; 3402

(4) Transient use of tangible personal property in this 3403  
state by a nonresident tourist or vacationer, or a nonbusiness 3404

use within this state by a nonresident of this state, if the 3405  
property so used was purchased outside this state for use 3406  
outside this state and is not required to be registered or 3407  
licensed under the laws of this state; 3408

(5) Tangible personal property or services rendered, upon 3409  
which taxes have been paid to another jurisdiction to the extent 3410  
of the amount of the tax paid to such other jurisdiction. Where 3411  
the amount of the tax imposed by this section and imposed 3412  
pursuant to section 5741.021, 5741.022, or 5741.023 of the 3413  
Revised Code exceeds the amount paid to another jurisdiction, 3414  
the difference shall be allocated between the tax imposed by 3415  
this section and any tax imposed by a county or a transit 3416  
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 3417  
the Revised Code, in proportion to the respective rates of such 3418  
taxes. 3419

As used in this subdivision, "taxes paid to another 3420  
jurisdiction" means the total amount of retail sales or use tax 3421  
or similar tax based upon the sale, purchase, or use of tangible 3422  
personal property or services rendered legally, levied by and 3423  
paid to another state or political subdivision thereof, or to 3424  
the District of Columbia, where the payment of such tax does not 3425  
entitle the taxpayer to any refund or credit for such payment. 3426

(6) The transfer of a used manufactured home or used 3427  
mobile home, as defined by section 5739.0210 of the Revised 3428  
Code, made on or after January 1, 2000; 3429

(7) Drugs that are or are intended to be distributed free 3430  
of charge to a practitioner licensed to prescribe, dispense, and 3431  
administer drugs to a human being in the course of a 3432  
professional practice and that by law may be dispensed only by 3433  
or upon the order of such a practitioner; 3434

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C) (8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(9) Tangible personal property held for sale by a person but not for that person's own use and donated by that person, without charge or other compensation, to either of the following:

(a) A nonprofit organization operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; or

(b) This state or any political subdivision of this state, but only if donated for exclusively public purposes.

For the purposes of division (C) (9) of this section, "charitable purposes" has the same meaning as in division (B) (12) of section 5739.02 of the Revised Code.

(10) Equipment stored, used, or otherwise consumed in this state by an out-of-state disaster business during a disaster response period during which the business conducts disaster work

pursuant to a qualifying solicitation received by the business, 3464  
provided the equipment is removed from the state before the last 3465  
day of that period. All terms used in division (C) (10) of this 3466  
section have the same meanings as in section 5703.94 of the 3467  
Revised Code. 3468

(11) (a) Watercraft, if all of the following apply: 3469

(i) The watercraft is in this state only for storage and 3470  
maintenance purposes. 3471

(ii) The watercraft is not used or stored in this state 3472  
between the first day of May and the last day of September of 3473  
any year. 3474

(iii) The watercraft is not required to be registered in 3475  
this state under section 1547.54 of the Revised Code. 3476

(iv) The owner paid taxes to another jurisdiction on the 3477  
sale, use, or consumption of the watercraft or paid sales tax on 3478  
the watercraft under section 5739.027 of the Revised Code, 3479  
unless the watercraft is used and titled or registered in a 3480  
jurisdiction that does not impose a sales or use tax or similar 3481  
excise tax on the ownership or use of the watercraft. 3482

(b) As used in division (C) (11) of this section: 3483

(i) "Taxes paid to another jurisdiction" has the same 3484  
meaning as in division (C) (5) of this section. 3485

(ii) "Maintenance" means any act to preserve or improve 3486  
the condition or efficiency of a watercraft including cleaning 3487  
and repairing the watercraft and installing equipment, fixtures, 3488  
or technology in or on the watercraft. 3489

(c) Nothing in division (C) (11) of this section exempts 3490  
sales of storage of watercraft taxable under division (B) (9) of 3491

section 5739.01 of the Revised Code or sales of repair or 3492  
installation of tangible personal property in or on the 3493  
watercraft taxable under division (B) (3) (a) or (b) of that 3494  
section. 3495

(D) The tax applies to the storage, use, or other 3496  
consumption in this state of tangible personal property or 3497  
services, the acquisition of which at the time of sale was 3498  
excepted under division (E) of section 5739.01 of the Revised 3499  
Code from the tax imposed by section 5739.02 of the Revised 3500  
Code, but which has subsequently been temporarily or permanently 3501  
stored, used, or otherwise consumed in a taxable manner. 3502

(E) (1) (a) If any transaction is claimed to be exempt under 3503  
division (E) of section 5739.01 of the Revised Code or under 3504  
section 5739.02 of the Revised Code, with the exception of 3505  
divisions (B) (1) to (11) or (28) of section 5739.02 of the 3506  
Revised Code, the consumer shall provide to the seller, and the 3507  
seller shall obtain from the consumer, a certificate specifying 3508  
the reason that the transaction is not subject to the tax. The 3509  
certificate shall be in such form, and shall be provided either 3510  
in a hard copy form or electronic form, as the tax commissioner 3511  
prescribes. 3512

(b) A seller that obtains a fully completed exemption 3513  
certificate from a consumer is relieved of liability for 3514  
collecting and remitting tax on any sale covered by that 3515  
certificate. If it is determined the exemption was improperly 3516  
claimed, the consumer shall be liable for any tax due on that 3517  
sale under this chapter. Relief under this division from 3518  
liability does not apply to any of the following: 3519

(i) A seller that fraudulently fails to collect tax; 3520



- (ii) A seller that solicits consumers to participate in 3521  
the unlawful claim of an exemption; 3522
- (iii) A seller that accepts an exemption certificate from 3523  
a consumer that claims an exemption based on who purchases or 3524  
who sells property or a service, when the subject of the 3525  
transaction sought to be covered by the exemption certificate is 3526  
actually received by the consumer at a location operated by the 3527  
seller in this state, and this state has posted to its web site 3528  
an exemption certificate form that clearly and affirmatively 3529  
indicates that the claimed exemption is not available in this 3530  
state; 3531
- (iv) A seller that accepts an exemption certificate from a 3532  
consumer who claims a multiple points of use exemption under 3533  
division (D) of section 5739.033 of the Revised Code, if the 3534  
item purchased is tangible personal property, other than 3535  
prewritten computer software. 3536
- (2) The seller shall maintain records, including exemption 3537  
certificates, of all sales on which a consumer has claimed an 3538  
exemption, and provide them to the tax commissioner on request. 3539
- (3) If no certificate is provided or obtained within 3540  
ninety days after the date on which the transaction is 3541  
consummated, it shall be presumed that the tax applies. Failure 3542  
to have so provided or obtained a certificate shall not preclude 3543  
a seller, within one hundred twenty days after the tax 3544  
commissioner gives written notice of intent to levy an 3545  
assessment, from either establishing that the transaction is not 3546  
subject to the tax, or obtaining, in good faith, a fully 3547  
completed exemption certificate. 3548
- (4) If a transaction is claimed to be exempt under 3549

division (B) (13) of section 5739.02 of the Revised Code, the 3550  
contractor shall obtain certification of the claimed exemption 3551  
from the contractee. This certification shall be in addition to 3552  
an exemption certificate provided by the contractor to the 3553  
seller. A contractee that provides a certification under this 3554  
division shall be deemed to be the consumer of all items 3555  
purchased by the contractor under the claim of exemption, if it 3556  
is subsequently determined that the exemption is not properly 3557  
claimed. The certification shall be in such form as the tax 3558  
commissioner prescribes. 3559

(F) A seller who files a petition for reassessment 3560  
contesting the assessment of tax on transactions for which the 3561  
seller obtained no valid exemption certificates, and for which 3562  
the seller failed to establish that the transactions were not 3563  
subject to the tax during the one-hundred-twenty-day period 3564  
allowed under division (E) of this section, may present to the 3565  
tax commissioner additional evidence to prove that the 3566  
transactions were exempt. The seller shall file such evidence 3567  
within ninety days of the receipt by the seller of the notice of 3568  
assessment, except that, upon application and for reasonable 3569  
cause, the tax commissioner may extend the period for submitting 3570  
such evidence thirty days. 3571

(G) For the purpose of the proper administration of 3572  
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 3573  
the evasion of the tax hereby levied, it shall be presumed that 3574  
any use, storage, or other consumption of tangible personal 3575  
property in this state is subject to the tax until the contrary 3576  
is established. 3577

(H) The tax collected by the seller from the consumer 3578  
under this chapter is not part of the price, but is a tax 3579

collection for the benefit of the state, and of counties levying 3580  
an additional use tax pursuant to section 5741.021 or 5741.023 3581  
of the Revised Code and of transit authorities levying an 3582  
additional use tax pursuant to section 5741.022 of the Revised 3583  
Code. Except for the discount authorized under section 5741.12 3584  
of the Revised Code and the effects of any rounding pursuant to 3585  
section 5703.055 of the Revised Code, no person other than the 3586  
state or such a county or transit authority shall derive any 3587  
benefit from the collection of such tax. 3588

**Sec. 5741.10.** Refunds of ~~taxes~~ amounts paid pursuant to 3589  
this chapter by a seller or consumer illegally or erroneously 3590  
shall be made in the same manner as refunds are made to a vendor 3591  
or consumer under section 5739.07 of the Revised Code. 3592

**Sec. 5743.53.** (A) The treasurer of state shall refund to a 3593  
taxpayer any of the following: 3594

(1) ~~Any tobacco products or vapor products tax~~ Amounts 3595  
imposed under this chapter that were paid illegally or 3596  
erroneously; 3597

~~(2) Any tobacco products or vapor products tax~~ or paid on 3598  
an illegal or erroneous assessment; 3599

~~(3)~~ (2) Any tax paid on tobacco products or vapor products 3600  
that have been sold or shipped to retail dealers, wholesale 3601  
dealers, or vapor distributors outside this state, returned to 3602  
the manufacturer, or destroyed by the taxpayer with the prior 3603  
approval of the tax commissioner. 3604

Any application for refund shall be filed with the 3605  
commissioner on a form prescribed by the commissioner for that 3606  
purpose. The commissioner may not pay any refund on an 3607  
application for refund filed with the commissioner more than 3608

three years from the date of the payment ~~of the tax~~. 3609

(B) On the filing of the application for refund, the 3610  
commissioner shall determine the amount of the refund to which 3611  
the applicant is entitled. If the amount is not less than that 3612  
claimed, the commissioner shall certify the amount to the 3613  
director of budget and management and to the treasurer of state 3614  
for payment from the tax refund fund created by section 5703.052 3615  
of the Revised Code. If the amount is less than that claimed, 3616  
the commissioner shall proceed in accordance with section 3617  
5703.70 of the Revised Code. 3618

If a refund is granted for payment of an illegal or 3619  
erroneous assessment issued by the department of taxation, the 3620  
refund shall include interest on the amount of the refund from 3621  
the date of the overpayment. The interest shall be computed at 3622  
the rate per annum in the manner prescribed by section 5703.47 3623  
of the Revised Code. 3624

(C) If any person entitled to a refund ~~of tax~~ under this 3625  
section or section 5703.70 of the Revised Code is indebted to 3626  
the state for any tax administered by the tax commissioner, or 3627  
any charge, penalties, or interest arising from such tax, the 3628  
amount allowable on the application for refund first shall be 3629  
applied in satisfaction of the debt. 3630

(D) In lieu of granting a refund payable under division 3631  
~~(A) (3)~~ (A) (2) of this section, the tax commissioner may allow a 3632  
taxpayer to claim a credit of the amount of refundable tax on 3633  
the return for the period during which the tax became 3634  
refundable. The commissioner may require taxpayers to submit any 3635  
information necessary to support a claim for a credit under this 3636  
section, and the commissioner shall allow no credit if that 3637  
information is not provided. 3638

**Sec. 5745.11.** An application to refund to a taxpayer ~~the~~ 3639  
~~amount of taxes paid on any illegal, erroneous, or excessive~~ 3640  
~~payment of tax under this chapter, including assessments, amounts~~ 3641  
paid under this chapter that are overpaid, paid illegally or 3642  
erroneously, or paid on any illegal or erroneous assessment 3643  
shall be filed with the tax commissioner within three years 3644  
after the date of the illegal, erroneous, or excessive payment 3645  
~~of the tax~~, or within any additional period allowed by division 3646  
(A) of section 5745.12 of the Revised Code. The application 3647  
shall be filed in the form prescribed by the tax commissioner. 3648

On the filing of a refund application, the commissioner 3649  
shall determine the amount of refund to which the applicant is 3650  
entitled. If the amount is not less than that claimed, the 3651  
commissioner shall certify the amount of the refund to each 3652  
municipal corporation to which the overpayment was made. If the 3653  
amount is less than that claimed, the commissioner shall proceed 3654  
in accordance with divisions (A) to (C) of section 5703.70 of 3655  
the Revised Code and shall certify to each municipal corporation 3656  
to which the overpayment was made the amount to be refunded 3657  
under division (B) or (C) of that section. 3658

On receipt of a certification of a refund, the municipal 3659  
corporation shall issue a refund to the taxpayer, or, upon the 3660  
taxpayer's written request, shall credit the amount of the 3661  
refund against the taxpayer's estimated tax payments to the 3662  
municipal corporation for an ensuing taxable year. 3663

Any portion of the refund not issued within ninety days 3664  
after the tax commissioner's notice is received by the municipal 3665  
corporation shall bear interest at the rate per annum prescribed 3666  
by section 5703.47 of the Revised Code from the ninetieth day 3667  
after such notice is received by the municipal corporation until 3668

the day the refund is paid or credited. On an illegal or 3669  
erroneous assessment, interest shall be paid at that rate from 3670  
the date of payment on the illegal or erroneous assessment until 3671  
the day the refund is paid or credited. 3672

**Sec. 5747.11.** (A) The tax commissioner shall refund to 3673  
employers, qualifying entities, electing pass-through entities, 3674  
or taxpayers subject to a tax imposed under section 5733.41, 3675  
5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised 3676  
Code the amount of any overpayment of such tax amounts that were 3677  
overpaid, paid illegally or erroneously, or paid on an illegal 3678  
or erroneous assessment. 3679

(B) (1) Except as otherwise provided under divisions (D) 3680  
and (E) of this section, applications for refund shall be filed 3681  
with the tax commissioner, on the form prescribed by the 3682  
commissioner, within four years from the date of the illegal, 3683  
erroneous, or excessive payment ~~of the tax~~, or within any 3684  
additional period allowed by division (B) (3) (b) of section 3685  
5747.05, division (E) of section 5747.10, division (A) of 3686  
section 5747.13, or division (C) of section 5747.45 of the 3687  
Revised Code. 3688

On filing of the refund application, the commissioner 3689  
shall determine the amount of refund due and, if that amount 3690  
exceeds one dollar, certify such amount to the director of 3691  
budget and management and treasurer of state for payment from 3692  
the tax refund fund created by section 5703.052 of the Revised 3693  
Code. Payment shall be made as provided in division (C) of 3694  
section 126.35 of the Revised Code. 3695

(2) If an individual taxpayer is deceased, a refund may be 3696  
issued in the name of the decedent and of the executor, 3697  
administrator, or other person charged with the decedent's 3698

property, upon the request of that person. Such a request shall 3699  
include any documentation, including a copy of the taxpayer's 3700  
death certificate and any fiduciary or court documents, that the 3701  
tax commissioner considers necessary to prove that the person 3702  
making the request is qualified to receive the refund. If the 3703  
request is for a refund that was previously issued in only the 3704  
decedent's name, the person making the request must also provide 3705  
the previously issued payment to the commissioner. 3706

(C) (1) Interest shall be allowed and paid at the rate per 3707  
annum prescribed by section 5703.47 of the Revised Code on 3708  
amounts refunded with respect to the tax imposed under section 3709  
5747.02 or Chapter 5748. of the Revised Code from the date of 3710  
the overpayment until the date of the refund of the overpayment, 3711  
except that if any overpayment is refunded within ninety days 3712  
after the final filing date of the annual return or ninety days 3713  
after the return is filed, whichever is later, no interest shall 3714  
be allowed on such overpayment. If the overpayment results from 3715  
the carryback of a net operating loss or net capital loss to a 3716  
previous taxable year, the overpayment is deemed not to have 3717  
been made prior to the filing date, including any extension 3718  
thereof, for the taxable year in which the net operating loss or 3719  
net capital loss arises. For purposes of the payment of interest 3720  
on overpayments, no amount of tax, for any taxable year, shall 3721  
be treated as having been paid before the date on which the tax 3722  
return for that year was due without regard to any extension of 3723  
time for filing such return. 3724

(2) Interest shall be allowed at the rate per annum 3725  
prescribed by section 5703.47 of the Revised Code on amounts 3726  
refunded with respect to the taxes imposed under sections 3727  
5733.41 and 5747.41 or under section 5747.38 of the Revised 3728  
Code. The interest shall run from whichever of the following 3729

days is the latest until the day the refund is paid: the day the 3730  
illegal, erroneous, or excessive payment was made; the ninetieth 3731  
day after the final day the annual report was required to be 3732  
filed under section 5747.42 of the Revised Code; or the 3733  
ninetieth day after the day that report was filed. 3734

(D) "Ninety days" shall be substituted for "four years" in 3735  
division (B) of this section if the taxpayer satisfies both of 3736  
the following conditions: 3737

(1) The taxpayer has applied for a refund based in whole 3738  
or in part upon section 5747.059 of the Revised Code; 3739

(2) The taxpayer asserts that either the imposition or 3740  
collection of the tax imposed or charged by this chapter or any 3741  
portion of such tax violates the Constitution of the United 3742  
States or the Constitution of Ohio. 3743

(E) (1) Division (E) (2) of this section applies only if all 3744  
of the following conditions are satisfied: 3745

(a) A qualifying entity pays an amount of the tax imposed 3746  
by section 5733.41 or 5747.41 of the Revised Code; 3747

(b) The taxpayer is a qualifying investor as to that 3748  
qualifying entity; 3749

(c) The taxpayer did not claim the credit provided for in 3750  
section 5747.059 of the Revised Code as to the tax described in 3751  
division (E) (1) (a) of this section; 3752

(d) The four-year period described in division (B) of this 3753  
section has ended as to the taxable year for which the taxpayer 3754  
otherwise would have claimed that credit. 3755

(2) A taxpayer shall file an application for refund 3756  
pursuant to division (E) of this section within one year after 3757



the date the payment described in division (E) (1) (a) of this 3758  
section is made. An application filed under division (E) (2) of 3759  
this section shall claim refund only of overpayments resulting 3760  
from the taxpayer's failure to claim the credit described in 3761  
division (E) (1) (c) of this section. Nothing in division (E) of 3762  
this section shall be construed to relieve a taxpayer from 3763  
complying with division (A) (15) of section 5747.01 of the 3764  
Revised Code. 3765

Sec. 5747.82. There is allowed a nonrefundable credit 3766  
against a taxpayer's aggregate tax liability under section 3767  
5747.02 of the Revised Code for a taxpayer that has been issued 3768  
a tax credit certificate under section 122.91 of the Revised 3769  
Code. The amount of the credit shall equal the credit amount 3770  
stated on the certificate. The credit shall be claimed for the 3771  
taxpayer's most recently concluded taxable year that ended 3772  
before the issuance date stated on the certificate. 3773

The credit shall be claimed in the order required under 3774  
section 5747.98 of the Revised Code. Any credit amount in excess 3775  
of the aggregate amount of tax due under section 5747.02 of the 3776  
Revised Code, after allowing for any other credits preceding the 3777  
credit in that order, may be carried forward for five taxable 3778  
years, but the amount of the excess credit allowed in any such 3779  
year shall be deducted from the balance carried forward to the 3780  
next year. 3781

Nothing in this section limits or disallows pass-through 3782  
treatment of the credit if the credit certificate has been 3783  
issued to a pass-through entity. 3784

**Sec. 5747.98.** (A) To provide a uniform procedure for 3785  
calculating a taxpayer's aggregate tax liability under section 3786  
5747.02 of the Revised Code, a taxpayer shall claim any credits 3787

to which the taxpayer is entitled in the following order:	3788
Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;	3789 3790 3791 3792
Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;	3793 3794 3795
The dependent care credit under section 5747.054 of the Revised Code;	3796 3797
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	3798 3799
The campaign contribution credit under section 5747.29 of the Revised Code;	3800 3801
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	3802 3803
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	3804 3805
The earned income credit under section 5747.71 of the Revised Code;	3806 3807
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	3808 3809
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	3810 3811 3812
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the	3813 3814

Revised Code;	3815
The nonrefundable vocational job credit under section	3816
5747.057 of the Revised Code;	3817
The credit for adoption of a minor child under section	3818
5747.37 of the Revised Code;	3819
The nonrefundable job retention credit under division (B)	3820
of section 5747.058 of the Revised Code;	3821
The enterprise zone credit under section 5709.66 of the	3822
Revised Code;	3823
The credit for beginning farmers who participate in a	3824
financial management program under division (B) of section	3825
5747.77 of the Revised Code;	3826
<u>The credit for commercial vehicle operator training</u>	3827
<u>expenses under section 5747.82 of the Revised Code;</u>	3828
The credit for selling or renting agricultural assets to	3829
beginning farmers under division (A) of section 5747.77 of the	3830
Revised Code;	3831
The credit for purchases of qualifying grape production	3832
property under section 5747.28 of the Revised Code;	3833
The small business investment credit under section 5747.81	3834
of the Revised Code;	3835
The nonrefundable lead abatement credit under section	3836
5747.26 of the Revised Code;	3837
The opportunity zone investment credit under section	3838
122.84 of the Revised Code;	3839
The enterprise zone credits under section 5709.65 of the	3840
Revised Code;	3841

The research and development credit under section 5747.331	3842
of the Revised Code;	3843
The credit for rehabilitating a historic building under	3844
section 5747.76 of the Revised Code;	3845
The nonresident credit under division (A) of section	3846
5747.05 of the Revised Code;	3847
The credit for a resident's out-of-state income under	3848
division (B) of section 5747.05 of the Revised Code;	3849
The refundable motion picture and Broadway theatrical	3850
production credit under section 5747.66 of the Revised Code;	3851
The refundable jobs creation credit or job retention	3852
credit under division (A) of section 5747.058 of the Revised	3853
Code;	3854
The refundable credit for taxes paid by a qualifying	3855
entity granted under section 5747.059 of the Revised Code;	3856
The refundable credits for taxes paid by a qualifying	3857
pass-through entity granted under division (I) of section	3858
5747.08 of the Revised Code;	3859
The refundable credit under section 5747.80 of the Revised	3860
Code for losses on loans made to the Ohio venture capital	3861
program under sections 150.01 to 150.10 of the Revised Code;	3862
The refundable credit for rehabilitating a historic	3863
building under section 5747.76 of the Revised Code;	3864
The refundable credit under section 5747.39 of the Revised	3865
Code for taxes levied under section 5747.38 of the Revised Code	3866
paid by an electing pass-through entity.	3867
(B) For any credit, except the refundable credits	3868

enumerated in this section and the credit granted under division 3869  
(H) of section 5747.08 of the Revised Code, the amount of the 3870  
credit for a taxable year shall not exceed the taxpayer's 3871  
aggregate amount of tax due under section 5747.02 of the Revised 3872  
Code, after allowing for any other credit that precedes it in 3873  
the order required under this section. Any excess amount of a 3874  
particular credit may be carried forward if authorized under the 3875  
section creating that credit. Nothing in this chapter shall be 3876  
construed to allow a taxpayer to claim, directly or indirectly, 3877  
a credit more than once for a taxable year. 3878

**Sec. 5749.08.** The tax commissioner shall refund to 3879  
taxpayers ~~the amount of taxes levied by section 5749.02 of the~~ 3880  
~~Revised Code and amounts due~~ amounts paid under this chapter or 3881  
section 1509.50 of the Revised Code that were paid illegally or 3882  
erroneously or paid on an illegal or erroneous assessment. 3883  
Applications for refund shall be filed with the commissioner, on 3884  
the form prescribed by the commissioner, within four years from 3885  
the date of the illegal or erroneous payment. On the filing of 3886  
the application, the commissioner shall determine the amount of 3887  
refund to which the applicant is entitled, plus interest 3888  
computed in accordance with section 5703.47 of the Revised Code 3889  
from the date of the payment of an erroneous or illegal 3890  
assessment until the date the refund is paid. If the amount is 3891  
not less than that claimed, the commissioner shall certify the 3892  
amount to the director of budget and management and treasurer of 3893  
state for payment from the tax refund fund created by section 3894  
5703.052 of the Revised Code. If the amount is less than that 3895  
claimed, the commissioner shall proceed in accordance with 3896  
section 5703.70 of the Revised Code. 3897

**Sec. 5751.08.** (A) An application for refund to the 3898  
taxpayer of ~~the amount of taxes~~ amounts imposed under this 3899

chapter that are overpaid, paid illegally or erroneously, or 3900  
paid on any illegal or erroneous assessment shall be filed by 3901  
the reporting person with the tax commissioner, on the form 3902  
prescribed by the commissioner, within four years after the date 3903  
of the illegal or erroneous payment ~~of the tax~~, or within any 3904  
additional period allowed under division (F) of section 5751.09 3905  
of the Revised Code. The applicant shall provide the amount of 3906  
the requested refund along with the claimed reasons for, and 3907  
documentation to support, the issuance of a refund. 3908

(B) On the filing of the refund application, the tax 3909  
commissioner shall determine the amount of refund to which the 3910  
applicant is entitled. If the amount is not less than that 3911  
claimed, the commissioner shall certify the amount to the 3912  
director of budget and management and treasurer of state for 3913  
payment from the tax refund fund created under section 5703.052 3914  
of the Revised Code. If the amount is less than that claimed, 3915  
the commissioner shall proceed in accordance with section 3916  
5703.70 of the Revised Code. 3917

(C) Interest on a refund applied for under this section, 3918  
computed at the rate provided for in section 5703.47 of the 3919  
Revised Code, shall be allowed from the later of the date the 3920  
~~tax amount~~ was paid or when the ~~tax payment amount~~ was due. 3921

(D) A calendar quarter taxpayer with more than one million 3922  
dollars in taxable gross receipts in a calendar year other than 3923  
calendar year 2005 and that is not able to exclude one million 3924  
dollars in taxable gross receipts because of the operation of 3925  
the taxpayer's business in that calendar year may file for a 3926  
refund under this section to obtain the full exclusion of one 3927  
million dollars in taxable gross receipts for that calendar 3928  
year. 3929

(E) Except as provided in section 5751.081 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax period the amount of any refund due the taxpayer under this chapter for a preceding tax period.

**Sec. 5753.06.** (A) A taxpayer may apply to the tax commissioner for a refund of the amount of taxes under section 5753.02 or 5753.021 of the Revised Code amounts imposed under this chapter that were overpaid, paid illegally or erroneously, or paid on an illegal or erroneous assessment. The application shall be on a form prescribed by the tax commissioner. The taxpayer shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund. The taxpayer shall file the application with the tax commissioner within four years after the date the payment was made, unless the applicant has waived the time limitation under division (D) of section 5753.07 of the Revised Code. In the latter event, the four-year limitation is extended for the same period of time as the waiver.

(B) Upon the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the tax commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund. If the amount is less than that claimed, the tax commissioner shall proceed under section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the

~~tax amount~~ was due or the date payment ~~of the tax~~ was made. 3960  
Except as provided in section 5753.07 of the Revised Code, the 3961  
tax commissioner may, with the consent of the taxpayer, provide 3962  
for crediting against the tax due for a tax period, the amount 3963  
of any refund due the taxpayer for a preceding tax period. 3964

(D) Refunds under this section are subject to offset under 3965  
section 5753.061 of the Revised Code. 3966

**Section 2.** That existing sections 128.47, 323.08, 718.05, 3967  
718.27, 718.85, 718.89, 718.91, 3734.905, 4307.05, 5725.222, 3968  
5726.30, 5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 3969  
5735.122, 5736.08, 5739.01, 5739.02, 5739.03, 5739.07, 5739.104, 3970  
5741.02, 5741.10, 5743.53, 5745.11, 5747.11, 5747.98, 5749.08, 3971  
5751.08, and 5753.06 of the Revised Code are hereby repealed. 3972

**Section 3.** (A) Except as otherwise provided in division 3973  
(B) of this section, the amendment by this act of sections 3974  
5739.01, 5739.02, and 5741.02 of the Revised Code applies on and 3975  
after the first day of the first month beginning after the 3976  
effective date of this section. 3977

(B) The amendment by this act of divisions (B) (3) (l) and 3978  
(m) of section 5739.01 of the Revised Code applies on and after 3979  
July 1, 2023. 3980

(C) The amendment by this act of section 323.08 of the 3981  
Revised Code applies to tax year 2023 and every tax year 3982  
thereafter. 3983

(D) The amendment by this act of sections 718.05, 718.27, 3984  
718.85, and 718.89 of the Revised Code applies to tax returns 3985  
required to be filed for taxable years ending on or after 3986  
January 1, 2023. 3987

(E) The amendment by this act of sections 128.47, 718.91, 3988



3734.905, 4307.05, 5725.222, 5726.30, 5727.28, 5727.91, 3989  
5728.061, 5729.102, 5735.11, 5735.122, 5736.08, 5739.07, 3990  
5739.104, 5741.10, 5743.53, 5745.11, 5747.11, 5749.08, 5751.08, 3991  
and 5753.06 applies to refunds allowed on and after January 1, 3992  
2023. 3993

**Section 4.** In adopting the rules required under division 3994  
(E) of section 122.91 of the Revised Code, as enacted by this 3995  
act, the Director of Development shall file the notice and text 3996  
of the proposed rules as required by division (B) of section 3997  
119.03 of the Revised Code not later than one hundred fifty days 3998  
after the effective date of this section. 3999

**Section 5.** Pursuant to division (G) of section 5703.95 of 4000  
the Revised Code, which states that any bill introduced in the 4001  
House of Representatives or the Senate that proposes to enact or 4002  
modify one or more tax expenditures should include a statement 4003  
explaining the objectives of the tax expenditure or its 4004  
modification and the sponsor's intent in proposing the tax 4005  
expenditure or its modification: 4006

The objective of the amendment by this act of section 4007  
5741.02 of the Revised Code is to increase business to Ohio's 4008  
marine industry by removing a disincentive for out-of-state boat 4009  
owners from coming into Ohio with their business. 4010

Currently, subjecting boats to use taxes on the value of 4011  
the boat has resulted in out-of-state boats going elsewhere for 4012  
winter storage, repair, and refitting work. The charge for 4013  
winter storage notwithstanding, most winter work orders from 4014  
customers are estimated to range from fifteen thousand dollars 4015  
to one hundred thousand dollars. The loss of even one major job, 4016  
never mind several, could mean the success or failure of a 4017  
marine business. 4018

The state of Ohio also suffers significant losses. 4019  
Virtually everything related to winter storage and work is 4020  
subject to sales tax, including parts, materials, labor, and 4021  
storage. When a boat is not winter-stored in Ohio, there are not 4022  
only no related sales taxes collected, but also no commercial 4023  
activity taxes and no income taxes. 4024

**Section 6.** Section 5747.11 of the Revised Code is 4025  
presented in this act as a composite of the section as amended 4026  
by both S.B. 231 and S.B. 246 of the 134th General Assembly. The 4027  
General Assembly, applying the principle stated in division (B) 4028  
of section 1.52 of the Revised Code that amendments are to be 4029  
harmonized if reasonably capable of simultaneous operation, 4030  
finds that the composite is the resulting version of the section 4031  
in effect prior to the effective date of the section as 4032  
presented in this act. 4033

Section 5747.98 of the Revised Code is presented in this 4034  
act as a composite of the section as amended by H.B. 95, S.B. 4035  
166, and S.B. 246, all of the 134th General Assembly. The 4036  
General Assembly, applying the principle stated in division (B) 4037  
of section 1.52 of the Revised Code that amendments are to be 4038  
harmonized if reasonably capable of simultaneous operation, 4039  
finds that the composite is the resulting version of the section 4040  
in effect prior to the effective date of the section as 4041  
presented in this act. 4042