

As Introduced

135th General Assembly

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H. B. No. 189

Representative Cutrona

**Cosponsors: Representatives Gross, Miller, K., Johnson, Williams, Dean,
Manchester, Wiggam, Loychik, Barhorst, Stoltzfus**

A BILL

To amend sections 107.036, 5739.02, 5747.98, and 1
5751.98 and to enact sections 122.97, 122.971, 2
122.972, 122.973, 122.974, and 122.975 of the 3
Revised Code to exempt from the sales and use 4
tax the sale of certain firearms and ammunition 5
and to authorize nonrefundable tax credits for 6
small arms and ammunition manufacturers. 7

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

Section 1. That sections 107.036, 5739.02, 5747.98, and 8
5751.98 be amended and sections 122.97, 122.971, 122.972, 9
122.973, 122.974, and 122.975 of the Revised Code be enacted to 10
read as follows: 11

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

budget submitted to the general assembly pursuant to section	19
107.03 of the Revised Code.	20
(B) As used in this section, "business incentive tax	21
credit" means all of the following:	22
(1) The job creation tax credit under section 122.17 of	23
the Revised Code;	24
(2) The job retention tax credit under section 122.171 of	25
the Revised Code;	26
(3) The historic preservation tax credit under section	27
149.311 of the Revised Code;	28
(4) The motion picture and Broadway theatrical production	29
tax credit under section 122.85 of the Revised Code;	30
(5) The new markets tax credit under section 5725.33 of	31
the Revised Code;	32
(6) The research and development credit under section	33
166.21 of the Revised Code;	34
(7) The small business investment credit under section	35
122.86 of the Revised Code;	36
(8) The rural growth investment credit under section	37
122.152 of the Revised Code;	38
(9) The opportunity zone investment credit under section	39
122.84 of the Revised Code;	40
(10) The transformational mixed use development credit	41
under section 122.09 of the Revised Code;	42
<u>(11) The small arms and ammunition manufacturing credit</u>	43
<u>under section 122.973 of the Revised Code.</u>	44

Sec. 122.97. For purposes of this section and sections 45
122.971 to 122.975 of the Revised Code: 46

(A) "Affiliated group" has the same meaning as in section 47
1504 of the Internal Revenue Code, except that "more than fifty 48
per cent" shall be substituted for "at least eighty percent" 49
each place it appears in that section. 50

(B) "Controlled group of corporations" has the same 51
meaning as in section 1563 of the Internal Revenue Code. 52

(C) "Corporation" means any corporation, joint-stock 53
company, association, or other entity treated as a corporation 54
for federal income tax purposes, and any business conducted by a 55
trustee wherein interest or ownership is evidenced by a 56
certificate of interest or ownership, or another similar written 57
instrument. 58

(D) "Expanded facility" means a small arms and ammunition 59
manufacturing facility in this state, other than a new facility 60
or a replacement facility, resulting from the acquisition, 61
construction, reconstruction, installation, or erection of 62
improvements or additions to existing property if the 63
improvements or additions are placed in service or use on or 64
after July 1, 2024. 65

(E) "New facility" means a small arms and ammunition 66
manufacturing facility in this state purchased or leased by the 67
taxpayer on or after July 1, 2024, that was not in service or 68
use at any point during the ninety days immediately preceding 69
the purchase or the commencement of the lease term, as 70
applicable. A small arms and ammunition manufacturing facility 71
is not a "new facility" of a person whose only activity with 72
respect to the facility is to lease it to another person or 73

persons. A small arms and ammunition manufacturing facility 74
purchased or leased from a related entity is not a "new 75
facility," unless the tax credit authority determines that the 76
purchase or lease is at fair market value and is not tax 77
motivated. 78

(F) "Payroll" means wages, salaries, and other 79
compensation paid to employees for work at a new or expanded 80
facility. 81

(G) Real or tangible personal property is "placed in 82
service or use" in the earlier of the following: 83

(1) The taxable year for which depreciation of the 84
property commences for federal income tax purposes; 85

(2) The taxable year in which the property is placed in a 86
condition or state of readiness and availability for a 87
specifically assigned function in a new or expanded facility. 88

(H) "Related entity" has the same meaning as in section 89
5733.04 of the Revised Code. 90

(I) "Replacement facility" means any real or tangible 91
personal property other than an expanded facility that replaces 92
other real or personal property located within this state that: 93

(1) The taxpayer or a related entity used in or connection 94
with any small arms and ammunition manufacturing facility for 95
more than two of the five years preceding the date the 96
replacement property is placed in service or use by the 97
taxpayer; or 98

(2) Is not used by the taxpayer or a related entity in or 99
in connection with a small arms and ammunition manufacturing 100
facility for a continuous period of at least one year starting 101

with the date the replacement property is placed in service or 102
use by the taxpayer. 103

(J) "Small arms and ammunition manufacturing" means a 104
business activity which is or may be classified under the north 105
American industry classification system with code number 332992 106
or 332994. 107

(K) "Small arms and ammunition manufacturing facility" and 108
"facility" mean a factory, mill, plant, warehouse, building, or 109
complex of buildings located in this state and used primarily 110
for small arms and ammunition manufacturing, including both of 111
the following: 112

(1) The land on which the facility is located; 113

(2) All machinery, equipment, and other tangible personal 114
property located at or within the facility and used in 115
connection with the operation of the facility. 116

(L) "Taxpayer" means either of the following: 117

(1) A person subject to the tax imposed by section 5747.02 118
of the Revised Code; 119

(2) A person or, in the case of a consolidated elected 120
taxpayer or combined taxpayer treated as one taxpayer, a group 121
of persons required to register or pay the tax under Chapter 122
5751. of the Revised Code. 123

(M) "Tax year" means, in the case of a taxpayer described 124
in division (L) (1) of this section, the taxpayer's taxable year, 125
as defined in section 5747.01 of the Revised Code. For any other 126
taxpayer, "tax year" means the calendar year that includes the 127
taxpayer's tax period, as defined in section 5751.01 of the 128
Revised Code. 129

(N) "Qualified investment" means the taxpayer's capital investment in a new or expanded small arms and ammunition manufacturing facility, as computed by the tax credit authority under section 122.972 of the Revised Code. 130
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(O) "Internal Revenue Code" has the same meaning as in section 5747.01 of the Revised Code. 134
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Sec. 122.971. (A) On or before the first day of March following the end of a tax year in which a taxpayer makes a capital investment in a new or expanded small arms and ammunition manufacturing facility, the taxpayer may apply to the tax credit authority created under section 122.17 of the Revised Code for nonrefundable credits against the taxes imposed by sections 5747.02 and 5751.02 of the Revised Code. The application shall be made in the form and manner prescribed by rule of the director of development adopted under section 122.975 of the Revised Code and shall, at minimum, include all of the following: 136
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(1) The name, address, and taxpayer identification number of the applicant; 147
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(2) A detailed description of the new or expanded facility in which the investment was made, including any information about the location, operations, ownership, organization, and origin of the facility that may be necessary or useful to the tax credit authority in evaluating and making a determination on the tax credit application; 149
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(3) A comprehensive list of the real property, tangible personal property, and improvements purchased, constructed, leased, or moved to this state as part of the applicant's investment including, with respect to each parcel of real 155
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<u>property, improvement, and item of tangible personal property:</u>	159
<u>(a) A description of the property and its use as a</u>	160
<u>component part of the new or expanded facility;</u>	161
<u>(b) The person or persons from which the property was</u>	162
<u>acquired and the relationship, if any, of that person or those</u>	163
<u>persons to the applicant;</u>	164
<u>(c) The actual or reasonably determined cost of the</u>	165
<u>property or, in the case of property acquired by lease, the</u>	166
<u>primary term of the lease and the amount of rent reserved for</u>	167
<u>that term;</u>	168
<u>(d) In the case of property previously used by the</u>	169
<u>applicant at a business location outside this state and then</u>	170
<u>placed into service or use at a new or expanded facility, the</u>	171
<u>location of the out-of-state facility and, if the property is</u>	172
<u>leased, the remaining duration of the primary term of such lease</u>	173
<u>and the amount of rent reserved for that term;</u>	174
<u>(e) The straight-line depreciation life of the property;</u>	175
<u>and</u>	176
<u>(f) The date upon which the property was placed into</u>	177
<u>service or use in the new or expanded facility.</u>	178
<u>(4) The total number of individuals employed at the new or</u>	179
<u>expanded facility and the payroll paid to those employees during</u>	180
<u>the tax year;</u>	181
<u>(5) The number of individuals employed at the new or</u>	182
<u>expanded facility whose employment is directly attributable to</u>	183
<u>and the result of the applicant's capital investment and the</u>	184
<u>payroll paid to those employees during the tax year;</u>	185
<u>(6) If the applicant requests that the credit percentage</u>	186

be computed using a method other than the payroll method 187
described in division (C) (2) of this section, the reasons why 188
the payroll method does not produce an accurate approximation of 189
the taxes attributable to the applicant's capital investment, a 190
detailed description of the applicant's proposed method for 191
determining the credit percentage and the variables that 192
contribute to such determination, and any data or documentation 193
the applicant wishes to produce in support of the alternative 194
method; 195

(7) Whether the taxpayer seeks to apply the credit to the 196
taxable year and tax periods that ended in the preceding tax 197
year or to the taxable year and tax periods that end in the 198
current tax year; 199

(8) The amount of federal excise tax paid by the taxpayer 200
under section 4181 of the Internal Revenue Code for the 201
preceding federal taxable year on pistols, revolvers, other 202
firearms, shells, and cartridges manufactured at the new or 203
expanded facility; 204

(9) Any other information required by rule of the director 205
of development. 206

(B) (1) Upon receiving an application under this section, 207
the tax credit authority shall compute the amount of the 208
applicant's qualified investment in the manner prescribed by 209
section 122.972 of the Revised Code and determine if the small 210
arms and ammunition manufacturing facility described in the 211
application qualifies as a new or expanded facility of that 212
applicant. 213

(2) If the tax credit authority determines that the 214
applicant's qualified investment is less than two million 215

dollars or that the small arms and ammunition manufacturing 216
facility in which the investment was made does not qualify as a 217
new or expanded facility, the authority shall deny the 218
application and notify the applicant of such determination. 219

(3) If the tax credit authority determines that the 220
applicant's qualified investment equals or exceeds two million 221
dollars and that the small arms and ammunition manufacturing 222
facility in which the investment was made qualifies as a new or 223
expanded facility, the authority shall approve the application 224
and issue the applicant a tax credit certificate that includes 225
all of the following information: 226

(a) A unique certificate identification number; 227

(b) The name, address, and taxpayer identification number 228
of the applicant; 229

(c) The taxable year and tax periods for which the credit 230
may be claimed, which shall be the taxable year and tax periods 231
specified by the applicant under division (A) (7) of this 232
section; 233

(d) The credit percentage determined under division (C) of 234
this section; 235

(e) The maximum credit amount, which shall equal the 236
amount of federal excise tax paid by the applicant under section 237
4181 of the Internal Revenue Code for the preceding federal 238
taxable year on pistols, revolvers, other firearms, shells, and 239
cartridges manufactured at the new or expanded facility, 240
multiplied by the credit percentage determined under division 241
(C) of this section; 242

(f) The amount of the applicant's qualified investment, as 243
determined by the tax credit authority under section 122.972 of 244

the Revised Code; a list of the real property, improvements, and 245
tangible personal property that comprise that investment; and 246
the cost attributed to each such parcel, improvement, or item. 247

(4) The tax credit authority shall make a determination on 248
each application timely received under this section and, if 249
approved, issue a tax credit certificate to the applicant not 250
later than the last day of March. 251

(C) (1) The credit percentage shall approximate the 252
percentage of taxes levied on the applicant under sections 253
5747.02 and 5751.02 of the Revised Code, before any allowable 254
credits, that are directly attributable to and the result of the 255
applicant's qualified investment in the new or expanded small 256
arms and ammunition manufacturing facility, as provided under 257
divisions (C) (2) and (3) of this section. 258

(2) Except as provided in division (C) (3) of this section, 259
the tax credit authority shall compute the credit percentage by 260
dividing the payroll paid to individuals employed at the new or 261
expanded facility whose employment is directly attributable to 262
and the result of the applicant's qualified investment by the 263
payroll paid to all individuals employed at the new or expanded 264
facility. In performing the computation, the authority may rely 265
on the information submitted by the applicant under divisions 266
(A) (4) and (5) of this section, or may adjust the reported 267
payroll apportionment based on other information available to 268
the authority in evaluating and approving the application. 269

(3) If the tax credit authority determines that the 270
payroll method described in division (C) (2) of this section does 271
not produce an accurate approximation of the taxes attributable 272
to the applicant's qualified investment, the authority shall 273
devise an alternative method of computing the credit percentage 274

that produces an adequate approximation. If the applicant 275
proposes an alternative method of determining the credit 276
percentage under division (A)(6) of this section, the tax credit 277
authority shall evaluate the merits of the taxpayer's proposed 278
alternative method prior to making a final determination on the 279
credit percentage. 280

Sec. 122.972. (A) Upon receiving a tax credit application 281
under section 122.971 of the Revised Code, the tax credit 282
authority shall determine the amount of the applicant's 283
qualified investment based on the costs incurred by the 284
applicant during the preceding tax year to construct, purchase, 285
or lease real property, improvements to real property, or 286
tangible personal property placed in service by the applicant on 287
or after July 1, 2024, for use as a component part of a new or 288
expanded small arms and ammunition manufacturing facility. Only 289
the following amounts shall be included in computing the 290
applicant's qualified investment: 291

(1) The purchase price of real property acquired in fee 292
and improvements to such property that have a useful life of at 293
least four years; 294

(2) The full amount of rent reserved for the primary term 295
of a written lease of at least ten years for real property and 296
improvements to such property that have a useful life of at 297
least four years, excluding any rent reserved for after the 298
twentieth year of the lease term; 299

(3) Amounts paid to acquire or construct improvements to 300
real property, if such improvements have a useful life of at 301
least four years; 302

(4) The purchase price for tangible personal property that 303

has a useful life of at least four years at the time it is 304
placed in service or use at the new or expanded facility, but 305
only if depreciation or amortization in lieu of depreciation is 306
allowable with respect to the tangible personal property for 307
federal income tax purposes; 308

(5) (a) One-third of the amount of rent reserved for the 309
primary term of a written lease for tangible personal property, 310
if the primary term of the lease is at least four years but less 311
than six years, and excluding rent reserved for any portion of 312
the lease term subsequent to the expiration of the book life of 313
the equipment, determined using the straight-line method of 314
depreciation; 315

(b) Two-thirds of the amount of rent reserved for the 316
primary term of a written lease for tangible personal property, 317
if the primary term of the lease is at least six years but less 318
than eight years, and excluding rent reserved for any portion of 319
the lease term subsequent to the expiration of the book life of 320
the equipment, determined using the straight-line method of 321
depreciation; 322

(c) The full amount of rent reserved for the primary term 323
of a written lease of at least eight years for tangible personal 324
property, excluding rent reserved for after the twentieth year 325
of the lease or for any portion of the lease term subsequent to 326
the expiration of the book life of the equipment, determined 327
using the straight-line method of depreciation. 328

(6) The original cost of tangible personal property owned 329
and previously used by the applicant at a business location 330
outside this state, then placed in service or use at a new or 331
expanded facility in this state, less straight-line depreciation 332
allowable for the federal taxable years or portions of taxable 333

years that the applicant used the property outside this state, 334
excluding property for which depreciation or amortization in 335
lieu of depreciation is not allowable for federal income tax 336
purposes or that does not have a remaining useful life of at 337
least four years at the time it is placed into service or use at 338
a new or expanded facility in this state; and 339

(7) The rent reserved for up to twenty years of the 340
remaining portion of the primary term of a written lease for 341
tangible personal property previously used by the applicant at a 342
business location outside this state, then placed in service or 343
use at a new or expanded facility in this state, excluding rent 344
reserved for any portion of the lease term subsequent to the 345
expiration of the book life of the equipment, determined using 346
the straight-line method of depreciation, and excluding property 347
for which the remaining primary term of the lease is less than 348
four years at the time it is placed into service or use at a new 349
or expanded facility in this state. 350

(B) An applicant's qualified investment excludes repair 351
costs, including materials used in the repair, unless the cost 352
of the repair must be capitalized rather than expensed for 353
federal income tax purposes, and amounts paid to purchase, 354
construct, or lease any of the following: 355

(1) Real or tangible personal property that is not placed 356
in service by the applicant for use as a component part of a new 357
or expanded small arms and ammunition manufacturing facility; 358

(2) Airplanes and helicopters; 359

(3) Tangible personal property that is primarily used 360
outside this state; 361

(4) Tangible personal property acquired as incident to the 362

purchase of the stock or assets of the seller unless, for good 363
cause shown, the tax credit authority consents to including such 364
amounts in computing the applicant's qualified investment; 365

(5) Real or tangible personal property acquired from a 366
person whose relationship to the applicant would result in 367
disallowance of the deductions under section 267 or 707(b) of 368
the Internal Revenue Code; 369

(6) Real or tangible personal property acquired by one 370
component member of an affiliated group or a controlled group of 371
corporations from another component member of the same group, 372
unless the applicant demonstrates to the satisfaction of the tax 373
credit authority that the property was acquired for fair market 374
value; 375

(7) Real or personal property the basis for which in the 376
hands of the applicant for federal income tax purposes is not 377
determined in whole or in part by reference to the federal 378
adjusted basis of the property in the hands of the person from 379
which it was acquired or under section 1014(e) of the Internal 380
Revenue Code; 381

(8) Real or tangible personal property the cost or 382
consideration for which cannot be quantified with any reasonable 383
degree of accuracy at the time it is placed in service or use. 384

(C) For purposes of this section: 385

(1) Costs are incurred during the tax year in which the 386
real or tangible personal property is placed in service or use 387
at a new or expanded facility in this state; 388

(2) The value of any real or tangible personal property 389
traded or exchanged shall not be included in the cost of real or 390
tangible personal property placed in service or use in a new or 391

expanded facility; 392

(3) If tangible personal property used in the operation of 393
a new or expanded facility is stolen, or is damaged or destroyed 394
by fire, flood, storm, or other casualty, the cost of 395
replacement property shall be reduced by any insurance proceeds 396
received in compensation for that loss; 397

(4) The cost of self-constructed property shall equal the 398
amount properly charged to the applicant's capital account for 399
depreciation for federal income tax purposes; 400

(5) All property which the applicant is required to show 401
on the applicant's books and records as an asset under generally 402
accepted principles of financial accounting shall be treated as 403
purchased rather than leased. 404

Sec. 122.973. (A) The owner of a tax credit certificate 405
issued under section 122.971 or 122.974 of the Revised Code may 406
claim a nonrefundable credit against the tax imposed by section 407
5751.02 of the Revised Code for each tax period ending in the 408
tax year specified by the certificate. Subject to division (C) 409
of this section, the credit equals the taxes due on the 410
taxpayer's gross receipts derived from the new or expanded small 411
arms and ammunition manufacturing facility, before any allowable 412
credits against the tax, multiplied by the credit percentage 413
specified in the tax credit certificate. The taxpayer shall 414
claim the credit in the order required by section 5751.98 of the 415
Revised Code. 416

(B) The owner of a tax credit certificate issued under 417
section 122.971 or 122.974 of the Revised Code may claim a 418
nonrefundable credit against the tax imposed by section 5747.02 419
of the Revised Code for the taxpayer's taxable year ending in 420

the tax year specified by the certificate. Subject to division 421
(C) of this section, the credit equals the taxes due on the 422
taxpayer's Ohio adjusted gross income derived from the new or 423
expanded small arms and ammunition manufacturing facility, 424
before any allowable credits against the tax, multiplied by the 425
credit percentage specified in the tax credit certificate. The 426
taxpayer shall claim the credit in the order required by section 427
5747.98 of the Revised Code. A taxpayer claiming a credit under 428
this section shall include a copy of the applicable tax credit 429
certificate. 430

(C) The sum of the credits claimed by a taxpayer under 431
this section shall not exceed the maximum credit amount stated 432
in the tax credit certificate. If computing the credits in the 433
manner described in divisions (A) and (B) of this section would 434
result in exceeding the maximum credit amount, the taxpayer 435
shall first reduce the credit allowed under division (B) of this 436
section and then, if necessary, reduce the credit allowed by 437
division (A) of this section. 438

Sec. 122.974. (A) Subject to division (C) of this section, 439
the owner of a tax credit certificate issued under this section 440
or section 122.971 of the Revised Code shall annually, on or 441
before the first day of March, certify the following information 442
to the tax credit authority: 443

(1) An updated list of real property, improvements, and 444
tangible personal property comprising the taxpayer's qualified 445
investment that accounts for any additional capital investments 446
in the new or expanded facility made by the taxpayer since last 447
applying for a tax credit certificate under this section or 448
section 122.971 of the Revised Code as well as any real 449
property, improvements, or tangible personal property that have 450

been disposed of or are no longer used in the facility. For 451
purposes of this division, property or improvements that are 452
damaged or destroyed by fire, flood, storm, or other casualty, 453
or that are stolen, remain a part of the taxpayer's qualified 454
investment even if the property is no longer used in the new or 455
expanded facility. 456

(2) For the first nine years following the issuance of the 457
initial tax credit certificate under section 122.971 of the 458
Revised Code, the amount of federal excise tax paid by the 459
taxpayer under section 4181 of the Internal Revenue Code for the 460
preceding federal taxable year on pistols, revolvers, other 461
firearms, shells, and cartridges manufactured at the new or 462
expanded facility. 463

(3) The amount, if any, by which the maximum credit amount 464
prescribed by the tax credit certificate issued in the preceding 465
year under this section or section 122.971 of the Revised Code 466
exceeds the tax credits claimed with the certificate under 467
section 122.973 of the Revised Code; 468

(4) Updated payroll information described in divisions (A) 469
(4) and (5) of section 122.971 of the Revised Code for the 470
preceding tax year; 471

(5) If the taxpayer requests a change in the way the 472
credit percentage is computed, the information described in 473
division (A) (6) of section 122.971 of the Revised Code; 474

(6) Any other information required by rule of the director 475
of development adopted under section 122.975 of the Revised 476
Code. 477

(B) (1) Not later than the last day of March following 478
receipt of a certification under division (A) of this section, 479

the tax credit authority shall issue the taxpayer an updated tax 480
credit certificate that includes the information prescribed by 481
division (C) (3) of section 122.971 of the Revised Code. 482

(2) The credit percentage specified in the updated 483
certificate shall be determined using the updated information 484
provided by the taxpayer under division (A) (4) of this section 485
or, if the authority determines that the payroll method does not 486
produce an accurate approximation of the taxes attributable to 487
the taxpayer's qualified investment, through an alternative 488
method devised by the authority in the manner prescribed by 489
division (C) (3) of section 122.971 of the Revised Code. 490

(3) (a) If the credit percentage specified in the updated 491
certificate is less than the credit percentage for the preceding 492
year, the tax credit authority, prior to computing the maximum 493
credit amount, shall reduce the amount certified by the 494
applicant under division (A) (3) of this section proportionally, 495
based on the decrease in credit percentage; 496

(b) For the first nine years following the issuance of the 497
initial tax credit certificate under section 122.971 of the 498
Revised Code, the maximum credit amount shall equal the amount 499
reported by the applicant under division (A) (3) of this section 500
adjusted as required by division (B) (3) (a) of this section, plus 501
the product obtained by multiplying the updated credit 502
percentage by the amount reported by the applicant under 503
division (A) (2) of this section; 504

(c) For the tenth through the nineteenth year following 505
the issuance of the initial tax credit certificate under section 506
122.971 of the Revised Code, the maximum credit amount shall 507
equal the amount reported by the applicant under division (A) (3) 508
of this section adjusted as required by division (B) (3) (a) of 509

this section. 510

(4) The credits allowed by the updated certificate shall 511
be claimed for either the taxable year and tax periods that 512
ended in the preceding tax year or the taxable year and tax 513
periods that end in the current tax year, depending on the 514
preference asserted in the taxpayer's initial tax credit 515
application under division (A) (7) of section 122.971 of the 516
Revised Code. 517

(C) The tax credit authority shall not issue a tax credit 518
certificate under this section in any year after the nineteenth 519
year following the issuance of the initial tax credit 520
certificate under section 122.971 of the Revised Code or in any 521
year for which the certificate owner does not certify the 522
information required by division (A) of this section. A 523
certificate owner is not required to certify information under 524
division (A) of this section in any year after the earlier of 525
the following: 526

(1) The nineteenth year following the issuance of the 527
initial tax credit certificate under section 122.971 of the 528
Revised Code; 529

(2) Any year after the ninth year following the issuance 530
of the initial tax credit certificate under that section for 531
which the maximum credit amount determined under division (B) of 532
this section is zero. 533

(D) If the owner of a tax credit certificate issued under 534
this section or section 122.971 of the Revised Code sells or 535
transfers all or part of the certificate owner's interest in the 536
new or expanded small arms and ammunition manufacturing facility 537
and the transferee continues to operate that new or expanded 538

facility, the certificate owner may also convey all or part of 539
the tax credit certificate to the transferee. The portion of the 540
tax credit certificate conveyed to the transferee shall equal 541
the percentage of the previous certificate owner's interest in 542
the new or expanded facility that is sold or transferred to the 543
transferee. The previous certificate owner shall notify the tax 544
credit authority in writing of such a conveyance. The 545
notification shall include the identity of the transferee and 546
the percentage of the tax credit certificate conveyed. A 547
taxpayer that conveys a tax credit certificate under this 548
division shall not claim the credits authorized by section 549
122.973 of the Revised Code to the extent that the certificate 550
was conveyed. A taxpayer to which a tax credit certificate is 551
conveyed shall not claim any portion of a credit that has been 552
claimed by the previous certificate owner. 553

Sec. 122.975. (A) On or before July 1, 2029, and every 554
fifth year thereafter, the tax credit authority shall submit to 555
the general assembly under section 101.68 of the Revised Code 556
and to the governor a report evaluating the cost and 557
effectiveness of the small arms and ammunition manufacturing 558
credit under sections 122.97 to 122.975 of the Revised Code 559
during the most recent five-year period. The criteria to be 560
evaluated shall include all of the following: 561

(1) The number of taxpayers claiming the credit; 562

(2) The total amount of qualified investments made by such 563
taxpayers and the net number of new jobs that are directly 564
attributable to and the result of those qualified investments; 565

(3) The aggregate cost of the tax credit; 566

(4) The cost of the tax credit per new job created; 567

(5) A comparison of the employment trends for the small arms and ammunition manufacturing industry and for taxpayers within that industry that claim the credit. 568
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(B) The information included in the report described in division (A) of this section shall be generalized with respect to all tax credit recipients and the small arms and ammunition manufacturing industry as a whole. The report shall not include confidential or proprietary information about any particular taxpayer. 571
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(C) The director of development shall, after consultation with the tax commissioner and the tax credit authority and in accordance with Chapter 119. of the Revised Code, adopt all rules necessary to implement sections 122.97 to 122.975 of the Revised Code. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this division is not subject to sections 121.95 to 121.953 of the Revised Code. 577
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Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state. 585
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(A) (1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five 596
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and three-fourths per cent. The tax applies and is collectible 598
when the sale is made, regardless of the time when the price is 599
paid or delivered. 600

(2) In the case of the lease or rental, with a fixed term 601
of more than thirty days or an indefinite term with a minimum 602
period of more than thirty days, of any motor vehicles designed 603
by the manufacturer to carry a load of not more than one ton, 604
watercraft, outboard motor, or aircraft, or of any tangible 605
personal property, other than motor vehicles designed by the 606
manufacturer to carry a load of more than one ton, to be used by 607
the lessee or renter primarily for business purposes, the tax 608
shall be collected by the vendor at the time the lease or rental 609
is consummated and shall be calculated by the vendor on the 610
basis of the total amount to be paid by the lessee or renter 611
under the lease agreement. If the total amount of the 612
consideration for the lease or rental includes amounts that are 613
not calculated at the time the lease or rental is executed, the 614
tax shall be calculated and collected by the vendor at the time 615
such amounts are billed to the lessee or renter. In the case of 616
an open-end lease or rental, the tax shall be calculated by the 617
vendor on the basis of the total amount to be paid during the 618
initial fixed term of the lease or rental, and for each 619
subsequent renewal period as it comes due. As used in this 620
division, "motor vehicle" has the same meaning as in section 621
4501.01 of the Revised Code, and "watercraft" includes an 622
outdrive unit attached to the watercraft. 623

A lease with a renewal clause and a termination penalty or 624
similar provision that applies if the renewal clause is not 625
exercised is presumed to be a sham transaction. In such a case, 626
the tax shall be calculated and paid on the basis of the entire 627
length of the lease period, including any renewal periods, until 628

the termination penalty or similar provision no longer applies. 629
The taxpayer shall bear the burden, by a preponderance of the 630
evidence, that the transaction or series of transactions is not 631
a sham transaction. 632

(3) Except as provided in division (A) (2) of this section, 633
in the case of a sale, the price of which consists in whole or 634
in part of the lease or rental of tangible personal property, 635
the tax shall be measured by the installments of that lease or 636
rental. 637

(4) In the case of a sale of a physical fitness facility 638
service or recreation and sports club service, the price of 639
which consists in whole or in part of a membership for the 640
receipt of the benefit of the service, the tax applicable to the 641
sale shall be measured by the installments thereof. 642

(B) The tax does not apply to the following: 643

(1) Sales to the state or any of its political 644
subdivisions, or to any other state or its political 645
subdivisions if the laws of that state exempt from taxation 646
sales made to this state and its political subdivisions; 647

(2) Sales of food for human consumption off the premises 648
where sold; 649

(3) Sales of food sold to students only in a cafeteria, 650
dormitory, fraternity, or sorority maintained in a private, 651
public, or parochial school, college, or university; 652

(4) Sales of newspapers and sales or transfers of 653
magazines distributed as controlled circulation publications; 654

(5) The furnishing, preparing, or serving of meals without 655
charge by an employer to an employee provided the employer 656

records the meals as part compensation for services performed or 657
work done; 658

(6) (a) Sales of motor fuel upon receipt, use, 659
distribution, or sale of which in this state a tax is imposed by 660
the law of this state, but this exemption shall not apply to the 661
sale of motor fuel on which a refund of the tax is allowable 662
under division (A) of section 5735.14 of the Revised Code; and 663
the tax commissioner may deduct the amount of tax levied by this 664
section applicable to the price of motor fuel when granting a 665
refund of motor fuel tax pursuant to division (A) of section 666
5735.14 of the Revised Code and shall cause the amount deducted 667
to be paid into the general revenue fund of this state; 668

(b) Sales of motor fuel other than that described in 669
division (B) (6) (a) of this section and used for powering a 670
refrigeration unit on a vehicle other than one used primarily to 671
provide comfort to the operator or occupants of the vehicle. 672

(7) Sales of natural gas by a natural gas company or 673
municipal gas utility, of water by a water-works company, or of 674
steam by a heating company, if in each case the thing sold is 675
delivered to consumers through pipes or conduits, and all sales 676
of communications services by a telegraph company, all terms as 677
defined in section 5727.01 of the Revised Code, and sales of 678
electricity delivered through wires; 679

(8) Casual sales by a person, or auctioneer employed 680
directly by the person to conduct such sales, except as to such 681
sales of motor vehicles, watercraft or outboard motors required 682
to be titled under section 1548.06 of the Revised Code, 683
watercraft documented with the United States coast guard, 684
snowmobiles, and all-purpose vehicles as defined in section 685
4519.01 of the Revised Code; 686

(9) (a) Sales of services or tangible personal property, 687
other than motor vehicles, mobile homes, and manufactured homes, 688
by churches, organizations exempt from taxation under section 689
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 690
organizations operated exclusively for charitable purposes as 691
defined in division (B) (12) of this section, provided that the 692
number of days on which such tangible personal property or 693
services, other than items never subject to the tax, are sold 694
does not exceed six in any calendar year, except as otherwise 695
provided in division (B) (9) (b) of this section. If the number of 696
days on which such sales are made exceeds six in any calendar 697
year, the church or organization shall be considered to be 698
engaged in business and all subsequent sales by it shall be 699
subject to the tax. In counting the number of days, all sales by 700
groups within a church or within an organization shall be 701
considered to be sales of that church or organization. 702

(b) The limitation on the number of days on which tax- 703
exempt sales may be made by a church or organization under 704
division (B) (9) (a) of this section does not apply to sales made 705
by student clubs and other groups of students of a primary or 706
secondary school, or a parent-teacher association, booster 707
group, or similar organization that raises money to support or 708
fund curricular or extracurricular activities of a primary or 709
secondary school. 710

(c) Divisions (B) (9) (a) and (b) of this section do not 711
apply to sales by a noncommercial educational radio or 712
television broadcasting station. 713

(10) Sales not within the taxing power of this state under 714
the Constitution or laws of the United States or the 715
Constitution of this state; 716

(11) Except for transactions that are sales under division 717
(B) (3) (p) of section 5739.01 of the Revised Code, the 718
transportation of persons or property, unless the transportation 719
is by a private investigation and security service; 720

(12) Sales of tangible personal property or services to 721
churches, to organizations exempt from taxation under section 722
501(c) (3) of the Internal Revenue Code of 1986, and to any other 723
nonprofit organizations operated exclusively for charitable 724
purposes in this state, no part of the net income of which 725
inures to the benefit of any private shareholder or individual, 726
and no substantial part of the activities of which consists of 727
carrying on propaganda or otherwise attempting to influence 728
legislation; sales to offices administering one or more homes 729
for the aged or one or more hospital facilities exempt under 730
section 140.08 of the Revised Code; and sales to organizations 731
described in division (D) of section 5709.12 of the Revised 732
Code. 733

"Charitable purposes" means the relief of poverty; the 734
improvement of health through the alleviation of illness, 735
disease, or injury; the operation of an organization exclusively 736
for the provision of professional, laundry, printing, and 737
purchasing services to hospitals or charitable institutions; the 738
operation of a home for the aged, as defined in section 5701.13 739
of the Revised Code; the operation of a radio or television 740
broadcasting station that is licensed by the federal 741
communications commission as a noncommercial educational radio 742
or television station; the operation of a nonprofit animal 743
adoption service or a county humane society; the promotion of 744
education by an institution of learning that maintains a faculty 745
of qualified instructors, teaches regular continuous courses of 746
study, and confers a recognized diploma upon completion of a 747

specific curriculum; the operation of a parent-teacher 748
association, booster group, or similar organization primarily 749
engaged in the promotion and support of the curricular or 750
extracurricular activities of a primary or secondary school; the 751
operation of a community or area center in which presentations 752
in music, dramatics, the arts, and related fields are made in 753
order to foster public interest and education therein; the 754
production of performances in music, dramatics, and the arts; or 755
the promotion of education by an organization engaged in 756
carrying on research in, or the dissemination of, scientific and 757
technological knowledge and information primarily for the 758
public. 759

Nothing in this division shall be deemed to exempt sales 760
to any organization for use in the operation or carrying on of a 761
trade or business, or sales to a home for the aged for use in 762
the operation of independent living facilities as defined in 763
division (A) of section 5709.12 of the Revised Code. 764

(13) Building and construction materials and services sold 765
to construction contractors for incorporation into a structure 766
or improvement to real property under a construction contract 767
with this state or a political subdivision of this state, or 768
with the United States government or any of its agencies; 769
building and construction materials and services sold to 770
construction contractors for incorporation into a structure or 771
improvement to real property that are accepted for ownership by 772
this state or any of its political subdivisions, or by the 773
United States government or any of its agencies at the time of 774
completion of the structures or improvements; building and 775
construction materials sold to construction contractors for 776
incorporation into a horticulture structure or livestock 777
structure for a person engaged in the business of horticulture 778

or producing livestock; building materials and services sold to 779
a construction contractor for incorporation into a house of 780
public worship or religious education, or a building used 781
exclusively for charitable purposes under a construction 782
contract with an organization whose purpose is as described in 783
division (B) (12) of this section; building materials and 784
services sold to a construction contractor for incorporation 785
into a building under a construction contract with an 786
organization exempt from taxation under section 501(c) (3) of the 787
Internal Revenue Code of 1986 when the building is to be used 788
exclusively for the organization's exempt purposes; building and 789
construction materials sold for incorporation into the original 790
construction of a sports facility under section 307.696 of the 791
Revised Code; building and construction materials and services 792
sold to a construction contractor for incorporation into real 793
property outside this state if such materials and services, when 794
sold to a construction contractor in the state in which the real 795
property is located for incorporation into real property in that 796
state, would be exempt from a tax on sales levied by that state; 797
building and construction materials for incorporation into a 798
transportation facility pursuant to a public-private agreement 799
entered into under sections 5501.70 to 5501.83 of the Revised 800
Code; until one calendar year after the construction of a 801
convention center that qualifies for property tax exemption 802
under section 5709.084 of the Revised Code is completed, 803
building and construction materials and services sold to a 804
construction contractor for incorporation into the real property 805
comprising that convention center; and building and construction 806
materials sold for incorporation into a structure or improvement 807
to real property that is used primarily as, or primarily in 808
support of, a manufacturing facility or research and development 809
facility and that is to be owned by a megaproject operator upon 810

completion and located at the site of a megaproject that 811
satisfies the criteria described in division (A) (11) (a) (ii) of 812
section 122.17 of the Revised Code, provided that the sale 813
occurs during the period that the megaproject operator has an 814
agreement for such megaproject with the tax credit authority 815
under division (D) of section 122.17 of the Revised Code that 816
remains in effect and has not expired or been terminated. 817

(14) Sales of ships or vessels or rail rolling stock used 818
or to be used principally in interstate or foreign commerce, and 819
repairs, alterations, fuel, and lubricants for such ships or 820
vessels or rail rolling stock; 821

(15) Sales to persons primarily engaged in any of the 822
activities mentioned in division (B) (42) (a), (g), or (h) of this 823
section, to persons engaged in making retail sales, or to 824
persons who purchase for sale from a manufacturer tangible 825
personal property that was produced by the manufacturer in 826
accordance with specific designs provided by the purchaser, of 827
packages, including material, labels, and parts for packages, 828
and of machinery, equipment, and material for use primarily in 829
packaging tangible personal property produced for sale, 830
including any machinery, equipment, and supplies used to make 831
labels or packages, to prepare packages or products for 832
labeling, or to label packages or products, by or on the order 833
of the person doing the packaging, or sold at retail. "Packages" 834
includes bags, baskets, cartons, crates, boxes, cans, bottles, 835
bindings, wrappings, and other similar devices and containers, 836
but does not include motor vehicles or bulk tanks, trailers, or 837
similar devices attached to motor vehicles. "Packaging" means 838
placing in a package. Division (B) (15) of this section does not 839
apply to persons engaged in highway transportation for hire. 840

(16) Sales of food to persons using supplemental nutrition 841
assistance program benefits to purchase the food. As used in 842
this division, "food" has the same meaning as in 7 U.S.C. 2012 843
and federal regulations adopted pursuant to the Food and 844
Nutrition Act of 2008. 845

(17) Sales to persons engaged in farming, agriculture, 846
horticulture, or floriculture, of tangible personal property for 847
use or consumption primarily in the production by farming, 848
agriculture, horticulture, or floriculture of other tangible 849
personal property for use or consumption primarily in the 850
production of tangible personal property for sale by farming, 851
agriculture, horticulture, or floriculture; or material and 852
parts for incorporation into any such tangible personal property 853
for use or consumption in production; and of tangible personal 854
property for such use or consumption in the conditioning or 855
holding of products produced by and for such use, consumption, 856
or sale by persons engaged in farming, agriculture, 857
horticulture, or floriculture, except where such property is 858
incorporated into real property; 859

(18) Sales of drugs for a human being that may be 860
dispensed only pursuant to a prescription; insulin as recognized 861
in the official United States pharmacopoeia; urine and blood 862
testing materials when used by diabetics or persons with 863
hypoglycemia to test for glucose or acetone; hypodermic syringes 864
and needles when used by diabetics for insulin injections; 865
epoetin alfa when purchased for use in the treatment of persons 866
with medical disease; hospital beds when purchased by hospitals, 867
nursing homes, or other medical facilities; and medical oxygen 868
and medical oxygen-dispensing equipment when purchased by 869
hospitals, nursing homes, or other medical facilities; 870

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.	871 872 873 874
(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;	875 876 877 878 879
(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;	880 881 882 883 884 885 886
(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;	887 888 889 890 891
(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;	892 893 894
(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	895 896 897 898 899

packages, and machinery, equipment, and material for use in	900
packaging eggs for sale; and handling and transportation	901
equipment and parts therefor, except motor vehicles licensed to	902
operate on public highways, used in intraplant or interplant	903
transfers or shipment of eggs in the process of preparation for	904
sale, when the plant or plants within or between which such	905
transfers or shipments occur are operated by the same person.	906
"Packages" includes containers, cases, baskets, flats, fillers,	907
filler flats, cartons, closure materials, labels, and labeling	908
materials, and "packaging" means placing therein.	909
(25) (a) Sales of water to a consumer for residential use;	910
(b) Sales of water by a nonprofit corporation engaged	911
exclusively in the treatment, distribution, and sale of water to	912
consumers, if such water is delivered to consumers through pipes	913
or tubing.	914
(26) Fees charged for inspection or reinspection of motor	915
vehicles under section 3704.14 of the Revised Code;	916
(27) Sales to persons licensed to conduct a food service	917
operation pursuant to section 3717.43 of the Revised Code, of	918
tangible personal property primarily used directly for the	919
following:	920
(a) To prepare food for human consumption for sale;	921
(b) To preserve food that has been or will be prepared for	922
human consumption for sale by the food service operator, not	923
including tangible personal property used to display food for	924
selection by the consumer;	925
(c) To clean tangible personal property used to prepare or	926
serve food for human consumption for sale.	927

(28) Sales of animals by nonprofit animal adoption	928
services or county humane societies;	929
(29) Sales of services to a corporation described in	930
division (A) of section 5709.72 of the Revised Code, and sales	931
of tangible personal property that qualifies for exemption from	932
taxation under section 5709.72 of the Revised Code;	933
(30) Sales and installation of agricultural land tile, as	934
defined in division (B) (5) (a) of section 5739.01 of the Revised	935
Code;	936
(31) Sales and erection or installation of portable grain	937
bins, as defined in division (B) (5) (b) of section 5739.01 of the	938
Revised Code;	939
(32) The sale, lease, repair, and maintenance of, parts	940
for, or items attached to or incorporated in, motor vehicles	941
that are primarily used for transporting tangible personal	942
property belonging to others by a person engaged in highway	943
transportation for hire, except for packages and packaging used	944
for the transportation of tangible personal property;	945
(33) Sales to the state headquarters of any veterans'	946
organization in this state that is either incorporated and	947
issued a charter by the congress of the United States or is	948
recognized by the United States veterans administration, for use	949
by the headquarters;	950
(34) Sales to a telecommunications service vendor, mobile	951
telecommunications service vendor, or satellite broadcasting	952
service vendor of tangible personal property and services used	953
directly and primarily in transmitting, receiving, switching, or	954
recording any interactive, one- or two-way electromagnetic	955
communications, including voice, image, data, and information,	956

through the use of any medium, including, but not limited to, 957
poles, wires, cables, switching equipment, computers, and record 958
storage devices and media, and component parts for the tangible 959
personal property. The exemption provided in this division shall 960
be in lieu of all other exemptions under division (B) (42) (a) or 961
(n) of this section to which the vendor may otherwise be 962
entitled, based upon the use of the thing purchased in providing 963
the telecommunications, mobile telecommunications, or satellite 964
broadcasting service. 965

(35) (a) Sales where the purpose of the consumer is to use 966
or consume the things transferred in making retail sales and 967
consisting of newspaper inserts, catalogues, coupons, flyers, 968
gift certificates, or other advertising material that prices and 969
describes tangible personal property offered for retail sale. 970

(b) Sales to direct marketing vendors of preliminary 971
materials such as photographs, artwork, and typesetting that 972
will be used in printing advertising material; and of printed 973
matter that offers free merchandise or chances to win sweepstake 974
prizes and that is mailed to potential customers with 975
advertising material described in division (B) (35) (a) of this 976
section; 977

(c) Sales of equipment such as telephones, computers, 978
facsimile machines, and similar tangible personal property 979
primarily used to accept orders for direct marketing retail 980
sales. 981

(d) Sales of automatic food vending machines that preserve 982
food with a shelf life of forty-five days or less by 983
refrigeration and dispense it to the consumer. 984

For purposes of division (B) (35) of this section, "direct 985

marketing" means the method of selling where consumers order 986
tangible personal property by United States mail, delivery 987
service, or telecommunication and the vendor delivers or ships 988
the tangible personal property sold to the consumer from a 989
warehouse, catalogue distribution center, or similar fulfillment 990
facility by means of the United States mail, delivery service, 991
or common carrier. 992

(36) Sales to a person engaged in the business of 993
horticulture or producing livestock of materials to be 994
incorporated into a horticulture structure or livestock 995
structure; 996

(37) Sales of personal computers, computer monitors, 997
computer keyboards, modems, and other peripheral computer 998
equipment to an individual who is licensed or certified to teach 999
in an elementary or a secondary school in this state for use by 1000
that individual in preparation for teaching elementary or 1001
secondary school students; 1002

(38) Sales of tangible personal property that is not 1003
required to be registered or licensed under the laws of this 1004
state to a citizen of a foreign nation that is not a citizen of 1005
the United States, provided the property is delivered to a 1006
person in this state that is not a related member of the 1007
purchaser, is physically present in this state for the sole 1008
purpose of temporary storage and package consolidation, and is 1009
subsequently delivered to the purchaser at a delivery address in 1010
a foreign nation. As used in division (B)(38) of this section, 1011
"related member" has the same meaning as in section 5733.042 of 1012
the Revised Code, and "temporary storage" means the storage of 1013
tangible personal property for a period of not more than sixty 1014
days. 1015

(39) Sales of used manufactured homes and used mobile 1016
homes, as defined in section 5739.0210 of the Revised Code, made 1017
on or after January 1, 2000; 1018

(40) Sales of tangible personal property and services to a 1019
provider of electricity used or consumed directly and primarily 1020
in generating, transmitting, or distributing electricity for use 1021
by others, including property that is or is to be incorporated 1022
into and will become a part of the consumer's production, 1023
transmission, or distribution system and that retains its 1024
classification as tangible personal property after 1025
incorporation; fuel or power used in the production, 1026
transmission, or distribution of electricity; energy conversion 1027
equipment as defined in section 5727.01 of the Revised Code; and 1028
tangible personal property and services used in the repair and 1029
maintenance of the production, transmission, or distribution 1030
system, including only those motor vehicles as are specially 1031
designed and equipped for such use. The exemption provided in 1032
this division shall be in lieu of all other exemptions in 1033
division (B) (42) (a) or (n) of this section to which a provider 1034
of electricity may otherwise be entitled based on the use of the 1035
tangible personal property or service purchased in generating, 1036
transmitting, or distributing electricity. 1037

(41) Sales to a person providing services under division 1038
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 1039
personal property and services used directly and primarily in 1040
providing taxable services under that section. 1041

(42) Sales where the purpose of the purchaser is to do any 1042
of the following: 1043

(a) To incorporate the thing transferred as a material or 1044
a part into tangible personal property to be produced for sale 1045

by manufacturing, assembling, processing, or refining; or to use 1046
or consume the thing transferred directly in producing tangible 1047
personal property for sale by mining, including, without 1048
limitation, the extraction from the earth of all substances that 1049
are classed geologically as minerals, or directly in the 1050
rendition of a public utility service, except that the sales tax 1051
levied by this section shall be collected upon all meals, 1052
drinks, and food for human consumption sold when transporting 1053
persons. This paragraph does not exempt from "retail sale" or 1054
"sales at retail" the sale of tangible personal property that is 1055
to be incorporated into a structure or improvement to real 1056
property. 1057

(b) To hold the thing transferred as security for the 1058
performance of an obligation of the vendor; 1059

(c) To resell, hold, use, or consume the thing transferred 1060
as evidence of a contract of insurance; 1061

(d) To use or consume the thing directly in commercial 1062
fishing; 1063

(e) To incorporate the thing transferred as a material or 1064
a part into, or to use or consume the thing transferred directly 1065
in the production of, magazines distributed as controlled 1066
circulation publications; 1067

(f) To use or consume the thing transferred in the 1068
production and preparation in suitable condition for market and 1069
sale of printed, imprinted, overprinted, lithographic, 1070
multilithic, blueprinted, photostatic, or other productions or 1071
reproductions of written or graphic matter; 1072

(g) To use the thing transferred, as described in section 1073
5739.011 of the Revised Code, primarily in a manufacturing 1074

operation to produce tangible personal property for sale; 1075

(h) To use the benefit of a warranty, maintenance or 1076
service contract, or similar agreement, as described in division 1077
(B) (7) of section 5739.01 of the Revised Code, to repair or 1078
maintain tangible personal property, if all of the property that 1079
is the subject of the warranty, contract, or agreement would not 1080
be subject to the tax imposed by this section; 1081

(i) To use the thing transferred as qualified research and 1082
development equipment; 1083

(j) To use or consume the thing transferred primarily in 1084
storing, transporting, mailing, or otherwise handling purchased 1085
sales inventory in a warehouse, distribution center, or similar 1086
facility when the inventory is primarily distributed outside 1087
this state to retail stores of the person who owns or controls 1088
the warehouse, distribution center, or similar facility, to 1089
retail stores of an affiliated group of which that person is a 1090
member, or by means of direct marketing. This division does not 1091
apply to motor vehicles registered for operation on the public 1092
highways. As used in this division, "affiliated group" has the 1093
same meaning as in division (B) (3) (e) of section 5739.01 of the 1094
Revised Code and "direct marketing" has the same meaning as in 1095
division (B) (35) of this section. 1096

(k) To use or consume the thing transferred to fulfill a 1097
contractual obligation incurred by a warrantor pursuant to a 1098
warranty provided as a part of the price of the tangible 1099
personal property sold or by a vendor of a warranty, maintenance 1100
or service contract, or similar agreement the provision of which 1101
is defined as a sale under division (B) (7) of section 5739.01 of 1102
the Revised Code; 1103

- (l) To use or consume the thing transferred in the 1104
production of a newspaper for distribution to the public; 1105
- (m) To use tangible personal property to perform a service 1106
listed in division (B)(3) of section 5739.01 of the Revised 1107
Code, if the property is or is to be permanently transferred to 1108
the consumer of the service as an integral part of the 1109
performance of the service; 1110
- (n) To use or consume the thing transferred primarily in 1111
producing tangible personal property for sale by farming, 1112
agriculture, horticulture, or floriculture. Persons engaged in 1113
rendering farming, agriculture, horticulture, or floriculture 1114
services for others are deemed engaged primarily in farming, 1115
agriculture, horticulture, or floriculture. This paragraph does 1116
not exempt from "retail sale" or "sales at retail" the sale of 1117
tangible personal property that is to be incorporated into a 1118
structure or improvement to real property. 1119
- (o) To use or consume the thing transferred in acquiring, 1120
formatting, editing, storing, and disseminating data or 1121
information by electronic publishing; 1122
- (p) To provide the thing transferred to the owner or 1123
lessee of a motor vehicle that is being repaired or serviced, if 1124
the thing transferred is a rented motor vehicle and the 1125
purchaser is reimbursed for the cost of the rented motor vehicle 1126
by a manufacturer, warrantor, or provider of a maintenance, 1127
service, or other similar contract or agreement, with respect to 1128
the motor vehicle that is being repaired or serviced; 1129
- (q) To use or consume the thing transferred directly in 1130
production of crude oil and natural gas for sale. Persons 1131
engaged in rendering production services for others are deemed 1132

engaged in production. 1133

As used in division (B) (42) (q) of this section, 1134
"production" means operations and tangible personal property 1135
directly used to expose and evaluate an underground reservoir 1136
that may contain hydrocarbon resources, prepare the wellbore for 1137
production, and lift and control all substances yielded by the 1138
reservoir to the surface of the earth. 1139

(i) For the purposes of division (B) (42) (q) of this 1140
section, the "thing transferred" includes, but is not limited 1141
to, any of the following: 1142

(I) Services provided in the construction of permanent 1143
access roads, services provided in the construction of the well 1144
site, and services provided in the construction of temporary 1145
impoundments; 1146

(II) Equipment and rigging used for the specific purpose 1147
of creating with integrity a wellbore pathway to underground 1148
reservoirs; 1149

(III) Drilling and workover services used to work within a 1150
subsurface wellbore, and tangible personal property directly 1151
used in providing such services; 1152

(IV) Casing, tubulars, and float and centralizing 1153
equipment; 1154

(V) Trailers to which production equipment is attached; 1155

(VI) Well completion services, including cementing of 1156
casing, and tangible personal property directly used in 1157
providing such services; 1158

(VII) Wireline evaluation, mud logging, and perforation 1159
services, and tangible personal property directly used in 1160

providing such services;	1161
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	1162 1163 1164 1165
(IX) Pressure pumping equipment;	1166
(X) Artificial lift systems equipment;	1167
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	1168 1169 1170
(XII) Tangible personal property directly used to control production equipment.	1171 1172
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	1173 1174 1175
(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;	1176 1177 1178
(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;	1179 1180 1181
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	1182 1183 1184
(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	1185 1186 1187

site;	1188
(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;	1189 1190 1191 1192
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	1193 1194
(VII) Well site fencing, lighting, or security systems;	1195
(VIII) Communication devices or services;	1196
(IX) Office supplies;	1197
(X) Trailers used as offices or lodging;	1198
(XI) Motor vehicles of any kind;	1199
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	1200 1201
(XIII) Tangible personal property used primarily as a safety device;	1202 1203
(XIV) Data collection or monitoring devices;	1204
(XV) Access ladders, stairs, or platforms attached to storage tanks.	1205 1206
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.	1207 1208 1209 1210 1211
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the	1212 1213

commissioner deems necessary to administer division (B) (42) (q) 1214
of this section. 1215

As used in division (B) (42) of this section, "thing" 1216
includes all transactions included in divisions (B) (3) (a), (b), 1217
and (e) of section 5739.01 of the Revised Code. 1218

(43) Sales conducted through a coin operated device that 1219
activates vacuum equipment or equipment that dispenses water, 1220
whether or not in combination with soap or other cleaning agents 1221
or wax, to the consumer for the consumer's use on the premises 1222
in washing, cleaning, or waxing a motor vehicle, provided no 1223
other personal property or personal service is provided as part 1224
of the transaction. 1225

(44) Sales of replacement and modification parts for 1226
engines, airframes, instruments, and interiors in, and paint 1227
for, aircraft used primarily in a fractional aircraft ownership 1228
program, and sales of services for the repair, modification, and 1229
maintenance of such aircraft, and machinery, equipment, and 1230
supplies primarily used to provide those services. 1231

(45) Sales of telecommunications service that is used 1232
directly and primarily to perform the functions of a call 1233
center. As used in this division, "call center" means any 1234
physical location where telephone calls are placed or received 1235
in high volume for the purpose of making sales, marketing, 1236
customer service, technical support, or other specialized 1237
business activity, and that employs at least fifty individuals 1238
that engage in call center activities on a full-time basis, or 1239
sufficient individuals to fill fifty full-time equivalent 1240
positions. 1241

(46) Sales by a telecommunications service vendor of 900 1242

service to a subscriber. This division does not apply to	1243
information services.	1244
(47) Sales of value-added non-voice data service. This	1245
division does not apply to any similar service that is not	1246
otherwise a telecommunications service.	1247
(48) Sales of feminine hygiene products.	1248
(49) Sales of materials, parts, equipment, or engines used	1249
in the repair or maintenance of aircraft or avionics systems of	1250
such aircraft, and sales of repair, remodeling, replacement, or	1251
maintenance services in this state performed on aircraft or on	1252
an aircraft's avionics, engine, or component materials or parts.	1253
As used in division (B) (49) of this section, "aircraft" means	1254
aircraft of more than six thousand pounds maximum certified	1255
takeoff weight or used exclusively in general aviation.	1256
(50) Sales of full flight simulators that are used for	1257
pilot or flight-crew training, sales of repair or replacement	1258
parts or components, and sales of repair or maintenance services	1259
for such full flight simulators. "Full flight simulator" means a	1260
replica of a specific type, or make, model, and series of	1261
aircraft cockpit. It includes the assemblage of equipment and	1262
computer programs necessary to represent aircraft operations in	1263
ground and flight conditions, a visual system providing an out-	1264
of-the-cockpit view, and a system that provides cues at least	1265
equivalent to those of a three-degree-of-freedom motion system,	1266
and has the full range of capabilities of the systems installed	1267
in the device as described in appendices A and B of part 60 of	1268
chapter 1 of title 14 of the Code of Federal Regulations.	1269
(51) Any transfer or lease of tangible personal property	1270
between the state and JobsOhio in accordance with section	1271

4313.02 of the Revised Code.	1272
(52) (a) Sales to a qualifying corporation.	1273
(b) As used in division (B) (52) of this section:	1274
(i) "Qualifying corporation" means a nonprofit corporation	1275
organized in this state that leases from an eligible county	1276
land, buildings, structures, fixtures, and improvements to the	1277
land that are part of or used in a public recreational facility	1278
used by a major league professional athletic team or a class A	1279
to class AAA minor league affiliate of a major league	1280
professional athletic team for a significant portion of the	1281
team's home schedule, provided the following apply:	1282
(I) The facility is leased from the eligible county	1283
pursuant to a lease that requires substantially all of the	1284
revenue from the operation of the business or activity conducted	1285
by the nonprofit corporation at the facility in excess of	1286
operating costs, capital expenditures, and reserves to be paid	1287
to the eligible county at least once per calendar year.	1288
(II) Upon dissolution and liquidation of the nonprofit	1289
corporation, all of its net assets are distributable to the	1290
board of commissioners of the eligible county from which the	1291
corporation leases the facility.	1292
(ii) "Eligible county" has the same meaning as in section	1293
307.695 of the Revised Code.	1294
(53) Sales to or by a cable service provider, video	1295
service provider, or radio or television broadcast station	1296
regulated by the federal government of cable service or	1297
programming, video service or programming, audio service or	1298
programming, or electronically transferred digital audiovisual	1299
or audio work. As used in division (B) (53) of this section,	1300

"cable service" and "cable service provider" have the same 1301
meanings as in section 1332.01 of the Revised Code, and "video 1302
service," "video service provider," and "video programming" have 1303
the same meanings as in section 1332.21 of the Revised Code. 1304

(54) Sales of a digital audio work electronically 1305
transferred for delivery through use of a machine, such as a 1306
juke box, that does all of the following: 1307

(a) Accepts direct payments to operate; 1308

(b) Automatically plays a selected digital audio work for 1309
a single play upon receipt of a payment described in division 1310
(B) (54) (a) of this section; 1311

(c) Operates exclusively for the purpose of playing 1312
digital audio works in a commercial establishment. 1313

(55) (a) Sales of the following occurring on the first 1314
Friday of August and the following Saturday and Sunday of each 1315
year, beginning in 2018: 1316

(i) An item of clothing, the price of which is seventy- 1317
five dollars or less; 1318

(ii) An item of school supplies, the price of which is 1319
twenty dollars or less; 1320

(iii) An item of school instructional material, the price 1321
of which is twenty dollars or less. 1322

(b) As used in division (B) (55) of this section: 1323

(i) "Clothing" means all human wearing apparel suitable 1324
for general use. "Clothing" includes, but is not limited to, 1325
aprons, household and shop; athletic supporters; baby receiving 1326
blankets; bathing suits and caps; beach capes and coats; belts 1327

and suspenders; boots; coats and jackets; costumes; diapers, 1328
children and adult, including disposable diapers; earmuffs; 1329
footlets; formal wear; garters and garter belts; girdles; gloves 1330
and mittens for general use; hats and caps; hosiery; insoles for 1331
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1332
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1333
sneakers; socks and stockings; steel-toed shoes; underwear; 1334
uniforms, athletic and nonathletic; and wedding apparel. 1335
"Clothing" does not include items purchased for use in a trade 1336
or business; clothing accessories or equipment; protective 1337
equipment; sports or recreational equipment; belt buckles sold 1338
separately; costume masks sold separately; patches and emblems 1339
sold separately; sewing equipment and supplies including, but 1340
not limited to, knitting needles, patterns, pins, scissors, 1341
sewing machines, sewing needles, tape measures, and thimbles; 1342
and sewing materials that become part of "clothing" including, 1343
but not limited to, buttons, fabric, lace, thread, yarn, and 1344
zippers. 1345

(ii) "School supplies" means items commonly used by a 1346
student in a course of study. "School supplies" includes only 1347
the following items: binders; book bags; calculators; cellophane 1348
tape; blackboard chalk; compasses; composition books; crayons; 1349
erasers; folders, expandable, pocket, plastic, and manila; glue, 1350
paste, and paste sticks; highlighters; index cards; index card 1351
boxes; legal pads; lunch boxes; markers; notebooks; paper, 1352
loose-leaf ruled notebook paper, copy paper, graph paper, 1353
tracing paper, manila paper, colored paper, poster board, and 1354
construction paper; pencil boxes and other school supply boxes; 1355
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 1356
and writing tablets. "School supplies" does not include any item 1357
purchased for use in a trade or business. 1358

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

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

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

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

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

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

(58) Sales of tangible personal property used primarily

for any of the following purposes by a megaproject operator at 1388
the site of a megaproject that satisfies the criteria described 1389
in division (A) (11) (a) (ii) of section 122.17 of the Revised 1390
Code, provided that the sale occurs during the period that the 1391
megaproject operator has an agreement for such megaproject with 1392
the tax credit authority under division (D) of section 122.17 of 1393
the Revised Code that remains in effect and has not expired or 1394
been terminated: 1395

(a) To store, transmit, convey, distribute, recycle, 1396
circulate, or clean water, steam, or other gases used in or 1397
produced as a result of manufacturing activity, including items 1398
that support or aid in the operation of such property; 1399

(b) To clean or prepare inventory, at any stage of storage 1400
or production, or equipment used in a manufacturing activity, 1401
including chemicals, solvents, catalysts, soaps, and other items 1402
that support or aid in the operation of property; 1403

(c) To regulate, treat, filter, condition, improve, clean, 1404
maintain, or monitor environmental conditions within areas where 1405
manufacturing activities take place; 1406

(d) To handle, transport, or convey inventory during 1407
production or manufacturing. 1408

(59) Documentary services charges imposed pursuant to 1409
section 4517.261 or 4781.24 of the Revised Code. 1410

(60) Sales of qualifying firearms and ammunition. 1411

As used in division (B) (60) of this section: 1412

(a) "Qualifying firearm" means a portable firearm, 1413
including a rifle, shotgun, pistol, or revolver, that is 1414
designed to be carried and operated by a single person, and 1415

excludes both of the following: 1416

(i) Any such firearm, except in the case of a shotgun, the 1417
barrel of which has an internal diameter larger than fifty 1418
caliber; 1419

(ii) A shotgun, the barrel of which has an internal 1420
diameter larger than ten gauge. 1421

(b) "Ammunition" means ammunition designed for use in a 1422
qualifying firearm. 1423

(C) For the purpose of the proper administration of this 1424
chapter, and to prevent the evasion of the tax, it is presumed 1425
that all sales made in this state are subject to the tax until 1426
the contrary is established. 1427

(D) The tax collected by the vendor from the consumer 1428
under this chapter is not part of the price, but is a tax 1429
collection for the benefit of the state, and of counties levying 1430
an additional sales tax pursuant to section 5739.021 or 5739.026 1431
of the Revised Code and of transit authorities levying an 1432
additional sales tax pursuant to section 5739.023 of the Revised 1433
Code. Except for the discount authorized under section 5739.12 1434
of the Revised Code and the effects of any rounding pursuant to 1435
section 5703.055 of the Revised Code, no person other than the 1436
state or such a county or transit authority shall derive any 1437
benefit from the collection or payment of the tax levied by this 1438
section or section 5739.021, 5739.023, or 5739.026 of the 1439
Revised Code. 1440

Sec. 5747.98. (A) To provide a uniform procedure for 1441
calculating a taxpayer's aggregate tax liability under section 1442
5747.02 of the Revised Code, a taxpayer shall claim any credits 1443
to which the taxpayer is entitled in the following order: 1444

Either the retirement income credit under division (B) of	1445
section 5747.055 of the Revised Code or the lump sum retirement	1446
income credits under divisions (C), (D), and (E) of that	1447
section;	1448
Either the senior citizen credit under division (F) of	1449
section 5747.055 of the Revised Code or the lump sum	1450
distribution credit under division (G) of that section;	1451
The dependent care credit under section 5747.054 of the	1452
Revised Code;	1453
The credit for displaced workers who pay for job training	1454
under section 5747.27 of the Revised Code;	1455
The campaign contribution credit under section 5747.29 of	1456
the Revised Code;	1457
The twenty-dollar personal exemption credit under section	1458
5747.022 of the Revised Code;	1459
The joint filing credit under division (G) of section	1460
5747.05 of the Revised Code;	1461
The earned income credit under section 5747.71 of the	1462
Revised Code;	1463
The nonrefundable credit for education expenses under	1464
section 5747.72 of the Revised Code;	1465
The nonrefundable credit for donations to scholarship	1466
granting organizations under section 5747.73 of the Revised	1467
Code;	1468
The nonrefundable credit for tuition paid to a	1469
nonchartered nonpublic school under section 5747.75 of the	1470
Revised Code;	1471

The nonrefundable vocational job credit under section 5747.057 of the Revised Code;	1472 1473
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	1474 1475
The enterprise zone credit under section 5709.66 of the Revised Code;	1476 1477
The credit for beginning farmers who participate in a financial management program under division (B) of section 5747.77 of the Revised Code;	1478 1479 1480
The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;	1481 1482
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	1483 1484 1485
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1486 1487
The small business investment credit under section 5747.81 of the Revised Code;	1488 1489
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	1490 1491
The opportunity zone investment credit under section 122.84 of the Revised Code;	1492 1493
<u>The nonrefundable small arms and ammunition manufacturing credit under section 122.973 of the Revised Code;</u>	1494 1495
The enterprise zone credits under section 5709.65 of the Revised Code;	1496 1497
The research and development credit under section 5747.331	1498

of the Revised Code;	1499
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	1500 1501
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1502 1503
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1504 1505
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	1506 1507
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	1508 1509 1510
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	1511 1512
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	1513 1514 1515
The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	1516 1517 1518
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	1519 1520
The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.	1521 1522 1523
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division	1524 1525

(H) of section 5747.08 of the Revised Code, the amount of the 1526
credit for a taxable year shall not exceed the taxpayer's 1527
aggregate amount of tax due under section 5747.02 of the Revised 1528
Code, after allowing for any other credit that precedes it in 1529
the order required under this section. Any excess amount of a 1530
particular credit may be carried forward if authorized under the 1531
section creating that credit. Nothing in this chapter shall be 1532
construed to allow a taxpayer to claim, directly or indirectly, 1533
a credit more than once for a taxable year. 1534

Sec. 5751.98. (A) To provide a uniform procedure for 1535
calculating the amount of tax due under this chapter, a taxpayer 1536
shall claim any credits to which it is entitled in the following 1537
order: 1538

The nonrefundable jobs retention credit under division (B) 1539
of section 5751.50 of the Revised Code; 1540

The nonrefundable credit for qualified research expenses 1541
under division (B) of section 5751.51 of the Revised Code; 1542

The nonrefundable credit for a borrower's qualified 1543
research and development loan payments under division (B) of 1544
section 5751.52 of the Revised Code; 1545

The nonrefundable credit for calendar years 2010 to 2029 1546
for unused net operating losses under division (B) of section 1547
5751.53 of the Revised Code; 1548

The nonrefundable small arms and ammunition manufacturing 1549
credit under section 122.973 of the Revised Code; 1550

The refundable motion picture and Broadway theatrical 1551
production credit under section 5751.54 of the Revised Code; 1552

The refundable jobs creation credit or job retention 1553

credit under division (A) of section 5751.50 of the Revised Code; 1554
1555

The refundable credit for calendar year 2030 for unused net operating losses under division (C) of section 5751.53 of the Revised Code. 1556
1557
1558

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax period shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating the credit. 1559
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Section 2. That existing sections 107.036, 5739.02, 5747.98, and 5751.98 of the Revised Code are hereby repealed. 1565
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Section 3. The amendment by this act of section 5739.02 of the Revised Code applies beginning on the first day of the first month beginning on or after the effective date of this section. 1567
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Section 4. Section 5747.98 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 45 and H.B. 66 of the 134th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. 1570
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