

**As Passed by the Senate**

**132nd General Assembly**

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**Sub. H. B. No. 133**

**Representative Ryan**

**Cosponsors: Representatives Hambley, Hill, Carfagna, Goodman, Seitz, Schaffer, Lipps, Arndt, Green, Ginter, Slaby, Cupp, Dean, Reineke, Miller, Anielski, Antani, Antonio, Ashford, Barnes, Blessing, Brown, Craig, Duffey, Fedor, Galonski, Gavarone, Greenspan, Holmes, Howse, Hughes, Johnson, Kent, Kick, Koehler, Lanese, Lang, LaTourette, Leland, Lepore-Hagan, Manning, McColley, Merrin, O'Brien, Patterson, Patton, Pelanda, Perales, Rezabek, Riedel, Roegner, Rogers, Schuring, Sheehy, Smith, R., Sprague, Stein, Sweeney, West, Wiggam, Young**

**Senators Terhar, Eklund, Beagle, Burke, Coley, Dolan, Gardner, Hackett, Hoagland, Hottinger, LaRose, Lehner, O'Brien, Oelslager, Peterson, Schiavoni, Sykes, Tavares, Thomas, Wilson, Yuko**

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**A BILL**

To amend sections 111.16, 718.01, 718.05, 1329.01,	1
4123.01, 4141.42, 5741.02, 5747.01, 5747.09,	2
5747.43, and 5751.01 and to enact sections	3
1701.041, 4799.04, and 5703.94 of the Revised	4
Code to create the Disaster Relief Act to exempt	5
out-of-state disaster businesses and qualifying	6
out-of-state employees from certain taxes and	7
laws with respect to disaster work on critical	8
infrastructure performed in this state during a	9
declared disaster and to modify the interest	10
penalty for late payments of estimated income	11
taxes.	12

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

**Section 1.** That sections 111.16, 718.01, 718.05, 1329.01, 4123.01, 4141.42, 5741.02, 5747.01, 5747.09, 5747.43, and 5751.01 be amended and sections 1701.041, 4799.04, and 5703.94 of the Revised Code be enacted to read as follows:

**Sec. 111.16.** ~~The~~ Except as provided in section 1701.041 of the Revised Code, the secretary of state shall charge and collect, for the benefit of the state, the following fees:

(A) For filing and recording articles of incorporation of a domestic corporation, including designation of agent:

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, ninety-nine dollars;

(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:

(a) Ten cents for each share authorized up to and including one thousand shares;

(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;

(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;

(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;

(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;

(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than ninety-nine dollars or greater than one hundred thousand

dollars. 40

(B) For filing and recording a certificate of amendment to 41  
or amended articles of incorporation of a domestic corporation, 42  
or for filing and recording a certificate of reorganization, a 43  
certificate of dissolution, or an amendment to a foreign license 44  
application: 45

(1) If the domestic corporation is not authorized to issue 46  
any shares of capital stock, fifty dollars; 47

(2) If the domestic corporation is authorized to issue 48  
shares of capital stock, fifty dollars, and in case of any 49  
increase in the number of shares authorized to be issued, a 50  
further sum computed in accordance with the schedule set forth 51  
in division (A) (2) of this section less a credit computed in the 52  
same manner for the number of shares previously authorized to be 53  
issued by the corporation; provided no fee under division (B) (2) 54  
of this section shall be greater than one hundred thousand 55  
dollars; 56

(3) If the foreign corporation is not authorized to issue 57  
any shares of capital stock, fifty dollars; 58

(4) If the foreign corporation is authorized to issue 59  
shares of capital stock, fifty dollars. 60

(C) For filing and recording articles of incorporation of 61  
a savings and loan association, ninety-nine dollars; and for 62  
filing and recording a certificate of amendment to or amended 63  
articles of incorporation of a savings and loan association, 64  
fifty dollars; 65

(D) For filing and recording a certificate of conversion, 66  
including a designation of agent, a certificate of merger, or a 67  
certificate of consolidation, ninety-nine dollars and, in the 68

case of any new corporation resulting from a consolidation or 69  
any surviving corporation that has an increased number of shares 70  
authorized to be issued resulting from a merger, an additional 71  
sum computed in accordance with the schedule set forth in 72  
division (A)(2) of this section less a credit computed in the 73  
same manner for the number of shares previously authorized to be 74  
issued or represented in this state by each of the corporations 75  
for which a consolidation or merger is effected by the 76  
certificate; 77

(E) For filing and recording articles of incorporation of 78  
a credit union or the American credit union guaranty 79  
association, ninety-nine dollars, and for filing and recording a 80  
certificate of increase in capital stock or any other amendment 81  
of the articles of incorporation of a credit union or the 82  
association, fifty dollars; 83

(F) For filing and recording articles of organization of a 84  
limited liability company, for filing and recording an 85  
application to become a registered foreign limited liability 86  
company, for filing and recording a registration application to 87  
become a domestic limited liability partnership, or for filing 88  
and recording an application to become a registered foreign 89  
limited liability partnership, ninety-nine dollars; 90

(G) For filing and recording a certificate of limited 91  
partnership or an application for registration as a foreign 92  
limited partnership, or for filing an initial statement of 93  
partnership authority pursuant to section 1776.33 of the Revised 94  
Code, ninety-nine dollars; 95

(H) For filing a copy of papers evidencing the 96  
incorporation of a municipal corporation or of annexation of 97  
territory by a municipal corporation, five dollars, to be paid 98

by the municipal corporation, the petitioners therefor, or their agent; 99 100

(I) For filing and recording any of the following: 101

(1) A license to transact business in this state by a foreign corporation for profit pursuant to section 1703.04 of the Revised Code or a foreign nonprofit corporation pursuant to section 1703.27 of the Revised Code, ninety-nine dollars; 102 103 104 105

(2) A biennial report or biennial statement pursuant to section 1775.63, 1776.83, or 1785.06 of the Revised Code, twenty-five dollars; 106 107 108

(3) Except as otherwise provided in this section or any other section of the Revised Code, any other certificate or paper that is required to be filed and recorded or is permitted to be filed and recorded by any provision of the Revised Code with the secretary of state, twenty-five dollars. 109 110 111 112 113

(J) For filing any certificate or paper not required to be recorded, five dollars; 114 115

(K) (1) For making copies of any certificate or other paper filed in the office of the secretary of state, a fee not to exceed one dollar per page, except as otherwise provided in the Revised Code, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars. For copies of certificates or papers required by state officers for official purpose, no charge shall be made. 116 117 118 119 120 121 122 123

(2) For creating and affixing the seal of the office of the secretary of state to the certificates described in division (E) of section 1701.81, division (E) of section 1701.811, division (E) of section 1705.38, division (E) of section 124 125 126 127

1705.381, division (D) of section 1702.43, division (E) of 128  
section 1775.47, division (E) of section 1775.55, division (E) 129  
of section 1776.70, division (E) of section 1776.74, division 130  
(E) of section 1782.433, or division (E) of section 1782.4310 of 131  
the Revised Code, twenty-five dollars. 132

(L) For a minister's license to solemnize marriages, ten 133  
dollars; 134

(M) For examining documents to be filed at a later date 135  
for the purpose of advising as to the acceptability of the 136  
proposed filing, fifty dollars; 137

(N) Fifty dollars for filing and recording any of the 138  
following: 139

(1) A certificate of dissolution and accompanying 140  
documents, or a certificate of cancellation, under section 141  
1701.86, 1702.47, 1705.43, 1776.65, or 1782.10 of the Revised 142  
Code; 143

(2) A notice of dissolution of a foreign licensed 144  
corporation or a certificate of surrender of license by a 145  
foreign licensed corporation under section 1703.17 of the 146  
Revised Code; 147

(3) The withdrawal of registration of a foreign or 148  
domestic limited liability partnership under section 1775.61, 149  
1775.64, 1776.81, or 1776.86 of the Revised Code, or the 150  
certificate of cancellation of registration of a foreign limited 151  
liability company under section 1705.57 of the Revised Code; 152

(4) The filing of a statement of denial under section 153  
1776.34 of the Revised Code, a statement of dissociation under 154  
section 1776.57 of the Revised Code, a statement of disclaimer 155  
of general partner status under Chapter 1782. of the Revised 156

Code, or a cancellation of disclaimer of general partner status 157  
under Chapter 1782. of the Revised Code. 158

(O) For filing a statement of continued existence by a 159  
nonprofit corporation, twenty-five dollars; 160

(P) For filing a restatement under section 1705.08 or 161  
1782.09 of the Revised Code, an amendment to a certificate of 162  
cancellation under section 1782.10 of the Revised Code, an 163  
amendment under section 1705.08 or 1782.09 of the Revised Code, 164  
or a correction under section 1705.55, 1775.61, 1775.64, 165  
1776.12, or 1782.52 of the Revised Code, fifty dollars; 166

(Q) For filing for reinstatement of an entity cancelled by 167  
operation of law, by the secretary of state, by order of the 168  
department of taxation, or by order of a court, twenty-five 169  
dollars; 170

(R) For filing and recording any of the following: 171

(1) A change of agent, resignation of agent, or change of 172  
agent's address under section 1701.07, 1702.06, 1703.041, 173  
1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 174  
of the Revised Code, twenty-five dollars; 175

(2) A multiple change of agent name or address, 176  
standardization of agent address, or resignation of agent under 177  
section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 178  
1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one 179  
hundred twenty-five dollars, plus three dollars per entity 180  
record being changed, by the multiple agent update. 181

(S) For filing and recording any of the following: 182

(1) An application for the exclusive right to use a name 183  
or an application to reserve a name for future use under section 184

1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised 185  
Code, thirty-nine dollars; 186

(2) A trade name or fictitious name registration or 187  
report, thirty-nine dollars; 188

(3) An application to renew any item covered by division 189  
(S) (1) or (2) of this section that is permitted to be renewed, 190  
twenty-five dollars; 191

(4) An assignment of rights for use of a name covered by 192  
division (S) (1), (2), or (3) of this section, the cancellation 193  
of a name registration or name reservation that is so covered, 194  
or notice of a change of address of the registrant of a name 195  
that is so covered, twenty-five dollars. 196

(T) For filing and recording a report to operate a 197  
business trust or a real estate investment trust, either foreign 198  
or domestic, ninety-nine dollars; and for filing and recording 199  
an amendment to a report or associated trust instrument, or a 200  
surrender of authority, to operate a business trust or real 201  
estate investment trust, fifty dollars; 202

(U) (1) For filing and recording the registration of a 203  
trademark, service mark, or mark of ownership, one hundred 204  
twenty-five dollars; 205

(2) For filing and recording the change of address of a 206  
registrant, the assignment of rights to a registration, a 207  
renewal of a registration, or the cancellation of a registration 208  
associated with a trademark, service mark, or mark of ownership, 209  
twenty-five dollars. 210

(V) For filing a service of process with the secretary of 211  
state, five dollars, except as otherwise provided in any section 212  
of the Revised Code. 213



Fees specified in this section may be paid by cash, check, 214  
or money order, by credit card in accordance with section 113.40 215  
of the Revised Code, or by an alternative payment program in 216  
accordance with division (B) of section 111.18 of the Revised 217  
Code. Any credit card number or the expiration date of any 218  
credit card is not subject to disclosure under Chapter 149. of 219  
the Revised Code. 220

**Sec. 718.01.** Any term used in this chapter that is not 221  
otherwise defined in this chapter has the same meaning as when 222  
used in a comparable context in laws of the United States 223  
relating to federal income taxation or in Title LVII of the 224  
Revised Code, unless a different meaning is clearly required. If 225  
a term used in this chapter that is not otherwise defined in 226  
this chapter is used in a comparable context in both the laws of 227  
the United States relating to federal income tax and in Title 228  
LVII of the Revised Code and the use is not consistent, then the 229  
use of the term in the laws of the United States relating to 230  
federal income tax shall control over the use of the term in 231  
Title LVII of the Revised Code. 232

As used in this chapter: 233

(A) (1) "Municipal taxable income" means the following: 234

(a) For a person other than an individual, income reduced 235  
by exempt income to the extent otherwise included in income and 236  
then, as applicable, apportioned or situated to the municipal 237  
corporation under section 718.02 of the Revised Code, and 238  
further reduced by any pre-2017 net operating loss carryforward 239  
available to the person for the municipal corporation. 240

(b) (i) For an individual who is a resident of a municipal 241  
corporation other than a qualified municipal corporation, income 242

reduced by exempt income to the extent otherwise included in 243  
income, then reduced as provided in division (A) (2) of this 244  
section, and further reduced by any pre-2017 net operating loss 245  
carryforward available to the individual for the municipal 246  
corporation. 247

(ii) For an individual who is a resident of a qualified 248  
municipal corporation, Ohio adjusted gross income reduced by 249  
income exempted, and increased by deductions excluded, by the 250  
qualified municipal corporation from the qualified municipal 251  
corporation's tax. If a qualified municipal corporation, on or 252  
before December 31, 2013, exempts income earned by individuals 253  
who are not residents of the qualified municipal corporation and 254  
net profit of persons that are not wholly located within the 255  
qualified municipal corporation, such individual or person shall 256  
have no municipal taxable income for the purposes of the tax 257  
levied by the qualified municipal corporation and may be 258  
exempted by the qualified municipal corporation from the 259  
requirements of section 718.03 of the Revised Code. 260

(c) For an individual who is a nonresident of a municipal 261  
corporation, income reduced by exempt income to the extent 262  
otherwise included in income and then, as applicable, 263  
apportioned or situated to the municipal corporation under 264  
section 718.02 of the Revised Code, then reduced as provided in 265  
division (A) (2) of this section, and further reduced by any pre- 266  
2017 net operating loss carryforward available to the individual 267  
for the municipal corporation. 268

(2) In computing the municipal taxable income of a 269  
taxpayer who is an individual, the taxpayer may subtract, as 270  
provided in division (A) (1) (b) (i) or (c) of this section, the 271  
amount of the individual's employee business expenses reported 272

on the individual's form 2106 that the individual deducted for 273  
federal income tax purposes for the taxable year, subject to the 274  
limitation imposed by section 67 of the Internal Revenue Code. 275  
For the municipal corporation in which the taxpayer is a 276  
resident, the taxpayer may deduct all such expenses allowed for 277  
federal income tax purposes. For a municipal corporation in 278  
which the taxpayer is not a resident, the taxpayer may deduct 279  
such expenses only to the extent the expenses are related to the 280  
taxpayer's performance of personal services in that nonresident 281  
municipal corporation. 282

(B) "Income" means the following: 283

(1)(a) For residents, all income, salaries, qualifying 284  
wages, commissions, and other compensation from whatever source 285  
earned or received by the resident, including the resident's 286  
distributive share of the net profit of pass-through entities 287  
owned directly or indirectly by the resident and any net profit 288  
of the resident, except as provided in division (D)(4) of this 289  
section. 290

(b) For the purposes of division (B)(1)(a) of this 291  
section: 292

(i) Any net operating loss of the resident incurred in the 293  
taxable year and the resident's distributive share of any net 294  
operating loss generated in the same taxable year and 295  
attributable to the resident's ownership interest in a pass- 296  
through entity shall be allowed as a deduction, for that taxable 297  
year and the following five taxable years, against any other net 298  
profit of the resident or the resident's distributive share of 299  
any net profit attributable to the resident's ownership interest 300  
in a pass-through entity until fully utilized, subject to 301  
division (B)(1)(d) of this section; 302

(ii) The resident's distributive share of the net profit 303  
of each pass-through entity owned directly or indirectly by the 304  
resident shall be calculated without regard to any net operating 305  
loss that is carried forward by that entity from a prior taxable 306  
year and applied to reduce the entity's net profit for the 307  
current taxable year. 308

(c) Division (B) (1) (b) of this section does not apply with 309  
respect to any net profit or net operating loss attributable to 310  
an ownership interest in an S corporation unless shareholders' 311  
distributive shares of net profits from S corporations are 312  
subject to tax in the municipal corporation as provided in 313  
division (C) (14) (b) or (c) of this section. 314

(d) Any amount of a net operating loss used to reduce a 315  
taxpayer's net profit for a taxable year shall reduce the amount 316  
of net operating loss that may be carried forward to any 317  
subsequent year for use by that taxpayer. In no event shall the 318  
cumulative deductions for all taxable years with respect to a 319  
taxpayer's net operating loss exceed the original amount of that 320  
net operating loss available to that taxpayer. 321

(2) In the case of nonresidents, all income, salaries, 322  
qualifying wages, commissions, and other compensation from 323  
whatever source earned or received by the nonresident for work 324  
done, services performed or rendered, or activities conducted in 325  
the municipal corporation, including any net profit of the 326  
nonresident, but excluding the nonresident's distributive share 327  
of the net profit or loss of only pass-through entities owned 328  
directly or indirectly by the nonresident. 329

(3) For taxpayers that are not individuals, net profit of 330  
the taxpayer; 331

(4) Lottery, sweepstakes, gambling and sports winnings, 332  
winnings from games of chance, and prizes and awards. If the 333  
taxpayer is a professional gambler for federal income tax 334  
purposes, the taxpayer may deduct related wagering losses and 335  
expenses to the extent authorized under the Internal Revenue 336  
Code and claimed against such winnings. 337

(C) "Exempt income" means all of the following: 338

(1) The military pay or allowances of members of the armed 339  
forces of the United States or members of their reserve 340  
components, including the national guard of any state; 341

(2) (a) Except as provided in division (C) (2) (b) of this 342  
section, intangible income; 343

(b) A municipal corporation that taxed any type of 344  
intangible income on March 29, 1988, pursuant to Section 3 of 345  
S.B. 238 of the 116th general assembly, may continue to tax that 346  
type of income if a majority of the electors of the municipal 347  
corporation voting on the question of whether to permit the 348  
taxation of that type of intangible income after 1988 voted in 349  
favor thereof at an election held on November 8, 1988. 350

(3) Social security benefits, railroad retirement 351  
benefits, unemployment compensation, pensions, retirement 352  
benefit payments, payments from annuities, and similar payments 353  
made to an employee or to the beneficiary of an employee under a 354  
retirement program or plan, disability payments received from 355  
private industry or local, state, or federal governments or from 356  
charitable, religious or educational organizations, and the 357  
proceeds of sickness, accident, or liability insurance policies. 358  
As used in division (C) (3) of this section, "unemployment 359  
compensation" does not include supplemental unemployment 360

compensation described in section 3402(o)(2) of the Internal 361  
Revenue Code. 362

(4) The income of religious, fraternal, charitable, 363  
scientific, literary, or educational institutions to the extent 364  
such income is derived from tax-exempt real estate, tax-exempt 365  
tangible or intangible property, or tax-exempt activities. 366

(5) Compensation paid under section 3501.28 or 3501.36 of 367  
the Revised Code to a person serving as a precinct election 368  
official to the extent that such compensation does not exceed 369  
one thousand dollars for the taxable year. Such compensation in 370  
excess of one thousand dollars for the taxable year may be 371  
subject to taxation by a municipal corporation. A municipal 372  
corporation shall not require the payer of such compensation to 373  
withhold any tax from that compensation. 374

(6) Dues, contributions, and similar payments received by 375  
charitable, religious, educational, or literary organizations or 376  
labor unions, lodges, and similar organizations; 377

(7) Alimony and child support received; 378

(8) Compensation for personal injuries or for damages to 379  
property from insurance proceeds or otherwise, excluding 380  
compensation paid for lost salaries or wages or compensation 381  
from punitive damages; 382

(9) Income of a public utility when that public utility is 383  
subject to the tax levied under section 5727.24 or 5727.30 of 384  
the Revised Code. Division (C)(9) of this section does not apply 385  
for purposes of Chapter 5745. of the Revised Code. 386

(10) Gains from involuntary conversions, interest on 387  
federal obligations, items of income subject to a tax levied by 388  
the state and that a municipal corporation is specifically 389

prohibited by law from taxing, and income of a decedent's estate 390  
during the period of administration except such income from the 391  
operation of a trade or business; 392

(11) Compensation or allowances excluded from federal 393  
gross income under section 107 of the Internal Revenue Code; 394

(12) Employee compensation that is not qualifying wages as 395  
defined in division (R) of this section; 396

(13) Compensation paid to a person employed within the 397  
boundaries of a United States air force base under the 398  
jurisdiction of the United States air force that is used for the 399  
housing of members of the United States air force and is a 400  
center for air force operations, unless the person is subject to 401  
taxation because of residence or domicile. If the compensation 402  
is subject to taxation because of residence or domicile, tax on 403  
such income shall be payable only to the municipal corporation 404  
of residence or domicile. 405

(14) (a) Except as provided in division (C) (14) (b) or (c) 406  
of this section, an S corporation shareholder's distributive 407  
share of net profits of the S corporation, other than any part 408  
of the distributive share of net profits that represents wages 409  
as defined in section 3121(a) of the Internal Revenue Code or 410  
net earnings from self-employment as defined in section 1402(a) 411  
of the Internal Revenue Code. 412

(b) If, pursuant to division (H) of former section 718.01 413  
of the Revised Code as it existed before March 11, 2004, a 414  
majority of the electors of a municipal corporation voted in 415  
favor of the question at an election held on November 4, 2003, 416  
the municipal corporation may continue after 2002 to tax an S 417  
corporation shareholder's distributive share of net profits of 418

an S corporation. 419

(c) If, on December 6, 2002, a municipal corporation was 420  
imposing, assessing, and collecting a tax on an S corporation 421  
shareholder's distributive share of net profits of the S 422  
corporation to the extent the distributive share would be 423  
allocated or apportioned to this state under divisions (B) (1) 424  
and (2) of section 5733.05 of the Revised Code if the S 425  
corporation were a corporation subject to taxes imposed under 426  
Chapter 5733. of the Revised Code, the municipal corporation may 427  
continue to impose the tax on such distributive shares to the 428  
extent such shares would be so allocated or apportioned to this 429  
state only until December 31, 2004, unless a majority of the 430  
electors of the municipal corporation voting on the question of 431  
continuing to tax such shares after that date voted in favor of 432  
that question at an election held November 2, 2004. If a 433  
majority of those electors voted in favor of the question, the 434  
municipal corporation may continue after December 31, 2004, to 435  
impose the tax on such distributive shares only to the extent 436  
such shares would be so allocated or apportioned to this state. 437

(d) A municipal corporation shall be deemed to have 438  
elected to tax S corporation shareholders' distributive shares 439  
of net profits of the S corporation in the hands of the 440  
shareholders if a majority of the electors of a municipal 441  
corporation voted in favor of a question at an election held 442  
under division (C) (14) (b) or (c) of this section. The municipal 443  
corporation shall specify by resolution or ordinance that the 444  
tax applies to the distributive share of a shareholder of an S 445  
corporation in the hands of the shareholder of the S 446  
corporation. 447

(15) To the extent authorized under a resolution or 448



ordinance adopted by a municipal corporation before January 1, 449  
2016, all or a portion of the income of individuals or a class 450  
of individuals under eighteen years of age. 451

(16) (a) Except as provided in divisions (C) (16) (b), (c), 452  
and (d) of this section, qualifying wages described in division 453  
(B) (1) or (E) of section 718.011 of the Revised Code to the 454  
extent the qualifying wages are not subject to withholding for 455  
the municipal corporation under either of those divisions. 456

(b) The exemption provided in division (C) (16) (a) of this 457  
section does not apply with respect to the municipal corporation 458  
in which the employee resided at the time the employee earned 459  
the qualifying wages. 460

(c) The exemption provided in division (C) (16) (a) of this 461  
section does not apply to qualifying wages that an employer 462  
elects to withhold under division (D) (2) of section 718.011 of 463  
the Revised Code. 464

(d) The exemption provided in division (C) (16) (a) of this 465  
section does not apply to qualifying wages if both of the 466  
following conditions apply: 467

(i) For qualifying wages described in division (B) (1) of 468  
section 718.011 of the Revised Code, the employee's employer 469  
withholds and remits tax on the qualifying wages to the 470  
municipal corporation in which the employee's principal place of 471  
work is situated, or, for qualifying wages described in division 472  
(E) of section 718.011 of the Revised Code, the employee's 473  
employer withholds and remits tax on the qualifying wages to the 474  
municipal corporation in which the employer's fixed location is 475  
located; 476

(ii) The employee receives a refund of the tax described 477

in division (C) (16) (d) (i) of this section on the basis of the 478  
employee not performing services in that municipal corporation. 479

(17) (a) Except as provided in division (C) (17) (b) or (c) 480  
of this section, compensation that is not qualifying wages paid 481  
to a nonresident individual for personal services performed in 482  
the municipal corporation on not more than twenty days in a 483  
taxable year. 484

(b) The exemption provided in division (C) (17) (a) of this 485  
section does not apply under either of the following 486  
circumstances: 487

(i) The individual's base of operation is located in the 488  
municipal corporation. 489

(ii) The individual is a professional athlete, 490  
professional entertainer, or public figure, and the compensation 491  
is paid for the performance of services in the individual's 492  
capacity as a professional athlete, professional entertainer, or 493  
public figure. For purposes of division (C) (17) (b) (ii) of this 494  
section, "professional athlete," "professional entertainer," and 495  
"public figure" have the same meanings as in section 718.011 of 496  
the Revised Code. 497

(c) Compensation to which division (C) (17) of this section 498  
applies shall be treated as earned or received at the 499  
individual's base of operation. If the individual does not have 500  
a base of operation, the compensation shall be treated as earned 501  
or received where the individual is domiciled. 502

(d) For purposes of division (C) (17) of this section, 503  
"base of operation" means the location where an individual owns 504  
or rents an office, storefront, or similar facility to which the 505  
individual regularly reports and at which the individual 506

regularly performs personal services for compensation. 507

(18) Compensation paid to a person for personal services 508  
performed for a political subdivision on property owned by the 509  
political subdivision, regardless of whether the compensation is 510  
received by an employee of the subdivision or another person 511  
performing services for the subdivision under a contract with 512  
the subdivision, if the property on which services are performed 513  
is annexed to a municipal corporation pursuant to section 514  
709.023 of the Revised Code on or after March 27, 2013, unless 515  
the person is subject to such taxation because of residence. If 516  
the compensation is subject to taxation because of residence, 517  
municipal income tax shall be payable only to the municipal 518  
corporation of residence. 519

(19) In the case of a tax administered, collected, and 520  
enforced by a municipal corporation pursuant to an agreement 521  
with the board of directors of a joint economic development 522  
district under section 715.72 of the Revised Code, the net 523  
profits of a business, and the income of the employees of that 524  
business, exempted from the tax under division (Q) of that 525  
section-; 526

(20) All of the following: 527

(a) Income derived from disaster work conducted in this 528  
state by an out-of-state disaster business during a disaster 529  
response period pursuant to a qualifying solicitation received 530  
by the business; 531

(b) Income of a qualifying employee described in division 532  
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 533  
such income is derived from disaster work conducted in this 534  
state by the employee during a disaster response period pursuant 535

to a qualifying solicitation received by the employee's 536  
employer; 537

(c) Income of a qualifying employee described in division 538  
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 539  
such income is derived from disaster work conducted in this 540  
state by the employee during a disaster response period on 541  
critical infrastructure owned or used by the employee's 542  
employer. 543

(21) Income the taxation of which is prohibited by the 544  
constitution or laws of the United States. 545

Any item of income that is exempt income of a pass-through 546  
entity under division (C) of this section is exempt income of 547  
each owner of the pass-through entity to the extent of that 548  
owner's distributive or proportionate share of that item of the 549  
entity's income. 550

(D) (1) "Net profit" for a person other than an individual 551  
means adjusted federal taxable income. 552

(2) "Net profit" for a person who is an individual means 553  
the individual's net profit required to be reported on schedule 554  
C, schedule E, or schedule F reduced by any net operating loss 555  
carried forward. For the purposes of division (D) (2) of this 556  
section, the net operating loss carried forward shall be 557  
calculated and deducted in the same manner as provided in 558  
division (E) (8) of this section. 559

(3) For the purposes of this chapter, and notwithstanding 560  
division (D) (1) of this section, net profit of a disregarded 561  
entity shall not be taxable as against that disregarded entity, 562  
but shall instead be included in the net profit of the owner of 563  
the disregarded entity. 564

(4) For the purposes of this chapter, and notwithstanding 565  
any other provision of this chapter, the net profit of a 566  
publicly traded partnership that makes the election described in 567  
division (D) (4) of this section shall be taxed as if the 568  
partnership were a C corporation, and shall not be treated as 569  
the net profit or income of any owner of the partnership. 570

A publicly traded partnership that is treated as a 571  
partnership for federal income tax purposes and that is subject 572  
to tax on its net profits in one or more municipal corporations 573  
in this state may elect to be treated as a C corporation for 574  
municipal income tax purposes. The publicly traded partnership 575  
shall make the election in every municipal corporation in which 576  
the partnership is subject to taxation on its net profits. The 577  
election shall be made on the annual tax return filed in each 578  
such municipal corporation. The publicly traded partnership 579  
shall not be required to file the election with any municipal 580  
corporation in which the partnership is not subject to taxation 581  
on its net profits, but division (D) (4) of this section applies 582  
to all municipal corporations in which an individual owner of 583  
the partnership resides. 584

(E) "Adjusted federal taxable income," for a person 585  
required to file as a C corporation, or for a person that has 586  
elected to be taxed as a C corporation under division (D) (4) of 587  
this section, means a C corporation's federal taxable income 588  
before net operating losses and special deductions as determined 589  
under the Internal Revenue Code, adjusted as follows: 590

(1) Deduct intangible income to the extent included in 591  
federal taxable income. The deduction shall be allowed 592  
regardless of whether the intangible income relates to assets 593  
used in a trade or business or assets held for the production of 594

income. 595

(2) Add an amount equal to five per cent of intangible 596  
income deducted under division (E) (1) of this section, but 597  
excluding that portion of intangible income directly related to 598  
the sale, exchange, or other disposition of property described 599  
in section 1221 of the Internal Revenue Code; 600

(3) Add any losses allowed as a deduction in the 601  
computation of federal taxable income if the losses directly 602  
relate to the sale, exchange, or other disposition of an asset 603  
described in section 1221 or 1231 of the Internal Revenue Code; 604

(4) (a) Except as provided in division (E) (4) (b) of this 605  
section, deduct income and gain included in federal taxable 606  
income to the extent the income and gain directly relate to the 607  
sale, exchange, or other disposition of an asset described in 608  
section 1221 or 1231 of the Internal Revenue Code; 609

(b) Division (E) (4) (a) of this section does not apply to 610  
the extent the income or gain is income or gain described in 611  
section 1245 or 1250 of the Internal Revenue Code. 612

(5) Add taxes on or measured by net income allowed as a 613  
deduction in the computation of federal taxable income; 614

(6) In the case of a real estate investment trust or 615  
regulated investment company, add all amounts with respect to 616  
dividends to, distributions to, or amounts set aside for or 617  
credited to the benefit of investors and allowed as a deduction 618  
in the computation of federal taxable income; 619

(7) Deduct, to the extent not otherwise deducted or 620  
excluded in computing federal taxable income, any income derived 621  
from a transfer agreement or from the enterprise transferred 622  
under that agreement under section 4313.02 of the Revised Code; 623

(8) (a) Except as limited by divisions (E) (8) (b), (c), and 624  
(d) of this section, deduct any net operating loss incurred by 625  
the person in a taxable year beginning on or after January 1, 626  
2017. 627

The amount of such net operating loss shall be deducted 628  
from net profit that is reduced by exempt income to the extent 629  
necessary to reduce municipal taxable income to zero, with any 630  
remaining unused portion of the net operating loss carried 631  
forward to not more than five consecutive taxable years 632  
following the taxable year in which the loss was incurred, but 633  
in no case for more years than necessary for the deduction to be 634  
fully utilized. 635

(b) No person shall use the deduction allowed by division 636  
(E) (8) of this section to offset qualifying wages. 637

(c) (i) For taxable years beginning in 2018, 2019, 2020, 638  
2021, or 2022, a person may not deduct, for purposes of an 639  
income tax levied by a municipal corporation that levies an 640  
income tax before January 1, 2016, more than fifty per cent of 641  
the amount of the deduction otherwise allowed by division (E) (8) 642  
(a) of this section. 643

(ii) For taxable years beginning in 2023 or thereafter, a 644  
person may deduct, for purposes of an income tax levied by a 645  
municipal corporation that levies an income tax before January 646  
1, 2016, the full amount allowed by division (E) (8) (a) of this 647  
section. 648

(d) Any pre-2017 net operating loss carryforward deduction 649  
that is available must be utilized before a taxpayer may deduct 650  
any amount pursuant to division (E) (8) of this section. 651

(e) Nothing in division (E) (8) (c) (i) of this section 652

precludes a person from carrying forward, for use with respect 653  
to any return filed for a taxable year beginning after 2018, any 654  
amount of net operating loss that was not fully utilized by 655  
operation of division (E) (8) (c) (i) of this section. To the 656  
extent that an amount of net operating loss that was not fully 657  
utilized in one or more taxable years by operation of division 658  
(E) (8) (c) (i) of this section is carried forward for use with 659  
respect to a return filed for a taxable year beginning in 2019, 660  
2020, 2021, or 2022, the limitation described in division (E) (8) 661  
(c) (i) of this section shall apply to the amount carried 662  
forward. 663

(9) Deduct any net profit of a pass-through entity owned 664  
directly or indirectly by the taxpayer and included in the 665  
taxpayer's federal taxable income unless an affiliated group of 666  
corporations includes that net profit in the group's federal 667  
taxable income in accordance with division (E) (3) (b) of section 668  
718.06 of the Revised Code. 669

(10) Add any loss incurred by a pass-through entity owned 670  
directly or indirectly by the taxpayer and included in the 671  
taxpayer's federal taxable income unless an affiliated group of 672  
corporations includes that loss in the group's federal taxable 673  
income in accordance with division (E) (3) (b) of section 718.06 674  
of the Revised Code. 675

If the taxpayer is not a C corporation, is not a 676  
disregarded entity that has made the election described in 677  
division (L) (2) of this section, is not a publicly traded 678  
partnership that has made the election described in division (D) 679  
(4) of this section, and is not an individual, the taxpayer 680  
shall compute adjusted federal taxable income under this section 681  
as if the taxpayer were a C corporation, except guaranteed 682



payments and other similar amounts paid or accrued to a partner, 683  
former partner, shareholder, former shareholder, member, or 684  
former member shall not be allowed as a deductible expense 685  
unless such payments are in consideration for the use of capital 686  
and treated as payment of interest under section 469 of the 687  
Internal Revenue Code or United States treasury regulations. 688  
Amounts paid or accrued to a qualified self-employed retirement 689  
plan with respect to a partner, former partner, shareholder, 690  
former shareholder, member, or former member of the taxpayer, 691  
amounts paid or accrued to or for health insurance for a 692  
partner, former partner, shareholder, former shareholder, 693  
member, or former member, and amounts paid or accrued to or for 694  
life insurance for a partner, former partner, shareholder, 695  
former shareholder, member, or former member shall not be 696  
allowed as a deduction. 697

Nothing in division (E) of this section shall be construed 698  
as allowing the taxpayer to add or deduct any amount more than 699  
once or shall be construed as allowing any taxpayer to deduct 700  
any amount paid to or accrued for purposes of federal self- 701  
employment tax. 702

(F) "Schedule C" means internal revenue service schedule C 703  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 704  
Code. 705

(G) "Schedule E" means internal revenue service schedule E 706  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 707  
Code. 708

(H) "Schedule F" means internal revenue service schedule F 709  
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 710  
Code. 711

(I) "Internal Revenue Code" has the same meaning as in 712  
section 5747.01 of the Revised Code. 713

(J) "Resident" means an individual who is domiciled in the 714  
municipal corporation as determined under section 718.012 of the 715  
Revised Code. 716

(K) "Nonresident" means an individual that is not a 717  
resident. 718

(L) (1) "Taxpayer" means a person subject to a tax levied 719  
on income by a municipal corporation in accordance with this 720  
chapter. "Taxpayer" does not include a grantor trust or, except 721  
as provided in division (L) (2) (a) of this section, a disregarded 722  
entity. 723

(2) (a) A single member limited liability company that is a 724  
disregarded entity for federal tax purposes may be a separate 725  
taxpayer from its single member in all Ohio municipal 726  
corporations in which it either filed as a separate taxpayer or 727  
did not file for its taxable year ending in 2003, if all of the 728  
following conditions are met: 729

(i) The limited liability company's single member is also 730  
a limited liability company. 731

(ii) The limited liability company and its single member 732  
were formed and doing business in one or more Ohio municipal 733  
corporations for at least five years before January 1, 2004. 734

(iii) Not later than December 31, 2004, the limited 735  
liability company and its single member each made an election to 736  
be treated as a separate taxpayer under division (L) of this 737  
section as this section existed on December 31, 2004. 738

(iv) The limited liability company was not formed for the 739

purpose of evading or reducing Ohio municipal corporation income 740  
tax liability of the limited liability company or its single 741  
member. 742

(v) The Ohio municipal corporation that was the primary 743  
place of business of the sole member of the limited liability 744  
company consented to the election. 745

(b) For purposes of division (L)(2)(a)(v) of this section, 746  
a municipal corporation was the primary place of business of a 747  
limited liability company if, for the limited liability 748  
company's taxable year ending in 2003, its income tax liability 749  
was greater in that municipal corporation than in any other 750  
municipal corporation in Ohio, and that tax liability to that 751  
municipal corporation for its taxable year ending in 2003 was at 752  
least four hundred thousand dollars. 753

(M) "Person" includes individuals, firms, companies, joint 754  
stock companies, business trusts, estates, trusts, partnerships, 755  
limited liability partnerships, limited liability companies, 756  
associations, C corporations, S corporations, governmental 757  
entities, and any other entity. 758

(N) "Pass-through entity" means a partnership not treated 759  
as an association taxable as a C corporation for federal income 760  
tax purposes, a limited liability company not treated as an 761  
association taxable as a C corporation for federal income tax 762  
purposes, an S corporation, or any other class of entity from 763  
which the income or profits of the entity are given pass-through 764  
treatment for federal income tax purposes. "Pass-through entity" 765  
does not include a trust, estate, grantor of a grantor trust, or 766  
disregarded entity. 767

(O) "S corporation" means a person that has made an 768

election under subchapter S of Chapter 1 of Subtitle A of the 769  
Internal Revenue Code for its taxable year. 770

(P) "Single member limited liability company" means a 771  
limited liability company that has one direct member. 772

(Q) "Limited liability company" means a limited liability 773  
company formed under Chapter 1705. of the Revised Code or under 774  
the laws of another state. 775

(R) "Qualifying wages" means wages, as defined in section 776  
3121(a) of the Internal Revenue Code, without regard to any wage 777  
limitations, adjusted as follows: 778

(1) Deduct the following amounts: 779

(a) Any amount included in wages if the amount constitutes 780  
compensation attributable to a plan or program described in 781  
section 125 of the Internal Revenue Code. 782

(b) Any amount included in wages if the amount constitutes 783  
payment on account of a disability related to sickness or an 784  
accident paid by a party unrelated to the employer, agent of an 785  
employer, or other payer. 786

(c) Any amount attributable to a nonqualified deferred 787  
compensation plan or program described in section 3121(v)(2)(C) 788  
of the Internal Revenue Code if the compensation is included in 789  
wages and the municipal corporation has, by resolution or 790  
ordinance adopted before January 1, 2016, exempted the amount 791  
from withholding and tax. 792

(d) Any amount included in wages if the amount arises from 793  
the sale, exchange, or other disposition of a stock option, the 794  
exercise of a stock option, or the sale, exchange, or other 795  
disposition of stock purchased under a stock option and the 796

municipal corporation has, by resolution or ordinance adopted 797  
before January 1, 2016, exempted the amount from withholding and 798  
tax. 799

(e) Any amount included in wages that is exempt income. 800

(2) Add the following amounts: 801

(a) Any amount not included in wages solely because the 802  
employee was employed by the employer before April 1, 1986. 803

(b) Any amount not included in wages because the amount 804  
arises from the sale, exchange, or other disposition of a stock 805  
option, the exercise of a stock option, or the sale, exchange, 806  
or other disposition of stock purchased under a stock option and 807  
the municipal corporation has not, by resolution or ordinance, 808  
exempted the amount from withholding and tax adopted before 809  
January 1, 2016. Division (R) (2) (b) of this section applies only 810  
to those amounts constituting ordinary income. 811

(c) Any amount not included in wages if the amount is an 812  
amount described in section 401(k), 403(b), or 457 of the 813  
Internal Revenue Code. Division (R) (2) (c) of this section 814  
applies only to employee contributions and employee deferrals. 815

(d) Any amount that is supplemental unemployment 816  
compensation benefits described in section 3402(o) (2) of the 817  
Internal Revenue Code and not included in wages. 818

(e) Any amount received that is treated as self-employment 819  
income for federal tax purposes in accordance with section 820  
1402(a) (8) of the Internal Revenue Code. 821

(f) Any amount not included in wages if all of the 822  
following apply: 823

(i) For the taxable year the amount is employee 824

compensation that is earned outside of the United States and 825  
that either is included in the taxpayer's gross income for 826  
federal income tax purposes or would have been included in the 827  
taxpayer's gross income for such purposes if the taxpayer did 828  
not elect to exclude the income under section 911 of the 829  
Internal Revenue Code; 830

(ii) For no preceding taxable year did the amount 831  
constitute wages as defined in section 3121(a) of the Internal 832  
Revenue Code; 833

(iii) For no succeeding taxable year will the amount 834  
constitute wages; and 835

(iv) For any taxable year the amount has not otherwise 836  
been added to wages pursuant to either division (R) (2) of this 837  
section or section 718.03 of the Revised Code, as that section 838  
existed before the effective date of H.B. 5 of the 130th general 839  
assembly, March 23, 2015. 840

(S) "Intangible income" means income of any of the 841  
following types: income yield, interest, capital gains, 842  
dividends, or other income arising from the ownership, sale, 843  
exchange, or other disposition of intangible property including, 844  
but not limited to, investments, deposits, money, or credits as 845  
those terms are defined in Chapter 5701. of the Revised Code, 846  
and patents, copyrights, trademarks, tradenames, investments in 847  
real estate investment trusts, investments in regulated 848  
investment companies, and appreciation on deferred compensation. 849  
"Intangible income" does not include prizes, awards, or other 850  
income associated with any lottery winnings, gambling winnings, 851  
or other similar games of chance. 852

(T) "Taxable year" means the corresponding tax reporting 853

period as prescribed for the taxpayer under the Internal Revenue Code. 854  
855

(U) "Tax administrator" means the individual charged with 856  
direct responsibility for administration of an income tax levied 857  
by a municipal corporation in accordance with this chapter, and 858  
also includes the following: 859

(1) A municipal corporation acting as the agent of another 860  
municipal corporation; 861

(2) A person retained by a municipal corporation to 862  
administer a tax levied by the municipal corporation, but only 863  
if the municipal corporation does not compensate the person in 864  
whole or in part on a contingency basis; 865

(3) The central collection agency or the regional income 866  
tax agency or their successors in interest, or another entity 867  
organized to perform functions similar to those performed by the 868  
central collection agency and the regional income tax agency. 869

(V) "Employer" means a person that is an employer for 870  
federal income tax purposes. 871

(W) "Employee" means an individual who is an employee for 872  
federal income tax purposes. 873

(X) "Other payer" means any person, other than an 874  
individual's employer or the employer's agent, that pays an 875  
individual any amount included in the federal gross income of 876  
the individual. "Other payer" includes casino operators and 877  
video lottery terminal sales agents. 878

(Y) "Calendar quarter" means the three-month period ending 879  
on the last day of March, June, September, or December. 880

(Z) "Form 2106" means internal revenue service form 2106 881

filed by a taxpayer pursuant to the Internal Revenue Code. 882

(AA) "Municipal corporation" includes a joint economic 883  
development district or joint economic development zone that 884  
levies an income tax under section 715.691, 715.70, 715.71, or 885  
715.72 of the Revised Code. 886

(BB) "Disregarded entity" means a single member limited 887  
liability company, a qualifying subchapter S subsidiary, or 888  
another entity if the company, subsidiary, or entity is a 889  
disregarded entity for federal income tax purposes. 890

(CC) "Generic form" means an electronic or paper form that 891  
is not prescribed by a particular municipal corporation and that 892  
is designed for reporting taxes withheld by an employer, agent 893  
of an employer, or other payer, estimated municipal income 894  
taxes, or annual municipal income tax liability or for filing a 895  
refund claim. 896

(DD) "Tax return preparer" means any individual described 897  
in section 7701(a)(36) of the Internal Revenue Code and 26 898  
C.F.R. 301.7701-15. 899

(EE) "Ohio business gateway" means the online computer 900  
network system, created under section 125.30 of the Revised 901  
Code, that allows persons to electronically file business reply 902  
forms with state agencies and includes any successor electronic 903  
filing and payment system. 904

(FF) "Local board of tax review" and "board of tax review" 905  
mean the entity created under section 718.11 of the Revised 906  
Code. 907

(GG) "Net operating loss" means a loss incurred by a 908  
person in the operation of a trade or business. "Net operating 909  
loss" does not include unutilized losses resulting from basis 910



limitations, at-risk limitations, or passive activity loss 911  
limitations. 912

(HH) "Casino operator" and "casino facility" have the same 913  
meanings as in section 3772.01 of the Revised Code. 914

(II) "Video lottery terminal" has the same meaning as in 915  
section 3770.21 of the Revised Code. 916

(JJ) "Video lottery terminal sales agent" means a lottery 917  
sales agent licensed under Chapter 3770. of the Revised Code to 918  
conduct video lottery terminals on behalf of the state pursuant 919  
to section 3770.21 of the Revised Code. 920

(KK) "Postal service" means the United States postal 921  
service. 922

(LL) "Certified mail," "express mail," "United States 923  
mail," "postal service," and similar terms include any delivery 924  
service authorized pursuant to section 5703.056 of the Revised 925  
Code. 926

(MM) "Postmark date," "date of postmark," and similar 927  
terms include the date recorded and marked in the manner 928  
described in division (B) (3) of section 5703.056 of the Revised 929  
Code. 930

(NN) "Related member" means a person that, with respect to 931  
the taxpayer during all or any portion of the taxable year, is 932  
either a related entity, a component member as defined in 933  
section 1563(b) of the Internal Revenue Code, or a person to or 934  
from whom there is attribution of stock ownership in accordance 935  
with section 1563(e) of the Internal Revenue Code except, for 936  
purposes of determining whether a person is a related member 937  
under this division, "twenty per cent" shall be substituted for 938  
"5 percent" wherever "5 percent" appears in section 1563(e) of 939

the Internal Revenue Code. 940

(00) "Related entity" means any of the following: 941

(1) An individual stockholder, or a member of the 942  
stockholder's family enumerated in section 318 of the Internal 943  
Revenue Code, if the stockholder and the members of the 944  
stockholder's family own directly, indirectly, beneficially, or 945  
constructively, in the aggregate, at least fifty per cent of the 946  
value of the taxpayer's outstanding stock; 947

(2) A stockholder, or a stockholder's partnership, estate, 948  
trust, or corporation, if the stockholder and the stockholder's 949  
partnerships, estates, trusts, or corporations own directly, 950  
indirectly, beneficially, or constructively, in the aggregate, 951  
at least fifty per cent of the value of the taxpayer's 952  
outstanding stock; 953

(3) A corporation, or a party related to the corporation 954  
in a manner that would require an attribution of stock from the 955  
corporation to the party or from the party to the corporation 956  
under division (00) (4) of this section, provided the taxpayer 957  
owns directly, indirectly, beneficially, or constructively, at 958  
least fifty per cent of the value of the corporation's 959  
outstanding stock; 960

(4) The attribution rules described in section 318 of the 961  
Internal Revenue Code apply for the purpose of determining 962  
whether the ownership requirements in divisions (00) (1) to (3) 963  
of this section have been met. 964

(PP) (1) "Assessment" means a written finding by the tax 965  
administrator that a person has underpaid municipal income tax, 966  
or owes penalty and interest, or any combination of tax, 967  
penalty, or interest, to the municipal corporation that 968

commences the person's time limitation for making an appeal to 969  
the local board of tax review pursuant to section 718.11 of the 970  
Revised Code, and has "ASSESSMENT" written in all capital 971  
letters at the top of such finding. 972

(2) "Assessment" does not include an informal notice 973  
denying a request for refund issued under division (B)(3) of 974  
section 718.19 of the Revised Code, a billing statement 975  
notifying a taxpayer of current or past-due balances owed to the 976  
municipal corporation, a tax administrator's request for 977  
additional information, a notification to the taxpayer of 978  
mathematical errors, or a tax administrator's other written 979  
correspondence to a person or taxpayer that does meet the 980  
criteria prescribed by division (PP)(1) of this section. 981

(QQ) "Taxpayers' rights and responsibilities" means the 982  
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 983  
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 984  
Revised Code and the responsibilities of taxpayers to file, 985  
report, withhold, remit, and pay municipal income tax and 986  
otherwise comply with Chapter 718. of the Revised Code and 987  
resolutions, ordinances, and rules adopted by a municipal 988  
corporation for the imposition and administration of a municipal 989  
income tax. 990

(RR) "Qualified municipal corporation" means a municipal 991  
corporation that, by resolution or ordinance adopted on or 992  
before December 31, 2011, adopted Ohio adjusted gross income, as 993  
defined by section 5747.01 of the Revised Code, as the income 994  
subject to tax for the purposes of imposing a municipal income 995  
tax. 996

(SS) (1) "Pre-2017 net operating loss carryforward" means 997  
any net operating loss incurred in a taxable year beginning 998

before January 1, 2017, to the extent such loss was permitted, 999  
by a resolution or ordinance of the municipal corporation that 1000  
was adopted by the municipal corporation before January 1, 2016, 1001  
to be carried forward and utilized to offset income or net 1002  
profit generated in such municipal corporation in future taxable 1003  
years. 1004

(2) For the purpose of calculating municipal taxable 1005  
income, any pre-2017 net operating loss carryforward may be 1006  
carried forward to any taxable year, including taxable years 1007  
beginning in 2017 or thereafter, for the number of taxable years 1008  
provided in the resolution or ordinance or until fully utilized, 1009  
whichever is earlier. 1010

(TT) "Small employer" means any employer that had total 1011  
revenue of less than five hundred thousand dollars during the 1012  
preceding taxable year. For purposes of this division, "total 1013  
revenue" means receipts of any type or kind, including, but not 1014  
limited to, sales receipts; payments; rents; profits; gains, 1015  
dividends, and other investment income; compensation; 1016  
commissions; premiums; money; property; grants; contributions; 1017  
donations; gifts; program service revenue; patient service 1018  
revenue; premiums; fees, including premium fees and service 1019  
fees; tuition payments; unrelated business revenue; 1020  
reimbursements; any type of payment from a governmental unit, 1021  
including grants and other allocations; and any other similar 1022  
receipts reported for federal income tax purposes or under 1023  
generally accepted accounting principles. "Small employer" does 1024  
not include the federal government; any state government, 1025  
including any state agency or instrumentality; any political 1026  
subdivision; or any entity treated as a government for financial 1027  
accounting and reporting purposes. 1028

(UU) "Audit" means the examination of a person or the  
inspection of the books, records, memoranda, or accounts of a  
person for the purpose of determining liability for a municipal  
income tax.

(VV) "Publicly traded partnership" means any partnership,  
an interest in which is regularly traded on an established  
securities market. A "publicly traded partnership" may have any  
number of partners.

(WW) "Out-of-state disaster business," "qualifying  
solicitation," "qualifying employee," "disaster work," "critical  
infrastructure," and "disaster response period" have the same  
meanings as in section 5703.94 of the Revised Code.

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

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

(C) If an individual is unable to complete and file a  
return or notice required by a municipal corporation in  
accordance with this chapter, the return or notice required of  
that individual shall be completed and filed by the individual's

duly authorized agent, guardian, conservator, fiduciary, or 1058  
other person charged with the care of the person or property of 1059  
that individual. 1060

(D) Returns or notices required of an estate or a trust 1061  
shall be completed and filed by the fiduciary of the estate or 1062  
trust. 1063

(E) No municipal corporation shall deny spouses the 1064  
ability to file a joint return. 1065

(F) (1) Each return required to be filed under this section 1066  
shall contain the signature of the taxpayer or the taxpayer's 1067  
duly authorized agent and of the person who prepared the return 1068  
for the taxpayer, and shall include the taxpayer's social 1069  
security number or taxpayer identification number. Each return 1070  
shall be verified by a declaration under penalty of perjury. 1071

(2) A tax administrator may require a taxpayer who is an 1072  
individual to include, with each annual return, amended return, 1073  
or request for refund required under this section, copies of 1074  
only the following documents: all of the taxpayer's Internal 1075  
Revenue Service form W-2, "Wage and Tax Statements," including 1076  
all information reported on the taxpayer's federal W-2, as well 1077  
as taxable wages reported or withheld for any municipal 1078  
corporation; the taxpayer's Internal Revenue Service form 1040 1079  
or, in the case of a return or request required by a qualified 1080  
municipal corporation, Ohio form IT-1040; and, with respect to 1081  
an amended tax return or refund request, any other documentation 1082  
necessary to support the refund request or the adjustments made 1083  
in the amended return. An individual taxpayer who files the 1084  
annual return required by this section electronically is not 1085  
required to provide paper copies of any of the foregoing to the 1086  
tax administrator unless the tax administrator requests such 1087

copies after the return has been filed. 1088

(3) A tax administrator may require a taxpayer that is not 1089  
an individual to include, with each annual net profit return, 1090  
amended net profit return, or request for refund required under 1091  
this section, copies of only the following documents: the 1092  
taxpayer's Internal Revenue Service form 1041, form 1065, form 1093  
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 1094  
respect to an amended tax return or refund request, any other 1095  
documentation necessary to support the refund request or the 1096  
adjustments made in the amended return. 1097

A taxpayer that is not an individual and that files an 1098  
annual net profit return electronically through the Ohio 1099  
business gateway or in some other manner shall either mail the 1100  
documents required under this division to the tax administrator 1101  
at the time of filing or, if electronic submission is available, 1102  
submit the documents electronically through the Ohio business 1103  
gateway. The department of taxation shall publish a method of 1104  
electronically submitting the documents required under this 1105  
division through the Ohio business gateway on or before January 1106  
1, 2016. The department shall transmit all documents submitted 1107  
electronically under this division to the appropriate tax 1108  
administrator. 1109

(4) After a taxpayer files a tax return, the tax 1110  
administrator may request, and the taxpayer shall provide, any 1111  
information, statements, or documents required by the municipal 1112  
corporation to determine and verify the taxpayer's municipal 1113  
income tax liability. The requirements imposed under division 1114  
(F) of this section apply regardless of whether the taxpayer 1115  
files on a generic form or on a form prescribed by the tax 1116  
administrator. 1117

(G) (1) (a) Except as otherwise provided in this chapter, 1118  
each individual income tax return required to be filed under 1119  
this section shall be completed and filed as required by the tax 1120  
administrator on or before the date prescribed for the filing of 1121  
state individual income tax returns under division (G) of 1122  
section 5747.08 of the Revised Code. The taxpayer shall complete 1123  
and file the return or notice on forms prescribed by the tax 1124  
administrator or on generic forms, together with remittance made 1125  
payable to the municipal corporation or tax administrator. No 1126  
remittance is required if the amount shown to be due is ten 1127  
dollars or less. A municipal corporation shall not require a 1128  
qualifying employee whose income consists exclusively of exempt 1129  
income described in division (C) (20) (b) or (c) of section 718.01 1130  
of the Revised Code to file a return under this section. 1131

(b) Except as otherwise provided in this chapter, each 1132  
annual net profit return required to be filed under this section 1133  
by a taxpayer that is not an individual shall be completed and 1134  
filed as required by the tax administrator on or before the 1135  
fifteenth day of the fourth month following the end of the 1136  
taxpayer's taxable year. The taxpayer shall complete and file 1137  
the return or notice on forms prescribed by the tax 1138  
administrator or on generic forms, together with remittance made 1139  
payable to the municipal corporation or tax administrator. No 1140  
remittance is required if the amount shown to be due is ten 1141  
dollars or less. 1142

(2) (a) Any taxpayer that has duly requested an automatic 1143  
six-month extension for filing the taxpayer's federal income tax 1144  
return shall automatically receive an extension for the filing 1145  
of a municipal income tax return. The extended due date of the 1146  
municipal income tax return shall be the fifteenth day of the 1147  
tenth month after the last day of the taxable year to which the 1148



return relates. 1149

(b) A taxpayer that has not requested or received a six- 1150  
month extension for filing the taxpayer's federal income tax 1151  
return may request that the tax administrator grant the taxpayer 1152  
a six-month extension of the date for filing the taxpayer's 1153  
municipal income tax return. If the request is received by the 1154  
tax administrator on or before the date the municipal income tax 1155  
return is due, the tax administrator shall grant the taxpayer's 1156  
requested extension. 1157

(c) An extension of time to file under division (G) (2) of 1158  
this section is not an extension of the time to pay any tax due 1159  
unless the tax administrator grants an extension of that date. 1160

(3) If the tax commissioner extends for all taxpayers the 1161  
date for filing state income tax returns under division (G) of 1162  
section 5747.08 of the Revised Code, a taxpayer shall 1163  
automatically receive an extension for the filing of a municipal 1164  
income tax return. The extended due date of the municipal income 1165  
tax return shall be the same as the extended due date of the 1166  
state income tax return. 1167

(4) If the tax administrator considers it necessary in 1168  
order to ensure the payment of the tax imposed by the municipal 1169  
corporation in accordance with this chapter, the tax 1170  
administrator may require taxpayers to file returns and make 1171  
payments otherwise than as provided in this section, including 1172  
taxpayers not otherwise required to file annual returns. 1173

(5) To the extent that any provision in this division 1174  
conflicts with any provision in section 718.052 of the Revised 1175  
Code, the provision in that section prevails. 1176

(H) (1) For taxable years beginning after 2015, a municipal 1177

corporation shall not require a taxpayer to remit tax with 1178  
respect to net profits if the amount due is less than ten 1179  
dollars. 1180

(2) Any Except as provided in division (H) (3) of this 1181  
section, any taxpayer not required to remit tax to a municipal 1182  
corporation for a taxable year pursuant to division (H) (1) of 1183  
this section shall file with the municipal corporation an annual 1184  
net profit return under division (F) (3) of this section. 1185

(3) A municipal corporation shall not require a person to 1186  
file a net profit return under this section if the person's 1187  
income consists exclusively of exempt income described in 1188  
division (C) (20) (a) of section 718.01 of the Revised Code. 1189

(I) (1) If any report, claim, statement, or other document 1190  
required to be filed, or any payment required to be made, within 1191  
a prescribed period or on or before a prescribed date under this 1192  
chapter is delivered after that period or that date by United 1193  
States mail to the tax administrator or other municipal official 1194  
with which the report, claim, statement, or other document is 1195  
required to be filed, or to which the payment is required to be 1196  
made, the date of the postmark stamped on the cover in which the 1197  
report, claim, statement, or other document, or payment is 1198  
mailed shall be deemed to be the date of delivery or the date of 1199  
payment. "The date of postmark" means, in the event there is 1200  
more than one date on the cover, the earliest date imprinted on 1201  
the cover by the postal service. 1202

(2) If a payment under this chapter is made by electronic 1203  
funds transfer, the payment shall be considered to be made on 1204  
the date of the timestamp assigned by the first electronic 1205  
system receiving that payment. 1206

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

(K) Each return required by a municipal corporation to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the tax administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the tax administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the tax administrator with information that is missing from the return, to contact the tax administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the tax administrator and has shown to the preparer or other person.

(L) The tax administrator of a municipal corporation shall accept for filing a generic form of any income tax return, report, or document required by the municipal corporation in accordance with this chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules adopted by the

municipal corporation or tax administrator, and provided that 1238  
the taxpayer or tax return preparer filing the generic form 1239  
otherwise complies with the provisions of this chapter and of 1240  
the municipal corporation ordinance or resolution governing the 1241  
filing of returns, reports, or documents. 1242

(M) When income tax returns, reports, or other documents 1243  
require the signature of a tax return preparer, the tax 1244  
administrator shall accept a facsimile of such a signature in 1245  
lieu of a manual signature. 1246

(N) (1) As used in this division, "worksite location" has 1247  
the same meaning as in section 718.011 of the Revised Code. 1248

(2) A person may notify a tax administrator that the 1249  
person does not expect to be a taxpayer with respect to the 1250  
municipal corporation for a taxable year if both of the 1251  
following conditions apply: 1252

(a) The person was required to file a tax return with the 1253  
municipal corporation for the immediately preceding taxable year 1254  
because the person performed services at a worksite location 1255  
within that municipal corporation. 1256

(b) The person no longer provides services in the 1257  
municipal corporation and does not expect to be subject to the 1258  
municipal corporation's income tax for the taxable year. 1259

The person shall provide the notice in a signed affidavit 1260  
that briefly explains the person's circumstances, including the 1261  
location of the previous worksite location and the last date on 1262  
which the person performed services or made any sales within the 1263  
municipal corporation. The affidavit also shall include the 1264  
following statement: "The affiant has no plans to perform any 1265  
services within the municipal corporation, make any sales in the 1266

municipal corporation, or otherwise become subject to the tax 1267  
levied by the municipal corporation during the taxable year. If 1268  
the affiant does become subject to the tax levied by the 1269  
municipal corporation for the taxable year, the affiant agrees 1270  
to be considered a taxpayer and to properly register as a 1271  
taxpayer with the municipal corporation if such a registration 1272  
is required by the municipal corporation's resolutions, 1273  
ordinances, or rules." The person shall sign the affidavit under 1274  
penalty of perjury. 1275

(c) If a person submits an affidavit described in division 1276  
(N) (2) of this section, the tax administrator shall not require 1277  
the person to file any tax return for the taxable year unless 1278  
the tax administrator possesses information that conflicts with 1279  
the affidavit or if the circumstances described in the affidavit 1280  
change. Nothing in division (N) of this section prohibits the 1281  
tax administrator from performing an audit of the person. 1282

**Sec. 1329.01.** (A) As used in sections 1329.01 to 1329.10 1283  
of the Revised Code: 1284

(1) "Trade name" means a name used in business or trade to 1285  
designate the business of the user and to which the user asserts 1286  
a right to exclusive use. 1287

(2) "Fictitious name" means a name used in business or 1288  
trade that is fictitious and that the user has not registered or 1289  
is not entitled to register as a trade name. It does not include 1290  
the name of record of any domestic corporation that is formed 1291  
under Chapter 1701. or 1702. of the Revised Code, any foreign 1292  
corporation that is registered pursuant to Chapter 1703. of the 1293  
Revised Code, any domestic or foreign limited liability company 1294  
that is formed under or registered pursuant to Chapter 1705. of 1295  
the Revised Code, any domestic or foreign limited partnership 1296

that is formed under or registered pursuant to Chapter 1782. of 1297  
the Revised Code, or any domestic or foreign limited liability 1298  
partnership that is formed under or registered pursuant to 1299  
Chapter 1775. or 1776. of the Revised Code. 1300

(3) "Person" includes any individual, general partnership, 1301  
limited partnership, limited liability partnership, corporation, 1302  
association, professional association, limited liability 1303  
company, society, foundation, federation, or organization formed 1304  
under the laws of this state or any other state. 1305

(B) ~~Subject~~ Except as provided in section 1701.041 of the 1306  
Revised Code and subject to sections 1329.01 to 1329.10 of the 1307  
Revised Code, any person may register with the secretary of 1308  
state, on a form prescribed by the secretary of state, any trade 1309  
name under which the person is operating, setting forth all of 1310  
the following: 1311

(1) The name and business address of the applicant for 1312  
registration and any of the following that is applicable: 1313

(a) If the applicant is a general partnership, the name 1314  
and address of at least one partner or the identifying number 1315  
the secretary of state assigns to the partnership pursuant to 1316  
section 1776.05 of the Revised Code; 1317

(b) If the applicant is a limited partnership, a 1318  
corporation, professional association, limited liability 1319  
company, or other entity, the form of the entity and the state 1320  
under the laws of which it was formed. 1321

(2) The trade name to be registered; 1322

(3) The general nature of the business conducted by the 1323  
applicant; 1324

(4) The length of time during which the trade name has 1325  
been used by the applicant in business operations in this state. 1326

(C) The trade name application shall be signed by the 1327  
applicant or by any authorized representative of the applicant. 1328

A single trade name may be registered upon each trade name 1329  
application submitted under sections 1329.01 to 1329.10 of the 1330  
Revised Code. 1331

The trade name application shall be accompanied by a 1332  
filing fee of thirty-nine dollars, payable to the secretary of 1333  
state. 1334

(D) Any person who does business under a fictitious name 1335  
and who has not registered and does not wish to register the 1336  
fictitious name as a trade name or who cannot do so because the 1337  
name is not available for registration shall report the use of 1338  
the fictitious name to the secretary of state, on a form 1339  
prescribed by the secretary of state, setting forth all of the 1340  
following: 1341

(1) The name and business address of the user and any of 1342  
the following that is applicable: 1343

(a) If the user is a general partnership, the name and 1344  
address of at least one partner or the identifying number the 1345  
secretary of state assigns to the partnership pursuant to 1346  
section 1775.105 of the Revised Code; 1347

(b) If the user is a limited partnership, a corporation, 1348  
professional association, limited liability company, or other 1349  
entity, the form of the entity and the state under whose laws it 1350  
was formed. 1351

(2) The fictitious name being used; 1352

(3) The general nature of the business conducted by the user. 1353  
1354

(E) The report of use of a fictitious name shall be signed by the user or by any authorized representative of the user. 1355  
1356

A single fictitious name may be registered upon each fictitious name report submitted under sections 1329.01 to 1329.10 of the Revised Code. 1357  
1358  
1359

The fictitious name report shall be accompanied by a filing fee of thirty-nine dollars, payable to the secretary of state. 1360  
1361  
1362

A report under this division shall be made within thirty days after the date of the first use of the fictitious name. 1363  
1364

Sec. 1701.041. (A) As used in this section, "critical infrastructure," "disaster response period," "disaster work," and "qualifying employee" have the same meanings as in section 5703.94 of the Revised Code. 1365  
1366  
1367  
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(B) No person shall be required to file articles of incorporation or any other documents or applications with the secretary of state as established in sections 111.16, 1329.01, 1701.04, or elsewhere in the Revised Code or otherwise comply with the requirements of Title XVII of the Revised Code as a condition precedent to engaging in business in this state for any of the following activities: 1369  
1370  
1371  
1372  
1373  
1374  
1375

(1) Disaster work performed in this state by an out-of-state disaster business during a disaster response period pursuant to a qualifying solicitation received by the business; 1376  
1377  
1378

(2) Disaster work performed in this state by a qualifying employee described in division (A) (14) (a) of section 5703.94 of 1379  
1380



the Revised Code during a disaster response period pursuant to a 1381  
qualifying solicitation received by the employee's employer; 1382

(3) Disaster work performed in this state by a qualifying 1383  
employee described in division (A) (14) (b) of section 5703.94 of 1384  
the Revised Code during a disaster response period on critical 1385  
infrastructure owned or used by the employee's employer. 1386

**Sec. 4123.01.** As used in this chapter: 1387

(A) (1) "Employee" means: 1388

(a) Every person in the service of the state, or of any 1389  
county, municipal corporation, township, or school district 1390  
therein, including regular members of lawfully constituted 1391  
police and fire departments of municipal corporations and 1392  
townships, whether paid or volunteer, and wherever serving 1393  
within the state or on temporary assignment outside thereof, and 1394  
executive officers of boards of education, under any appointment 1395  
or contract of hire, express or implied, oral or written, 1396  
including any elected official of the state, or of any county, 1397  
municipal corporation, or township, or members of boards of 1398  
education. 1399

As used in division (A) (1) (a) of this section, the term 1400  
"employee" includes the following persons when responding to an 1401  
inherently dangerous situation that calls for an immediate 1402  
response on the part of the person, regardless of whether the 1403  
person is within the limits of the jurisdiction of the person's 1404  
regular employment or voluntary service when responding, on the 1405  
condition that the person responds to the situation as the 1406  
person otherwise would if the person were on duty in the 1407  
person's jurisdiction: 1408

(i) Off-duty peace officers. As used in division (A) (1) (a) 1409

(i) of this section, "peace officer" has the same meaning as in 1410  
section 2935.01 of the Revised Code. 1411

(ii) Off-duty firefighters, whether paid or volunteer, of 1412  
a lawfully constituted fire department. 1413

(iii) Off-duty first responders, emergency medical 1414  
technicians-basic, emergency medical technicians-intermediate, 1415  
or emergency medical technicians-paramedic, whether paid or 1416  
volunteer, of an ambulance service organization or emergency 1417  
medical service organization pursuant to Chapter 4765. of the 1418  
Revised Code. 1419

(b) Every person in the service of any person, firm, or 1420  
private corporation, including any public service corporation, 1421  
that (i) employs one or more persons regularly in the same 1422  
business or in or about the same establishment under any 1423  
contract of hire, express or implied, oral or written, including 1424  
aliens and minors, household workers who earn one hundred sixty 1425  
dollars or more in cash in any calendar quarter from a single 1426  
household and casual workers who earn one hundred sixty dollars 1427  
or more in cash in any calendar quarter from a single employer, 1428  
or (ii) is bound by any such contract of hire or by any other 1429  
written contract, to pay into the state insurance fund the 1430  
premiums provided by this chapter. 1431

(c) Every person who performs labor or provides services 1432  
pursuant to a construction contract, as defined in section 1433  
4123.79 of the Revised Code, if at least ten of the following 1434  
criteria apply: 1435

(i) The person is required to comply with instructions 1436  
from the other contracting party regarding the manner or method 1437  
of performing services; 1438

(ii) The person is required by the other contracting party	1439
to have particular training;	1440
(iii) The person's services are integrated into the	1441
regular functioning of the other contracting party;	1442
(iv) The person is required to perform the work	1443
personally;	1444
(v) The person is hired, supervised, or paid by the other	1445
contracting party;	1446
(vi) A continuing relationship exists between the person	1447
and the other contracting party that contemplates continuing or	1448
recurring work even if the work is not full time;	1449
(vii) The person's hours of work are established by the	1450
other contracting party;	1451
(viii) The person is required to devote full time to the	1452
business of the other contracting party;	1453
(ix) The person is required to perform the work on the	1454
premises of the other contracting party;	1455
(x) The person is required to follow the order of work set	1456
by the other contracting party;	1457
(xi) The person is required to make oral or written	1458
reports of progress to the other contracting party;	1459
(xii) The person is paid for services on a regular basis	1460
such as hourly, weekly, or monthly;	1461
(xiii) The person's expenses are paid for by the other	1462
contracting party;	1463
(xiv) The person's tools and materials are furnished by	1464
the other contracting party;	1465

(xv) The person is provided with the facilities used to 1466  
perform services; 1467

(xvi) The person does not realize a profit or suffer a 1468  
loss as a result of the services provided; 1469

(xvii) The person is not performing services for a number 1470  
of employers at the same time; 1471

(xviii) The person does not make the same services 1472  
available to the general public; 1473

(xix) The other contracting party has a right to discharge 1474  
the person; 1475

(xx) The person has the right to end the relationship with 1476  
the other contracting party without incurring liability pursuant 1477  
to an employment contract or agreement. 1478

Every person in the service of any independent contractor 1479  
or subcontractor who has failed to pay into the state insurance 1480  
fund the amount of premium determined and fixed by the 1481  
administrator of workers' compensation for the person's 1482  
employment or occupation or ~~if who is~~ a self-insuring employer 1483  
and who has failed to pay compensation and benefits directly to 1484  
the employer's injured and to the dependents of the employer's 1485  
killed employees as required by section 4123.35 of the Revised 1486  
Code, shall be considered as the employee of the person who has 1487  
entered into a contract, whether written or verbal, with such 1488  
independent contractor unless such employees or their legal 1489  
representatives or beneficiaries elect, after injury or death, 1490  
to regard such independent contractor as the employer. 1491

(2) "Employee" does not mean any of the following: 1492

(a) A duly ordained, commissioned, or licensed minister or 1493

assistant or associate minister of a church in the exercise of 1494  
ministry; 1495

(b) Any officer of a family farm corporation; 1496

(c) An individual incorporated as a corporation; 1497

(d) An officer of a nonprofit corporation, as defined in 1498  
section 1702.01 of the Revised Code, who volunteers the person's 1499  
services as a an officer; 1500

(e) An individual who otherwise is an employee of an 1501  
employer but who signs the waiver and affidavit specified in 1502  
section 4123.15 of the Revised Code on the condition that the 1503  
administrator has granted a waiver and exception to the 1504  
individual's employer under section 4123.15 of the Revised Code; 1505

(f)(i) A qualifying employee described in division (A)(14) 1506  
(a) of section 5703.94 of the Revised Code when the qualifying 1507  
employee is performing disaster work in this state during a 1508  
disaster response period pursuant to a qualifying solicitation 1509  
received by the employee's employer; 1510

(ii) A qualifying employee described in division (A)(14) 1511  
(b) of section 5703.94 of the Revised Code when the qualifying 1512  
employee is performing disaster work in this state during a 1513  
disaster response period on critical infrastructure owned or 1514  
used by the employee's employer; 1515

(iii) As used in division (A)(2)(f) of this section, 1516  
"critical infrastructure," "disaster response period," "disaster 1517  
work," and "qualifying employee" have the same meanings as in 1518  
section 5703.94 of the Revised Code. 1519

Any employer may elect to include as an "employee" within 1520  
this chapter, any person excluded from the definition of 1521

"employee" pursuant to division (A) (2) (a), (b), (c), or (e) of 1522  
this section in accordance with rules adopted by the 1523  
administrator, with the advice and consent of the bureau of 1524  
workers' compensation board of directors. If an employer is a 1525  
partnership, sole proprietorship, individual incorporated as a 1526  
corporation, or family farm corporation, such employer may elect 1527  
to include as an "employee" within this chapter, any member of 1528  
such partnership, the owner of the sole proprietorship, the 1529  
individual incorporated as a corporation, or the officers of the 1530  
family farm corporation. Nothing in this section shall prohibit 1531  
a partner, sole proprietor, or any person excluded from the 1532  
definition of "employee" pursuant to division (A) (2) (a), (b), 1533  
(c), or (e) of this section from electing to be included as an 1534  
"employee" under this chapter in accordance with rules adopted 1535  
by the administrator, with the advice and consent of the board. 1536

In the event of an election, the employer or person 1537  
electing coverage shall serve upon the bureau of workers' 1538  
compensation written notice naming the person to be covered and 1539  
include the person's remuneration for premium purposes in all 1540  
future payroll reports. No partner, sole proprietor, or person 1541  
excluded from the definition of "employee" pursuant to division 1542  
(A) (2) (a), (b), (c), or (e) of this section, shall receive 1543  
benefits or compensation under this chapter until the bureau 1544  
receives written notice of the election permitted by this 1545  
section. 1546

For informational purposes only, the bureau shall 1547  
prescribe such language as it considers appropriate, on such of 1548  
its forms as it considers appropriate, to advise employers of 1549  
their right to elect to include as an "employee" within this 1550  
chapter a sole proprietor, any member of a partnership, or a 1551  
person excluded from the definition of "employee" under division 1552

(A) (2) (a), (b), (c), or (e) of this section, that they should 1553  
check any health and disability insurance policy, or other form 1554  
of health and disability plan or contract, presently covering 1555  
them, or the purchase of which they may be considering, to 1556  
determine whether such policy, plan, or contract excludes 1557  
benefits for illness or injury that they might have elected to 1558  
have covered by workers' compensation. 1559

(B) "Employer" means: 1560

(1) The state, including state hospitals, each county, 1561  
municipal corporation, township, school district, and hospital 1562  
owned by a political subdivision or subdivisions other than the 1563  
state; 1564

(2) Every person, firm, professional employer 1565  
organization, and private corporation, including any public 1566  
service corporation, that (a) has in service one or more 1567  
employees or shared employees regularly in the same business or 1568  
in or about the same establishment under any contract of hire, 1569  
express or implied, oral or written, or (b) is bound by any such 1570  
contract of hire or by any other written contract, to pay into 1571  
the insurance fund the premiums provided by this chapter. 1572

All such employers are subject to this chapter. Any member 1573  
of a firm or association, who regularly performs manual labor in 1574  
or about a mine, factory, or other establishment, including a 1575  
household establishment, shall be considered an employee in 1576  
determining whether such person, firm, or private corporation, 1577  
or public service corporation, has in its service, one or more 1578  
employees and the employer shall report the income derived from 1579  
such labor to the bureau as part of the payroll of such 1580  
employer, and such member shall thereupon be entitled to all the 1581  
benefits of an employee. 1582

(C) "Injury" includes any injury, whether caused by 1583  
external accidental means or accidental in character and result, 1584  
received in the course of, and arising out of, the injured 1585  
employee's employment. "Injury" does not include: 1586

(1) Psychiatric conditions except where the claimant's 1587  
psychiatric conditions have arisen from an injury or 1588  
occupational disease sustained by that claimant or where the 1589  
claimant's psychiatric conditions have arisen from sexual 1590  
conduct in which the claimant was forced by threat of physical 1591  
harm to engage or participate; 1592

(2) Injury or disability caused primarily by the natural 1593  
deterioration of tissue, an organ, or part of the body; 1594

(3) Injury or disability incurred in voluntary 1595  
participation in an employer-sponsored recreation or fitness 1596  
activity if the employee signs a waiver of the employee's right 1597  
to compensation or benefits under this chapter prior to engaging 1598  
in the recreation or fitness activity; 1599

(4) A condition that pre-existed an injury unless that 1600  
pre-existing condition is substantially aggravated by the 1601  
injury. Such a substantial aggravation must be documented by 1602  
objective diagnostic findings, objective clinical findings, or 1603  
objective test results. Subjective complaints may be evidence of 1604  
such a substantial aggravation. However, subjective complaints 1605  
without objective diagnostic findings, objective clinical 1606  
findings, or objective test results are insufficient to 1607  
substantiate a substantial aggravation. 1608

(D) "Child" includes a posthumous child and a child 1609  
legally adopted prior to the injury. 1610

(E) "Family farm corporation" means a corporation founded 1611



for the purpose of farming agricultural land in which the 1612  
majority of the voting stock is held by and the majority of the 1613  
stockholders are persons or the spouse of persons related to 1614  
each other within the fourth degree of kinship, according to the 1615  
rules of the civil law, and at least one of the related persons 1616  
is residing on or actively operating the farm, and none of whose 1617  
stockholders are a corporation. A family farm corporation does 1618  
not cease to qualify under this division where, by reason of any 1619  
devise, bequest, or the operation of the laws of descent or 1620  
distribution, the ownership of shares of voting stock is 1621  
transferred to another person, as long as that person is within 1622  
the degree of kinship stipulated in this division. 1623

(F) "Occupational disease" means a disease contracted in 1624  
the course of employment, which by its causes and the 1625  
characteristics of its manifestation or the condition of the 1626  
employment results in a hazard which distinguishes the 1627  
employment in character from employment generally, and the 1628  
employment creates a risk of contracting the disease in greater 1629  
degree and in a different manner from the public in general. 1630

(G) "Self-insuring employer" means an employer who is 1631  
granted the privilege of paying compensation and benefits 1632  
directly under section 4123.35 of the Revised Code, including a 1633  
board of county commissioners for the sole purpose of 1634  
constructing a sports facility as defined in section 307.696 of 1635  
the Revised Code, provided that the electors of the county in 1636  
which the sports facility is to be built have approved 1637  
construction of a sports facility by ballot election no later 1638  
than November 6, 1997. 1639

(H) "Private employer" means an employer as defined in 1640  
division (B) (2) of this section. 1641

(I) "Professional employer organization" has the same 1642  
meaning as in section 4125.01 of the Revised Code. 1643

(J) "Public employer" means an employer as defined in 1644  
division (B)(1) of this section. 1645

(K) "Sexual conduct" means vaginal intercourse between a 1646  
male and female; anal intercourse, fellatio, and cunnilingus 1647  
between persons regardless of gender; and, without privilege to 1648  
do so, the insertion, however slight, of any part of the body or 1649  
any instrument, apparatus, or other object into the vaginal or 1650  
anal cavity of another. Penetration, however slight, is 1651  
sufficient to complete vaginal or anal intercourse. 1652

(L) "Other-states' insurer" means an insurance company 1653  
that is authorized to provide workers' compensation insurance 1654  
coverage in any of the states that permit employers to obtain 1655  
insurance for workers' compensation claims through insurance 1656  
companies. 1657

(M) "Other-states' coverage" means both of the following: 1658

(1) Insurance coverage secured by an eligible employer for 1659  
workers' compensation claims of employees who are in employment 1660  
relationships localized in a state other than this state or 1661  
those employees' dependents; 1662

(2) Insurance coverage secured by an eligible employer for 1663  
workers' compensation claims that arise in a state other than 1664  
this state where an employer elects to obtain coverage through 1665  
either the administrator or an other-states' insurer. 1666

(N) "Limited other-states coverage" means insurance 1667  
coverage provided by the administrator to an eligible employer 1668  
for workers' compensation claims of employees who are in an 1669  
employment relationship localized in this state but are 1670

temporarily working in a state other than this state, or those  
employees' dependents.

**Sec. 4141.42.** (A) As used in this section, "critical  
infrastructure," "disaster response period," "disaster work,"  
and "qualifying employee" have the same meanings as in section  
5703.94 of the Revised Code.

(B) The director of job and family services may enter into  
reciprocal agreements with departments charged with the  
administration of the unemployment compensation law of any other  
state or the United States or Canada for the purpose of  
determining and placing the liability of an employer for the  
payment of contributions for services rendered within this state  
or such other jurisdiction, or both, and to provide that the  
jurisdiction authorized to collect the contributions shall  
determine the benefit rights which may arise in connection with  
such services and assume the liability for the payment of the  
benefits.

(C) An agreement described in division (B) of this section  
shall provide that an employer is not liable for disaster work  
performed in this state during a disaster response period by  
either of the following:

(1) A qualifying employee described in division (A)(14)(a)  
of section 5703.94 of the Revised Code, when the disaster work  
is performed pursuant to a qualifying solicitation received by  
the employee's employer;

(2) A qualifying employee described in division (A)(14)(b)  
of section 5703.94 of the Revised Code, when the disaster work  
is performed on critical infrastructure owned or used by the  
employee's employer.

Sec. 4799.04. (A) As used in this section, "critical 1700  
infrastructure," "disaster response period," "disaster work," 1701  
"out-of-state disaster business," and "qualifying employee" have 1702  
the same meanings as in section 5703.94 of the Revised Code. 1703

(B) No out-of-state disaster business or qualifying 1704  
employee shall be required to obtain a state or local license or 1705  
other authorization to engage in an occupation in this state for 1706  
an activity for which a license or other authorization is 1707  
required under Title XLVII of the Revised Code, local ordinance, 1708  
or other provision of state or local law, rule, or regulation if 1709  
any of the following are true: 1710

(1) The activity is disaster work performed in this state 1711  
by an out-of-state disaster business during a disaster response 1712  
period pursuant to a qualifying solicitation received by the 1713  
business. 1714

(2) The activity is disaster work performed in this state 1715  
by a qualifying employee described in division (A) (14) (a) of 1716  
section 5703.94 of the Revised Code during a disaster response 1717  
period pursuant to a qualifying solicitation received by the 1718  
employee's employer. 1719

(3) The activity is disaster work performed in this state 1720  
by a qualifying employee described in division (A) (14) (b) of 1721  
section 5703.94 of the Revised Code during a disaster response 1722  
period on critical infrastructure owned or used by the 1723  
employee's employer. 1724

(C) (1) Upon request by the secretary of state, the 1725  
employer of each qualifying employee who performed disaster work 1726  
in this state during the disaster response period shall provide 1727  
proof of the employee's eligibility to perform the disaster work 1728

as determined by the employer's books and records. 1729

(2) If the secretary makes a request under division (C) (1) 1730  
of this section, the employer shall submit information described 1731  
in that division to the secretary not later than thirty days 1732  
from the date the disaster response period terminates or thirty 1733  
days from the date the employer receives the request, whichever 1734  
is later. 1735

**Sec. 5703.94. (A) As used in this section:** 1736

(1) "Declared disaster" means an event for which a 1737  
disaster declaration has been issued. 1738

(2) "Disaster declaration" means a declaration issued by 1739  
the president of the United States or the governor of this state 1740  
that an emergency exists. 1741

(3) "Disaster response period" means the period that 1742  
begins on the tenth day preceding the day on which a disaster 1743  
declaration is issued through the sixtieth day following the day 1744  
that the disaster declaration expires or is rescinded. 1745

(4) "Disaster work" means both of the following: 1746

(a) Repairing, renovating, installing, or constructing 1747  
critical infrastructure damaged or destroyed by the declared 1748  
disaster, or other business activities related to that critical 1749  
infrastructure; 1750

(b) Activities conducted in preparation for any activity 1751  
described in division (A) (4) (a) of this section. 1752

(5) "Critical infrastructure" means property and equipment 1753  
owned or used by a qualifying owner or user to provide service 1754  
to more than one customer, including related support facilities 1755  
such as buildings, offices, power lines, cable lines, poles, 1756

communication lines, and structures. 1757

(6) "Qualifying owner or user" means a public utility, 1758  
commercial mobile radio service provider, cable service 1759  
provider, or video service provider. 1760

(7) "Public utility" has the same meaning as in section 1761  
4905.02 of the Revised Code, without regard to the exclusions 1762  
from that definition prescribed in divisions (A)(1) to (5) of 1763  
that section. 1764

(8) "Commercial mobile radio service provider" means a 1765  
person providing commercial mobile service as defined in 47 1766  
U.S.C. 332(d). 1767

(9) "Cable service provider" and "video service provider" 1768  
have the same meanings as in section 1332.21 of the Revised 1769  
Code. 1770

(10) "Out-of-state disaster business" means a person that 1771  
does all of the following or to which apply all of the 1772  
following: 1773

(a) Receives a qualifying solicitation; 1774

(b) Conducts disaster work in this state during a disaster 1775  
response period; 1776

(c) Is not subject to taxation under Chapter 5747. or 1777  
5751. of the Revised Code on any basis other than such disaster 1778  
work during the calendar year preceding the year in which the 1779  
disaster response period begins or is subject to such taxation 1780  
during that year solely because the person is a related member 1781  
of another person. 1782

(11) "Out-of-state employee" means an individual who 1783  
performs no work in this state, except disaster work during a 1784

disaster response period, from the first day of the preceding 1785  
calendar year to the date on which the disaster response period 1786  
begins. 1787

(12) "Related member" has the same meaning as in section 1788  
5733.042 of the Revised Code without regard to division (B) of 1789  
that section. 1790

(13) "Qualifying solicitation" means a written 1791  
solicitation or request from the state, a county, municipal 1792  
corporation, or township, or a qualifying user or owner of 1793  
critical infrastructure soliciting or requesting the assistance 1794  
of a person to perform disaster work in this state. 1795

(14) "Qualifying employee" means one of the following: 1796

(a) An out-of-state employee performing disaster work in 1797  
this state during a disaster response period whose employer 1798  
receives a qualifying solicitation to perform such work; 1799

(b) An out-of-state employee performing disaster work in 1800  
this state on critical infrastructure owned or used by the 1801  
employee's employer during a disaster response period, provided 1802  
that employer is a qualifying user or owner. 1803

(B) An out-of-state disaster business or qualifying 1804  
employee shall qualify for all of the following, as applicable: 1805

(1) The exemption authorized in division (C) (20) of 1806  
section 718.01, the exemption authorized in division (C) (10) of 1807  
section 5741.02, the deduction authorized in division (A) (33) of 1808  
section 5747.01, and the exclusion authorized in division (F) (2) 1809  
(11) of section 5751.01 of the Revised Code; 1810

(2) An exemption from any requirement to file a document 1811  
or application with or to remit a fee to the secretary of state 1812

as a condition precedent to engaging in business in this state, 1813  
in accordance with section 1701.041 of the Revised Code; 1814

(3) An exemption from the requirements of Chapters 4121., 1815  
4123., and 4141. of the Revised Code, in accordance with 1816  
division (A) (2) of section 4123.01 and section 4141.42 of the 1817  
Revised Code; 1818

(4) An exemption from the requirement to obtain a state or 1819  
local occupational license or other authorization, in accordance 1820  
with section 4799.04 of the Revised Code. 1821

(C) (1) Upon the request of the tax commissioner, an out- 1822  
of-state disaster business shall provide the following 1823  
information to the commissioner: 1824

(a) The name of the out-of-state disaster business and the 1825  
address of its principal place of business; 1826

(b) The business' federal tax identification number; 1827

(c) A copy of the qualifying solicitation received by the 1828  
business; 1829

(d) The dates that the out-of-state disaster business and 1830  
each of the business' out-of-state employees performing disaster 1831  
work in this state during a disaster response period began 1832  
performing disaster work in this state during that period; 1833

(e) The name and social security number of each of the 1834  
out-of-state disaster business' out-of-state employees 1835  
performing disaster work in this state during a disaster 1836  
response period; 1837

(f) The name of any person of which the out-of-state 1838  
disaster business is a related member, provided that person is 1839  
subject to taxation under Chapter 5747. or 5751. of the Revised 1840



Code during the calendar year preceding the year in which the 1841  
disaster response period begins; 1842

(g) Any other information required by the tax 1843  
commissioner. 1844

(2) Upon the request of the tax commissioner, the employer 1845  
of a qualifying employee shall provide the following information 1846  
to the commissioner; 1847

(a) The employer's name and the address of its principal 1848  
place of business; 1849

(b) The employer's federal tax identification number; 1850

(c) For the employer of a qualifying employee described in 1851  
division (A) (14) (a) of this section, a copy of the qualifying 1852  
solicitation received by the employer; 1853

(d) The date each of the employer's out-of-state employees 1854  
performing disaster work in this state during a disaster 1855  
response period began performing disaster work in this state 1856  
during that period; 1857

(e) The name and social security number of each of the 1858  
employer's out-of-state employees performing disaster work in 1859  
this state during a disaster response period; 1860

(f) Any other information required by the tax 1861  
commissioner. 1862

(3) If the commissioner makes a request under division (C) 1863  
(1) or (2) of this section, the out-of-state disaster business 1864  
or employer shall submit information described in that division 1865  
to the commissioner not later than thirty days from the date the 1866  
disaster response period terminates or thirty days after the 1867  
business or employer receives the request, whichever is later. 1868

(D) The department of taxation may adopt rules necessary 1869  
to administer this section. 1870

**Sec. 5741.02.** (A) (1) For the use of the general revenue 1871  
fund of the state, an excise tax is hereby levied on the 1872  
storage, use, or other consumption in this state of tangible 1873  
personal property or the benefit realized in this state of any 1874  
service provided. The tax shall be collected as provided in 1875  
section 5739.025 of the Revised Code. The rate of the tax shall 1876  
be five and three-fourths per cent. 1877

(2) In the case of the lease or rental, with a fixed term 1878  
of more than thirty days or an indefinite term with a minimum 1879  
period of more than thirty days, of any motor vehicles designed 1880  
by the manufacturer to carry a load of not more than one ton, 1881  
watercraft, outboard motor, or aircraft, or of any tangible 1882  
personal property, other than motor vehicles designed by the 1883  
manufacturer to carry a load of more than one ton, to be used by 1884  
the lessee or renter primarily for business purposes, the tax 1885  
shall be collected by the seller at the time the lease or rental 1886  
is consummated and shall be calculated by the seller on the 1887  
basis of the total amount to be paid by the lessee or renter 1888  
under the lease or rental agreement. If the total amount of the 1889  
consideration for the lease or rental includes amounts that are 1890  
not calculated at the time the lease or rental is executed, the 1891  
tax shall be calculated and collected by the seller at the time 1892  
such amounts are billed to the lessee or renter. In the case of 1893  
an open-end lease or rental, the tax shall be calculated by the 1894  
seller on the basis of the total amount to be paid during the 1895  
initial fixed term of the lease or rental, and for each 1896  
subsequent renewal period as it comes due. As used in this 1897  
division, "motor vehicle" has the same meaning as in section 1898  
4501.01 of the Revised Code, and "watercraft" includes an 1899

outdrive unit attached to the watercraft. 1900

(3) Except as provided in division (A) (2) of this section, 1901  
in the case of a transaction, the price of which consists in 1902  
whole or part of the lease or rental of tangible personal 1903  
property, the tax shall be measured by the installments of those 1904  
leases or rentals. 1905

(B) Each consumer, storing, using, or otherwise consuming 1906  
in this state tangible personal property or realizing in this 1907  
state the benefit of any service provided, shall be liable for 1908  
the tax, and such liability shall not be extinguished until the 1909  
tax has been paid to this state; provided, that the consumer 1910  
shall be relieved from further liability for the tax if the tax 1911  
has been paid to a seller in accordance with section 5741.04 of 1912  
the Revised Code or prepaid by the seller in accordance with 1913  
section 5741.06 of the Revised Code. 1914

(C) The tax does not apply to the storage, use, or 1915  
consumption in this state of the following described tangible 1916  
personal property or services, nor to the storage, use, or 1917  
consumption or benefit in this state of tangible personal 1918  
property or services purchased under the following described 1919  
circumstances: 1920

(1) When the sale of property or service in this state is 1921  
subject to the excise tax imposed by sections 5739.01 to 5739.31 1922  
of the Revised Code, provided said tax has been paid; 1923

(2) Except as provided in division (D) of this section, 1924  
tangible personal property or services, the acquisition of 1925  
which, if made in Ohio, would be a sale not subject to the tax 1926  
imposed by sections 5739.01 to 5739.31 of the Revised Code; 1927

(3) Property or services, the storage, use, or other 1928

consumption of or benefit from which this state is prohibited 1929  
from taxing by the Constitution of the United States, laws of 1930  
the United States, or the Constitution of this state. This 1931  
exemption shall not exempt from the application of the tax 1932  
imposed by this section the storage, use, or consumption of 1933  
tangible personal property that was purchased in interstate 1934  
commerce, but that has come to rest in this state, provided that 1935  
fuel to be used or transported in carrying on interstate 1936  
commerce that is stopped within this state pending transfer from 1937  
one conveyance to another is exempt from the excise tax imposed 1938  
by this section and section 5739.02 of the Revised Code; 1939

(4) Transient use of tangible personal property in this 1940  
state by a nonresident tourist or vacationer, or a nonbusiness 1941  
use within this state by a nonresident of this state, if the 1942  
property so used was purchased outside this state for use 1943  
outside this state and is not required to be registered or 1944  
licensed under the laws of this state; 1945

(5) Tangible personal property or services rendered, upon 1946  
which taxes have been paid to another jurisdiction to the extent 1947  
of the amount of the tax paid to such other jurisdiction. Where 1948  
the amount of the tax imposed by this section and imposed 1949  
pursuant to section 5741.021, 5741.022, or 5741.023 of the 1950  
Revised Code exceeds the amount paid to another jurisdiction, 1951  
the difference shall be allocated between the tax imposed by 1952  
this section and any tax imposed by a county or a transit 1953  
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 1954  
the Revised Code, in proportion to the respective rates of such 1955  
taxes. 1956

As used in this subdivision, "taxes paid to another 1957  
jurisdiction" means the total amount of retail sales or use tax 1958

or similar tax based upon the sale, purchase, or use of tangible 1959  
personal property or services rendered legally, levied by and 1960  
paid to another state or political subdivision thereof, or to 1961  
the District of Columbia, where the payment of such tax does not 1962  
entitle the taxpayer to any refund or credit for such payment. 1963

(6) The transfer of a used manufactured home or used 1964  
mobile home, as defined by section 5739.0210 of the Revised 1965  
Code, made on or after January 1, 2000; 1966

(7) Drugs that are or are intended to be distributed free 1967  
of charge to a practitioner licensed to prescribe, dispense, and 1968  
administer drugs to a human being in the course of a 1969  
professional practice and that by law may be dispensed only by 1970  
or upon the order of such a practitioner-; 1971

(8) Computer equipment and related software leased from a 1972  
lessor located outside this state and initially received in this 1973  
state on behalf of the consumer by a third party that will 1974  
retain possession of such property for not more than ninety days 1975  
and that will, within that ninety-day period, deliver such 1976  
property to the consumer at a location outside this state. 1977  
Division (C) (8) of this section does not provide exemption from 1978  
taxation for any otherwise taxable charges associated with such 1979  
property while it is in this state or for any subsequent 1980  
storage, use, or consumption of such property in this state by 1981  
or on behalf of the consumer. 1982

(9) Tangible personal property held for sale by a person 1983  
but not for that person's own use and donated by that person, 1984  
without charge or other compensation, to either of the 1985  
following: 1986

(a) A nonprofit organization operated exclusively for 1987

charitable purposes in this state, no part of the net income of 1988  
which inures to the benefit of any private shareholder or 1989  
individual and no substantial part of the activities of which 1990  
consists of carrying on propaganda or otherwise attempting to 1991  
influence legislation; or 1992

(b) This state or any political subdivision of this state, 1993  
but only if donated for exclusively public purposes. 1994

For the purposes of division (C) ~~(10)~~ (9) of this section, 1995  
"charitable purposes" has the same meaning as in division (B) 1996  
(12) of section 5739.02 of the Revised Code. 1997

(10) Equipment stored, used, or otherwise consumed in this 1998  
state by an out-of-state disaster business during a disaster 1999  
response period during which the business conducts disaster work 2000  
pursuant to a qualifying solicitation received by the business, 2001  
provided the equipment is removed from the state before the last 2002  
day of that period. All terms used in division (C) (10) of this 2003  
section have the same meanings as in section 5703.94 of the 2004  
Revised Code. 2005

(D) The tax applies to the storage, use, or other 2006  
consumption in this state of tangible personal property or 2007  
services, the acquisition of which at the time of sale was 2008  
excepted under division (E) of section 5739.01 of the Revised 2009  
Code from the tax imposed by section 5739.02 of the Revised 2010  
Code, but which has subsequently been temporarily or permanently 2011  
stored, used, or otherwise consumed in a taxable manner. 2012

(E) (1) (a) If any transaction is claimed to be exempt under 2013  
division (E) of section 5739.01 of the Revised Code or under 2014  
section 5739.02 of the Revised Code, with the exception of 2015  
divisions (B) (1) to (11) or (28) of section 5739.02 of the 2016

Revised Code, the consumer shall provide to the seller, and the  
seller shall obtain from the consumer, a certificate specifying  
the reason that the transaction is not subject to the tax. The  
certificate shall be in such form, and shall be provided either  
in a hard copy form or electronic form, as the tax commissioner  
prescribes.

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

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

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

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

(iv) A seller that accepts an exemption certificate from a  
consumer who claims a multiple points of use exemption under  
division (D) of section 5739.033 of the Revised Code, if the  
item purchased is tangible personal property, other than

prewritten computer software. 2046

(2) The seller shall maintain records, including exemption 2047  
certificates, of all sales on which a consumer has claimed an 2048  
exemption, and provide them to the tax commissioner on request. 2049

(3) If no certificate is provided or obtained within 2050  
ninety days after the date on which the transaction is 2051  
consummated, it shall be presumed that the tax applies. Failure 2052  
to have so provided or obtained a certificate shall not preclude 2053  
a seller, within one hundred twenty days after the tax 2054  
commissioner gives written notice of intent to levy an 2055  
assessment, from either establishing that the transaction is not 2056  
subject to the tax, or obtaining, in good faith, a fully 2057  
completed exemption certificate. 2058

(4) If a transaction is claimed to be exempt under 2059  
division (B)(13) of section 5739.02 of the Revised Code, the 2060  
contractor shall obtain certification of the claimed exemption 2061  
from the contractee. This certification shall be in addition to 2062  
an exemption certificate provided by the contractor to the 2063  
seller. A contractee that provides a certification under this 2064  
division shall be deemed to be the consumer of all items 2065  
purchased by the contractor under the claim of exemption, if it 2066  
is subsequently determined that the exemption is not properly 2067  
claimed. The certification shall be in such form as the tax 2068  
commissioner prescribes. 2069

(F) A seller who files a petition for reassessment 2070  
contesting the assessment of tax on transactions for which the 2071  
seller obtained no valid exemption certificates, and for which 2072  
the seller failed to establish that the transactions were not 2073  
subject to the tax during the one-hundred-twenty-day period 2074  
allowed under division (E) of this section, may present to the 2075



tax commissioner additional evidence to prove that the 2076  
transactions were exempt. The seller shall file such evidence 2077  
within ninety days of the receipt by the seller of the notice of 2078  
assessment, except that, upon application and for reasonable 2079  
cause, the tax commissioner may extend the period for submitting 2080  
such evidence thirty days. 2081

(G) For the purpose of the proper administration of 2082  
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 2083  
the evasion of the tax hereby levied, it shall be presumed that 2084  
any use, storage, or other consumption of tangible personal 2085  
property in this state is subject to the tax until the contrary 2086  
is established. 2087

(H) The tax collected by the seller from the consumer 2088  
under this chapter is not part of the price, but is a tax 2089  
collection for the benefit of the state, and of counties levying 2090  
an additional use tax pursuant to section 5741.021 or 5741.023 2091  
of the Revised Code and of transit authorities levying an 2092  
additional use tax pursuant to section 5741.022 of the Revised 2093  
Code. Except for the discount authorized under section 5741.12 2094  
of the Revised Code and the effects of any rounding pursuant to 2095  
section 5703.055 of the Revised Code, no person other than the 2096  
state or such a county or transit authority shall derive any 2097  
benefit from the collection of such tax. 2098

**Sec. 5747.01.** Except as otherwise expressly provided or 2099  
clearly appearing from the context, any term used in this 2100  
chapter that is not otherwise defined in this section has the 2101  
same meaning as when used in a comparable context in the laws of 2102  
the United States relating to federal income taxes or if not 2103  
used in a comparable context in those laws, has the same meaning 2104  
as in section 5733.40 of the Revised Code. Any reference in this 2105

chapter to the Internal Revenue Code includes other laws of the 2106  
United States relating to federal income taxes. 2107

As used in this chapter: 2108

(A) "Adjusted gross income" or "Ohio adjusted gross 2109  
income" means federal adjusted gross income, as defined and used 2110  
in the Internal Revenue Code, adjusted as provided in this 2111  
section: 2112

(1) Add interest or dividends on obligations or securities 2113  
of any state or of any political subdivision or authority of any 2114  
state, other than this state and its subdivisions and 2115  
authorities. 2116

(2) Add interest or dividends on obligations of any 2117  
authority, commission, instrumentality, territory, or possession 2118  
of the United States to the extent that the interest or 2119  
dividends are exempt from federal income taxes but not from 2120  
state income taxes. 2121

(3) Deduct interest or dividends on obligations of the 2122  
United States and its territories and possessions or of any 2123  
authority, commission, or instrumentality of the United States 2124  
to the extent that the interest or dividends are included in 2125  
federal adjusted gross income but exempt from state income taxes 2126  
under the laws of the United States. 2127

(4) Deduct disability and survivor's benefits to the 2128  
extent included in federal adjusted gross income. 2129

(5) Deduct benefits under Title II of the Social Security 2130  
Act and tier 1 railroad retirement benefits to the extent 2131  
included in federal adjusted gross income under section 86 of 2132  
the Internal Revenue Code. 2133

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a) (i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b) (i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the

interest or interest equivalent is included in federal adjusted 2165  
gross income. 2166

(9) Add any loss or deduct any gain resulting from the 2167  
sale, exchange, or other disposition of public obligations to 2168  
the extent that the loss has been deducted or the gain has been 2169  
included in computing federal adjusted gross income. 2170

(10) Deduct or add amounts, as provided under section 2171  
5747.70 of the Revised Code, related to contributions to 2172  
variable college savings program accounts made or tuition units 2173  
purchased pursuant to Chapter 3334. of the Revised Code. 2174

(11) (a) Deduct, to the extent not otherwise allowable as a 2175  
deduction or exclusion in computing federal or Ohio adjusted 2176  
gross income for the taxable year, the amount the taxpayer paid 2177  
during the taxable year for medical care insurance and qualified 2178  
long-term care insurance for the taxpayer, the taxpayer's 2179  
spouse, and dependents. No deduction for medical care insurance 2180  
under division (A) (11) of this section shall be allowed either 2181  
to any taxpayer who is eligible to participate in any subsidized 2182  
health plan maintained by any employer of the taxpayer or of the 2183  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 2184  
application would be entitled to, benefits under part A of Title 2185  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 2186  
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 2187  
of this section, "subsidized health plan" means a health plan 2188  
for which the employer pays any portion of the plan's cost. The 2189  
deduction allowed under division (A) (11) (a) of this section 2190  
shall be the net of any related premium refunds, related premium 2191  
reimbursements, or related insurance premium dividends received 2192  
during the taxable year. 2193

(b) Deduct, to the extent not otherwise deducted or 2194

excluded in computing federal or Ohio adjusted gross income 2195  
during the taxable year, the amount the taxpayer paid during the 2196  
taxable year, not compensated for by any insurance or otherwise, 2197  
for medical care of the taxpayer, the taxpayer's spouse, and 2198  
dependents, to the extent the expenses exceed seven and one-half 2199  
per cent of the taxpayer's federal adjusted gross income. 2200

(c) Deduct, to the extent not otherwise deducted or 2201  
excluded in computing federal or Ohio adjusted gross income, any 2202  
amount included in federal adjusted gross income under section 2203  
105 or not excluded under section 106 of the Internal Revenue 2204  
Code solely because it relates to an accident and health plan 2205  
for a person who otherwise would be a "qualifying relative" and 2206  
thus a "dependent" under section 152 of the Internal Revenue 2207  
Code but for the fact that the person fails to meet the income 2208  
and support limitations under section 152(d)(1)(B) and (C) of 2209  
the Internal Revenue Code. 2210

(d) For purposes of division (A)(11) of this section, 2211  
"medical care" has the meaning given in section 213 of the 2212  
Internal Revenue Code, subject to the special rules, 2213  
limitations, and exclusions set forth therein, and "qualified 2214  
long-term care" has the same meaning given in section 7702B(c) 2215  
of the Internal Revenue Code. Solely for purposes of divisions 2216  
(A)(11)(a) and (c) of this section, "dependent" includes a 2217  
person who otherwise would be a "qualifying relative" and thus a 2218  
"dependent" under section 152 of the Internal Revenue Code but 2219  
for the fact that the person fails to meet the income and 2220  
support limitations under section 152(d)(1)(B) and (C) of the 2221  
Internal Revenue Code. 2222

(12)(a) Deduct any amount included in federal adjusted 2223  
gross income solely because the amount represents a 2224

reimbursement or refund of expenses that in any year the 2225  
taxpayer had deducted as an itemized deduction pursuant to 2226  
section 63 of the Internal Revenue Code and applicable United 2227  
States department of the treasury regulations. The deduction 2228  
otherwise allowed under division (A)(12)(a) of this section 2229  
shall be reduced to the extent the reimbursement is attributable 2230  
to an amount the taxpayer deducted under this section in any 2231  
taxable year. 2232

(b) Add any amount not otherwise included in Ohio adjusted 2233  
gross income for any taxable year to the extent that the amount 2234  
is attributable to the recovery during the taxable year of any 2235  
amount deducted or excluded in computing federal or Ohio 2236  
adjusted gross income in any taxable year. 2237

(13) Deduct any portion of the deduction described in 2238  
section 1341(a)(2) of the Internal Revenue Code, for repaying 2239  
previously reported income received under a claim of right, that 2240  
meets both of the following requirements: 2241

(a) It is allowable for repayment of an item that was 2242  
included in the taxpayer's adjusted gross income for a prior 2243  
taxable year and did not qualify for a credit under division (A) 2244  
or (B) of section 5747.05 of the Revised Code for that year; 2245

(b) It does not otherwise reduce the taxpayer's adjusted 2246  
gross income for the current or any other taxable year. 2247

(14) Deduct an amount equal to the deposits made to, and 2248  
net investment earnings of, a medical savings account during the 2249  
taxable year, in accordance with section 3924.66 of the Revised 2250  
Code. The deduction allowed by division (A)(14) of this section 2251  
does not apply to medical savings account deposits and earnings 2252  
otherwise deducted or excluded for the current or any other 2253

taxable year from the taxpayer's federal adjusted gross income. 2254

(15) (a) Add an amount equal to the funds withdrawn from a 2255  
medical savings account during the taxable year, and the net 2256  
investment earnings on those funds, when the funds withdrawn 2257  
were used for any purpose other than to reimburse an account 2258  
holder for, or to pay, eligible medical expenses, in accordance 2259  
with section 3924.66 of the Revised Code; 2260

(b) Add the amounts distributed from a medical savings 2261  
account under division (A) (2) of section 3924.68 of the Revised 2262  
Code during the taxable year. 2263

(16) Add any amount claimed as a credit under section 2264  
5747.059 or 5747.65 of the Revised Code to the extent that such 2265  
amount satisfies either of the following: 2266

(a) The amount was deducted or excluded from the 2267  
computation of the taxpayer's federal adjusted gross income as 2268  
required to be reported for the taxpayer's taxable year under 2269  
the Internal Revenue Code; 2270

(b) The amount resulted in a reduction of the taxpayer's 2271  
federal adjusted gross income as required to be reported for any 2272  
of the taxpayer's taxable years under the Internal Revenue Code. 2273

(17) Deduct the amount contributed by the taxpayer to an 2274  
individual development account program established by a county 2275  
department of job and family services pursuant to sections 2276  
329.11 to 329.14 of the Revised Code for the purpose of matching 2277  
funds deposited by program participants. On request of the tax 2278  
commissioner, the taxpayer shall provide any information that, 2279  
in the tax commissioner's opinion, is necessary to establish the 2280  
amount deducted under division (A) (17) of this section. 2281

(18) Beginning in taxable year 2001 but not for any 2282

taxable year beginning after December 31, 2005, if the taxpayer 2283  
is married and files a joint return and the combined federal 2284  
adjusted gross income of the taxpayer and the taxpayer's spouse 2285  
for the taxable year does not exceed one hundred thousand 2286  
dollars, or if the taxpayer is single and has a federal adjusted 2287  
gross income for the taxable year not exceeding fifty thousand 2288  
dollars, deduct amounts paid during the taxable year for 2289  
qualified tuition and fees paid to an eligible institution for 2290  
the taxpayer, the taxpayer's spouse, or any dependent of the 2291  
taxpayer, who is a resident of this state and is enrolled in or 2292  
attending a program that culminates in a degree or diploma at an 2293  
eligible institution. The deduction may be claimed only to the 2294  
extent that qualified tuition and fees are not otherwise 2295  
deducted or excluded for any taxable year from federal or Ohio 2296  
adjusted gross income. The deduction may not be claimed for 2297  
educational expenses for which the taxpayer claims a credit 2298  
under section 5747.27 of the Revised Code. 2299

(19) Add any reimbursement received during the taxable 2300  
year of any amount the taxpayer deducted under division (A) (18) 2301  
of this section in any previous taxable year to the extent the 2302  
amount is not otherwise included in Ohio adjusted gross income. 2303

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 2304  
(v) of this section, add five-sixths of the amount of 2305  
depreciation expense allowed by subsection (k) of section 168 of 2306  
the Internal Revenue Code, including the taxpayer's 2307  
proportionate or distributive share of the amount of 2308  
depreciation expense allowed by that subsection to a pass- 2309  
through entity in which the taxpayer has a direct or indirect 2310  
ownership interest. 2311

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 2312



of this section, add five-sixths of the amount of qualifying 2313  
section 179 depreciation expense, including the taxpayer's 2314  
proportionate or distributive share of the amount of qualifying 2315  
section 179 depreciation expense allowed to any pass-through 2316  
entity in which the taxpayer has a direct or indirect ownership 2317  
interest. 2318

(iii) Subject to division (A)(20)(a)(v) of this section, 2319  
for taxable years beginning in 2012 or thereafter, if the 2320  
increase in income taxes withheld by the taxpayer is equal to or 2321  
greater than ten per cent of income taxes withheld by the 2322  
taxpayer during the taxpayer's immediately preceding taxable 2323  
year, "two-thirds" shall be substituted for "five-sixths" for 2324  
the purpose of divisions (A)(20)(a)(i) and (ii) of this section. 2325

(iv) Subject to division (A)(20)(a)(v) of this section, 2326  
for taxable years beginning in 2012 or thereafter, a taxpayer is 2327  
not required to add an amount under division (A)(20) of this 2328  
section if the increase in income taxes withheld by the taxpayer 2329  
and by any pass-through entity in which the taxpayer has a 2330  
direct or indirect ownership interest is equal to or greater 2331  
than the sum of (I) the amount of qualifying section 179 2332  
depreciation expense and (II) the amount of depreciation expense 2333  
allowed to the taxpayer by subsection (k) of section 168 of the 2334  
Internal Revenue Code, and including the taxpayer's 2335  
proportionate or distributive shares of such amounts allowed to 2336  
any such pass-through entities. 2337

(v) If a taxpayer directly or indirectly incurs a net 2338  
operating loss for the taxable year for federal income tax 2339  
purposes, to the extent such loss resulted from depreciation 2340  
expense allowed by subsection (k) of section 168 of the Internal 2341  
Revenue Code and by qualifying section 179 depreciation expense, 2342

"the entire" shall be substituted for "five-sixths of the" for 2343  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2344

The tax commissioner, under procedures established by the 2345  
commissioner, may waive the add-backs related to a pass-through 2346  
entity if the taxpayer owns, directly or indirectly, less than 2347  
five per cent of the pass-through entity. 2348

(b) Nothing in division (A) (20) of this section shall be 2349  
construed to adjust or modify the adjusted basis of any asset. 2350

(c) To the extent the add-back required under division (A) 2351  
(20) (a) of this section is attributable to property generating 2352  
nonbusiness income or loss allocated under section 5747.20 of 2353  
the Revised Code, the add-back shall be situated to the same 2354  
location as the nonbusiness income or loss generated by the 2355  
property for the purpose of determining the credit under 2356  
division (A) of section 5747.05 of the Revised Code. Otherwise, 2357  
the add-back shall be apportioned, subject to one or more of the 2358  
four alternative methods of apportionment enumerated in section 2359  
5747.21 of the Revised Code. 2360

(d) For the purposes of division (A) (20) (a) (v) of this 2361  
section, net operating loss carryback and carryforward shall not 2362  
include the allowance of any net operating loss deduction 2363  
carryback or carryforward to the taxable year to the extent such 2364  
loss resulted from depreciation allowed by section 168(k) of the 2365  
Internal Revenue Code and by the qualifying section 179 2366  
depreciation expense amount. 2367

(e) For the purposes of divisions (A) (20) and (21) of this 2368  
section: 2369

(i) "Income taxes withheld" means the total amount 2370  
withheld and remitted under sections 5747.06 and 5747.07 of the 2371

Revised Code by an employer during the employer's taxable year. 2372

(ii) "Increase in income taxes withheld" means the amount 2373  
by which the amount of income taxes withheld by an employer 2374  
during the employer's current taxable year exceeds the amount of 2375  
income taxes withheld by that employer during the employer's 2376  
immediately preceding taxable year. 2377

(iii) "Qualifying section 179 depreciation expense" means 2378  
the difference between (I) the amount of depreciation expense 2379  
directly or indirectly allowed to a taxpayer under section 179 2380  
of the Internal Revised Code, and (II) the amount of 2381  
depreciation expense directly or indirectly allowed to the 2382  
taxpayer under section 179 of the Internal Revenue Code as that 2383  
section existed on December 31, 2002. 2384

(21) (a) If the taxpayer was required to add an amount 2385  
under division (A) (20) (a) of this section for a taxable year, 2386  
deduct one of the following: 2387

(i) One-fifth of the amount so added for each of the five 2388  
succeeding taxable years if the amount so added was five-sixths 2389  
of qualifying section 179 depreciation expense or depreciation 2390  
expense allowed by subsection (k) of section 168 of the Internal 2391  
Revenue Code; 2392

(ii) One-half of the amount so added for each of the two 2393  
succeeding taxable years if the amount so added was two-thirds 2394  
of such depreciation expense; 2395

(iii) One-sixth of the amount so added for each of the six 2396  
succeeding taxable years if the entire amount of such 2397  
depreciation expense was so added. 2398

(b) If the amount deducted under division (A) (21) (a) of 2399  
this section is attributable to an add-back allocated under 2400

division (A) (20) (c) of this section, the amount deducted shall 2401  
be sitused to the same location. Otherwise, the add-back shall 2402  
be apportioned using the apportionment factors for the taxable 2403  
year in which the deduction is taken, subject to one or more of 2404  
the four alternative methods of apportionment enumerated in 2405  
section 5747.21 of the Revised Code. 2406

(c) No deduction is available under division (A) (21) (a) of 2407  
this section with regard to any depreciation allowed by section 2408  
168(k) of the Internal Revenue Code and by the qualifying 2409  
section 179 depreciation expense amount to the extent that such 2410  
depreciation results in or increases a federal net operating 2411  
loss carryback or carryforward. If no such deduction is 2412  
available for a taxable year, the taxpayer may carry forward the 2413  
amount not deducted in such taxable year to the next taxable 2414  
year and add that amount to any deduction otherwise available 2415  
under division (A) (21) (a) of this section for that next taxable 2416  
year. The carryforward of amounts not so deducted shall continue 2417  
until the entire addition required by division (A) (20) (a) of 2418  
this section has been deducted. 2419

(d) No refund shall be allowed as a result of adjustments 2420  
made by division (A) (21) of this section. 2421

(22) Deduct, to the extent not otherwise deducted or 2422  
excluded in computing federal or Ohio adjusted gross income for 2423  
the taxable year, the amount the taxpayer received during the 2424  
taxable year as reimbursement for life insurance premiums under 2425  
section 5919.31 of the Revised Code. 2426

(23) Deduct, to the extent not otherwise deducted or 2427  
excluded in computing federal or Ohio adjusted gross income for 2428  
the taxable year, the amount the taxpayer received during the 2429  
taxable year as a death benefit paid by the adjutant general 2430

under section 5919.33 of the Revised Code. 2431

(24) Deduct, to the extent included in federal adjusted 2432  
gross income and not otherwise allowable as a deduction or 2433  
exclusion in computing federal or Ohio adjusted gross income for 2434  
the taxable year, military pay and allowances received by the 2435  
taxpayer during the taxable year for active duty service in the 2436  
United States army, air force, navy, marine corps, or coast 2437  
guard or reserve components thereof or the national guard. The 2438  
deduction may not be claimed for military pay and allowances 2439  
received by the taxpayer while the taxpayer is stationed in this 2440  
state. 2441

(25) Deduct, to the extent not otherwise allowable as a 2442  
deduction or exclusion in computing federal or Ohio adjusted 2443  
gross income for the taxable year and not otherwise compensated 2444  
for by any other source, the amount of qualified organ donation 2445  
expenses incurred by the taxpayer during the taxable year, not 2446  
to exceed ten thousand dollars. A taxpayer may deduct qualified 2447  
organ donation expenses only once for all taxable years 2448  
beginning with taxable years beginning in 2007. 2449

For the purposes of division (A) (25) of this section: 2450

(a) "Human organ" means all or any portion of a human 2451  
liver, pancreas, kidney, intestine, or lung, and any portion of 2452  
human bone marrow. 2453

(b) "Qualified organ donation expenses" means travel 2454  
expenses, lodging expenses, and wages and salary forgone by a 2455  
taxpayer in connection with the taxpayer's donation, while 2456  
living, of one or more of the taxpayer's human organs to another 2457  
human being. 2458

(26) Deduct, to the extent not otherwise deducted or 2459

excluded in computing federal or Ohio adjusted gross income for 2460  
the taxable year, amounts received by the taxpayer as retired 2461  
personnel pay for service in the uniformed services or reserve 2462  
components thereof, or the national guard, or received by the 2463  
surviving spouse or former spouse of such a taxpayer under the 2464  
survivor benefit plan on account of such a taxpayer's death. If 2465  
the taxpayer receives income on account of retirement paid under 2466  
the federal civil service retirement system or federal employees 2467  
retirement system, or under any successor retirement program 2468  
enacted by the congress of the United States that is established 2469  
and maintained for retired employees of the United States 2470  
government, and such retirement income is based, in whole or in 2471  
part, on credit for the taxpayer's uniformed service, the 2472  
deduction allowed under this division shall include only that 2473  
portion of such retirement income that is attributable to the 2474  
taxpayer's uniformed service, to the extent that portion of such 2475  
retirement income is otherwise included in federal adjusted 2476  
gross income and is not otherwise deducted under this section. 2477  
Any amount deducted under division (A) (26) of this section is 2478  
not included in a taxpayer's adjusted gross income for the 2479  
purposes of section 5747.055 of the Revised Code. No amount may 2480  
be deducted under division (A) (26) of this section on the basis 2481  
of which a credit was claimed under section 5747.055 of the 2482  
Revised Code. 2483

(27) Deduct, to the extent not otherwise deducted or 2484  
excluded in computing federal or Ohio adjusted gross income for 2485  
the taxable year, the amount the taxpayer received during the 2486  
taxable year from the military injury relief fund created in 2487  
section 5902.05 of the Revised Code. 2488

(28) Deduct, to the extent not otherwise deducted or 2489  
excluded in computing federal or Ohio adjusted gross income for 2490

the taxable year, the amount the taxpayer received as a veterans 2491  
bonus during the taxable year from the Ohio department of 2492  
veterans services as authorized by Section 2r of Article VIII, 2493  
Ohio Constitution. 2494

(29) Deduct, to the extent not otherwise deducted or 2495  
excluded in computing federal or Ohio adjusted gross income for 2496  
the taxable year, any income derived from a transfer agreement 2497  
or from the enterprise transferred under that agreement under 2498  
section 4313.02 of the Revised Code. 2499

(30) Deduct, to the extent not otherwise deducted or 2500  
excluded in computing federal or Ohio adjusted gross income for 2501  
the taxable year, Ohio college opportunity or federal Pell grant 2502  
amounts received by the taxpayer or the taxpayer's spouse or 2503  
dependent pursuant to section 3333.122 of the Revised Code or 20 2504  
U.S.C. 1070a, et seq., and used to pay room or board furnished 2505  
by the educational institution for which the grant was awarded 2506  
at the institution's facilities, including meal plans 2507  
administered by the institution. For the purposes of this 2508  
division, receipt of a grant includes the distribution of a 2509  
grant directly to an educational institution and the crediting 2510  
of the grant to the enrollee's account with the institution. 2511

(31) (a) For taxable years beginning in 2015, deduct from 2512  
the portion of an individual's adjusted gross income that is 2513  
business income, to the extent not otherwise deducted or 2514  
excluded in computing federal or Ohio adjusted gross income for 2515  
the taxable year, the lesser of the following amounts: 2516

(i) Seventy-five per cent of the individual's business 2517  
income; 2518

(ii) Ninety-three thousand seven hundred fifty dollars for 2519

each spouse if spouses file separate returns under section 2520  
5747.08 of the Revised Code or one hundred eighty-seven thousand 2521  
five hundred dollars for all other individuals. 2522

(b) For taxable years beginning in 2016 or thereafter, 2523  
deduct from the portion of an individual's adjusted gross income 2524  
that is business income, to the extent not otherwise deducted or 2525  
excluded in computing federal adjusted gross income for the 2526  
taxable year, one hundred twenty-five thousand dollars for each 2527  
spouse if spouses file separate returns under section 5747.08 of 2528  
the Revised Code or two hundred fifty thousand dollars for all 2529  
other individuals. 2530

(32) Deduct, as provided under section 5747.78 of the 2531  
Revised Code, contributions to ABLE savings accounts made in 2532  
accordance with sections 113.50 to 113.56 of the Revised Code. 2533

(33) (a) Deduct, to the extent not otherwise deducted or 2534  
excluded in computing federal or Ohio adjusted gross income 2535  
during the taxable year, all of the following: 2536

(i) Compensation paid to a qualifying employee described 2537  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 2538  
the extent such compensation is for disaster work conducted in 2539  
this state during a disaster response period pursuant to a 2540  
qualifying solicitation received by the employee's employer; 2541

(ii) Compensation paid to a qualifying employee described 2542  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 2543  
the extent such compensation is for disaster work conducted in 2544  
this state by the employee during the disaster response period 2545  
on critical infrastructure owned or used by the employee's 2546  
employer; 2547

(iii) Income received by an out-of-state disaster business 2548



for disaster work conducted in this state during a disaster 2549  
response period, or, if the out-of-state disaster business is a 2550  
pass-through entity, a taxpayer's distributive share of the 2551  
pass-through entity's income from the business conducting 2552  
disaster work in this state during a disaster response period, 2553  
if, in either case, the disaster work is conducted pursuant to a 2554  
qualifying solicitation received by the business. 2555

(b) All terms used in division (A) (33) of this section 2556  
have the same meanings as in section 5703.94 of the Revised 2557  
Code. 2558

(B) "Business income" means income, including gain or 2559  
loss, arising from transactions, activities, and sources in the 2560  
regular course of a trade or business and includes income, gain, 2561  
or loss from real property, tangible property, and intangible 2562  
property if the acquisition, rental, management, and disposition 2563  
of the property constitute integral parts of the regular course 2564  
of a trade or business operation. "Business income" includes 2565  
income, including gain or loss, from a partial or complete 2566  
liquidation of a business, including, but not limited to, gain 2567  
or loss from the sale or other disposition of goodwill. 2568

(C) "Nonbusiness income" means all income other than 2569  
business income and may include, but is not limited to, 2570  
compensation, rents and royalties from real or tangible personal 2571  
property, capital gains, interest, dividends and distributions, 2572  
patent or copyright royalties, or lottery winnings, prizes, and 2573  
awards. 2574

(D) "Compensation" means any form of remuneration paid to 2575  
an employee for personal services. 2576

(E) "Fiduciary" means a guardian, trustee, executor, 2577

administrator, receiver, conservator, or any other person acting 2578  
in any fiduciary capacity for any individual, trust, or estate. 2579

(F) "Fiscal year" means an accounting period of twelve 2580  
months ending on the last day of any month other than December. 2581

(G) "Individual" means any natural person. 2582

(H) "Internal Revenue Code" means the "Internal Revenue 2583  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2584

(I) "Resident" means any of the following, provided that 2585  
division (I) (3) of this section applies only to taxable years of 2586  
a trust beginning in 2002 or thereafter: 2587

(1) An individual who is domiciled in this state, subject 2588  
to section 5747.24 of the Revised Code; 2589

(2) The estate of a decedent who at the time of death was 2590  
domiciled in this state. The domicile tests of section 5747.24 2591  
of the Revised Code are not controlling for purposes of division 2592  
(I) (2) of this section. 2593

(3) A trust that, in whole or part, resides in this state. 2594  
If only part of a trust resides in this state, the trust is a 2595  
resident only with respect to that part. 2596

For the purposes of division (I) (3) of this section: 2597

(a) A trust resides in this state for the trust's current 2598  
taxable year to the extent, as described in division (I) (3) (d) 2599  
of this section, that the trust consists directly or indirectly, 2600  
in whole or in part, of assets, net of any related liabilities, 2601  
that were transferred, or caused to be transferred, directly or 2602  
indirectly, to the trust by any of the following: 2603

(i) A person, a court, or a governmental entity or 2604

instrumentality on account of the death of a decedent, but only 2605  
if the trust is described in division (I) (3) (e) (i) or (ii) of 2606  
this section; 2607

(ii) A person who was domiciled in this state for the 2608  
purposes of this chapter when the person directly or indirectly 2609  
transferred assets to an irrevocable trust, but only if at least 2610  
one of the trust's qualifying beneficiaries is domiciled in this 2611  
state for the purposes of this chapter during all or some 2612  
portion of the trust's current taxable year; 2613

(iii) A person who was domiciled in this state for the 2614  
purposes of this chapter when the trust document or instrument 2615  
or part of the trust document or instrument became irrevocable, 2616  
but only if at least one of the trust's qualifying beneficiaries 2617  
is a resident domiciled in this state for the purposes of this 2618  
chapter during all or some portion of the trust's current 2619  
taxable year. If a trust document or instrument became 2620  
irrevocable upon the death of a person who at the time of death 2621  
was domiciled in this state for purposes of this chapter, that 2622  
person is a person described in division (I) (3) (a) (iii) of this 2623  
section. 2624

(b) A trust is irrevocable to the extent that the 2625  
transferor is not considered to be the owner of the net assets 2626  
of the trust under sections 671 to 678 of the Internal Revenue 2627  
Code. 2628

(c) With respect to a trust other than a charitable lead 2629  
trust, "qualifying beneficiary" has the same meaning as 2630  
"potential current beneficiary" as defined in section 1361(e) (2) 2631  
of the Internal Revenue Code, and with respect to a charitable 2632  
lead trust "qualifying beneficiary" is any current, future, or 2633  
contingent beneficiary, but with respect to any trust 2634

"qualifying beneficiary" excludes a person or a governmental  
entity or instrumentality to any of which a contribution would  
qualify for the charitable deduction under section 170 of the  
Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this  
section, the extent to which a trust consists directly or  
indirectly, in whole or in part, of assets, net of any related  
liabilities, that were transferred directly or indirectly, in  
whole or part, to the trust by any of the sources enumerated in  
that division shall be ascertained by multiplying the fair  
market value of the trust's assets, net of related liabilities,  
by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the  
numerator of the qualifying ratio is the fair market value of  
those assets at that time, net of any related liabilities, from  
sources enumerated in division (I)(3)(a) of this section. The  
denominator of the qualifying ratio is the fair market value of  
all the trust's assets at that time, net of any related  
liabilities.

(ii) Each subsequent time the trust receives assets, a  
revised qualifying ratio shall be computed. The numerator of the  
revised qualifying ratio is the sum of (1) the fair market value  
of the trust's assets immediately prior to the subsequent  
transfer, net of any related liabilities, multiplied by the  
qualifying ratio last computed without regard to the subsequent  
transfer, and (2) the fair market value of the subsequently  
transferred assets at the time transferred, net of any related  
liabilities, from sources enumerated in division (I)(3)(a) of  
this section. The denominator of the revised qualifying ratio is  
the fair market value of all the trust's assets immediately

after the subsequent transfer, net of any related liabilities. 2665

(iii) Whether a transfer to the trust is by or from any of 2666  
the sources enumerated in division (I) (3) (a) of this section 2667  
shall be ascertained without regard to the domicile of the 2668  
trust's beneficiaries. 2669

(e) For the purposes of division (I) (3) (a) (i) of this 2670  
section: 2671

(i) A trust is described in division (I) (3) (e) (i) of this 2672  
section if the trust is a testamentary trust and the testator of 2673  
that testamentary trust was domiciled in this state at the time 2674  
of the testator's death for purposes of the taxes levied under 2675  
Chapter 5731. of the Revised Code. 2676

(ii) A trust is described in division (I) (3) (e) (ii) of 2677  
this section if the transfer is a qualifying transfer described 2678  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 2679  
trust is an irrevocable inter vivos trust, and at least one of 2680  
the trust's qualifying beneficiaries is domiciled in this state 2681  
for purposes of this chapter during all or some portion of the 2682  
trust's current taxable year. 2683

(f) For the purposes of division (I) (3) (e) (ii) of this 2684  
section, a "qualifying transfer" is a transfer of assets, net of 2685  
any related liabilities, directly or indirectly to a trust, if 2686  
the transfer is described in any of the following: 2687

(i) The transfer is made to a trust, created by the 2688  
decedent before the decedent's death and while the decedent was 2689  
domiciled in this state for the purposes of this chapter, and, 2690  
prior to the death of the decedent, the trust became irrevocable 2691  
while the decedent was domiciled in this state for the purposes 2692  
of this chapter. 2693

(ii) The transfer is made to a trust to which the 2694  
decedent, prior to the decedent's death, had directly or 2695  
indirectly transferred assets, net of any related liabilities, 2696  
while the decedent was domiciled in this state for the purposes 2697  
of this chapter, and prior to the death of the decedent the 2698  
trust became irrevocable while the decedent was domiciled in 2699  
this state for the purposes of this chapter. 2700

(iii) The transfer is made on account of a contractual 2701  
relationship existing directly or indirectly between the 2702  
transferor and either the decedent or the estate of the decedent 2703  
at any time prior to the date of the decedent's death, and the 2704  
decedent was domiciled in this state at the time of death for 2705  
purposes of the taxes levied under Chapter 5731. of the Revised 2706  
Code. 2707

(iv) The transfer is made to a trust on account of a 2708  
contractual relationship existing directly or indirectly between 2709  
the transferor and another person who at the time of the 2710  
decedent's death was domiciled in this state for purposes of 2711  
this chapter. 2712

(v) The transfer is made to a trust on account of the will 2713  
of a testator who was domiciled in this state at the time of the 2714  
testator's death for purposes of the taxes levied under Chapter 2715  
5731. of the Revised Code. 2716

(vi) The transfer is made to a trust created by or caused 2717  
to be created by a court, and the trust was directly or 2718  
indirectly created in connection with or as a result of the 2719  
death of an individual who, for purposes of the taxes levied 2720  
under Chapter 5731. of the Revised Code, was domiciled in this 2721  
state at the time of the individual's death. 2722

(g) The tax commissioner may adopt rules to ascertain the 2723  
part of a trust residing in this state. 2724

(J) "Nonresident" means an individual or estate that is 2725  
not a resident. An individual who is a resident for only part of 2726  
a taxable year is a nonresident for the remainder of that 2727  
taxable year. 2728

(K) "Pass-through entity" has the same meaning as in 2729  
section 5733.04 of the Revised Code. 2730

(L) "Return" means the notifications and reports required 2731  
to be filed pursuant to this chapter for the purpose of 2732  
reporting the tax due and includes declarations of estimated tax 2733  
when so required. 2734

(M) "Taxable year" means the calendar year or the 2735  
taxpayer's fiscal year ending during the calendar year, or 2736  
fractional part thereof, upon which the adjusted gross income is 2737  
calculated pursuant to this chapter. 2738

(N) "Taxpayer" means any person subject to the tax imposed 2739  
by section 5747.02 of the Revised Code or any pass-through 2740  
entity that makes the election under division (D) of section 2741  
5747.08 of the Revised Code. 2742

(O) "Dependents" means dependents as defined in the 2743  
Internal Revenue Code and as claimed in the taxpayer's federal 2744  
income tax return for the taxable year or which the taxpayer 2745  
would have been permitted to claim had the taxpayer filed a 2746  
federal income tax return. 2747

(P) "Principal county of employment" means, in the case of 2748  
a nonresident, the county within the state in which a taxpayer 2749  
performs services for an employer or, if those services are 2750  
performed in more than one county, the county in which the major 2751

portion of the services are performed. 2752

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2753  
Code: 2754

(1) "Subdivision" means any county, municipal corporation, 2755  
park district, or township. 2756

(2) "Essential local government purposes" includes all 2757  
functions that any subdivision is required by general law to 2758  
exercise, including like functions that are exercised under a 2759  
charter adopted pursuant to the Ohio Constitution. 2760

(R) "Overpayment" means any amount already paid that 2761  
exceeds the figure determined to be the correct amount of the 2762  
tax. 2763

(S) "Taxable income" or "Ohio taxable income" applies only 2764  
to estates and trusts, and means federal taxable income, as 2765  
defined and used in the Internal Revenue Code, adjusted as 2766  
follows: 2767

(1) Add interest or dividends, net of ordinary, necessary, 2768  
and reasonable expenses not deducted in computing federal 2769  
taxable income, on obligations or securities of any state or of 2770  
any political subdivision or authority of any state, other than 2771  
this state and its subdivisions and authorities, but only to the 2772  
extent that such net amount is not otherwise includible in Ohio 2773  
taxable income and is described in either division (S) (1) (a) or 2774  
(b) of this section: 2775

(a) The net amount is not attributable to the S portion of 2776  
an electing small business trust and has not been distributed to 2777  
beneficiaries for the taxable year; 2778

(b) The net amount is attributable to the S portion of an 2779



electing small business trust for the taxable year. 2780

(2) Add interest or dividends, net of ordinary, necessary, 2781  
and reasonable expenses not deducted in computing federal 2782  
taxable income, on obligations of any authority, commission, 2783  
instrumentality, territory, or possession of the United States 2784  
to the extent that the interest or dividends are exempt from 2785  
federal income taxes but not from state income taxes, but only 2786  
to the extent that such net amount is not otherwise includible 2787  
in Ohio taxable income and is described in either division (S) 2788  
(1) (a) or (b) of this section; 2789

(3) Add the amount of personal exemption allowed to the 2790  
estate pursuant to section 642(b) of the Internal Revenue Code; 2791

(4) Deduct interest or dividends, net of related expenses 2792  
deducted in computing federal taxable income, on obligations of 2793  
the United States and its territories and possessions or of any 2794  
authority, commission, or instrumentality of the United States 2795  
to the extent that the interest or dividends are exempt from 2796  
state taxes under the laws of the United States, but only to the 2797  
extent that such amount is included in federal taxable income 2798  
and is described in either division (S) (1) (a) or (b) of this 2799  
section; 2800

(5) Deduct the amount of wages and salaries, if any, not 2801  
otherwise allowable as a deduction but that would have been 2802  
allowable as a deduction in computing federal taxable income for 2803  
the taxable year, had the targeted jobs credit allowed under 2804  
sections 38, 51, and 52 of the Internal Revenue Code not been in 2805  
effect, but only to the extent such amount relates either to 2806  
income included in federal taxable income for the taxable year 2807  
or to income of the S portion of an electing small business 2808  
trust for the taxable year; 2809

(6) Deduct any interest or interest equivalent, net of 2810  
related expenses deducted in computing federal taxable income, 2811  
on public obligations and purchase obligations, but only to the 2812  
extent that such net amount relates either to income included in 2813  
federal taxable income for the taxable year or to income of the 2814  
S portion of an electing small business trust for the taxable 2815  
year; 2816

(7) Add any loss or deduct any gain resulting from sale, 2817  
exchange, or other disposition of public obligations to the 2818  
extent that such loss has been deducted or such gain has been 2819  
included in computing either federal taxable income or income of 2820  
the S portion of an electing small business trust for the 2821  
taxable year; 2822

(8) Except in the case of the final return of an estate, 2823  
add any amount deducted by the taxpayer on both its Ohio estate 2824  
tax return pursuant to section 5731.14 of the Revised Code, and 2825  
on its federal income tax return in determining federal taxable 2826  
income; 2827

(9) (a) Deduct any amount included in federal taxable 2828  
income solely because the amount represents a reimbursement or 2829  
refund of expenses that in a previous year the decedent had 2830  
deducted as an itemized deduction pursuant to section 63 of the 2831  
Internal Revenue Code and applicable treasury regulations. The 2832  
deduction otherwise allowed under division (S) (9) (a) of this 2833  
section shall be reduced to the extent the reimbursement is 2834  
attributable to an amount the taxpayer or decedent deducted 2835  
under this section in any taxable year. 2836

(b) Add any amount not otherwise included in Ohio taxable 2837  
income for any taxable year to the extent that the amount is 2838  
attributable to the recovery during the taxable year of any 2839

amount deducted or excluded in computing federal or Ohio taxable 2840  
income in any taxable year, but only to the extent such amount 2841  
has not been distributed to beneficiaries for the taxable year. 2842

(10) Deduct any portion of the deduction described in 2843  
section 1341(a)(2) of the Internal Revenue Code, for repaying 2844  
previously reported income received under a claim of right, that 2845  
meets both of the following requirements: 2846

(a) It is allowable for repayment of an item that was 2847  
included in the taxpayer's taxable income or the decedent's 2848  
adjusted gross income for a prior taxable year and did not 2849  
qualify for a credit under division (A) or (B) of section 2850  
5747.05 of the Revised Code for that year. 2851

(b) It does not otherwise reduce the taxpayer's taxable 2852  
income or the decedent's adjusted gross income for the current 2853  
or any other taxable year. 2854

(11) Add any amount claimed as a credit under section 2855  
5747.059 or 5747.65 of the Revised Code to the extent that the 2856  
amount satisfies either of the following: 2857

(a) The amount was deducted or excluded from the 2858  
computation of the taxpayer's federal taxable income as required 2859  
to be reported for the taxpayer's taxable year under the 2860  
Internal Revenue Code; 2861

(b) The amount resulted in a reduction in the taxpayer's 2862  
federal taxable income as required to be reported for any of the 2863  
taxpayer's taxable years under the Internal Revenue Code. 2864

(12) Deduct any amount, net of related expenses deducted 2865  
in computing federal taxable income, that a trust is required to 2866  
report as farm income on its federal income tax return, but only 2867  
if the assets of the trust include at least ten acres of land 2868

satisfying the definition of "land devoted exclusively to  
agricultural use" under section 5713.30 of the Revised Code,  
regardless of whether the land is valued for tax purposes as  
such land under sections 5713.30 to 5713.38 of the Revised Code.  
If the trust is a pass-through entity investor, section 5747.231  
of the Revised Code applies in ascertaining if the trust is  
eligible to claim the deduction provided by division (S)(12) of  
this section in connection with the pass-through entity's farm  
income.

Except for farm income attributable to the S portion of an  
electing small business trust, the deduction provided by  
division (S)(12) of this section is allowed only to the extent  
that the trust has not distributed such farm income. Division  
(S)(12) of this section applies only to taxable years of a trust  
beginning in 2002 or thereafter.

(13) Add the net amount of income described in section  
641(c) of the Internal Revenue Code to the extent that amount is  
not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be  
required to add or deduct under division (A)(20) or (21) of this  
section if the taxpayer's Ohio taxable income were computed in  
the same manner as an individual's Ohio adjusted gross income is  
computed under this section. In the case of a trust, division  
(S)(14) of this section applies only to any of the trust's  
taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income  
tax" have the same meanings as in section 5748.01 of the Revised  
Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)

(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA) (1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary

education. If the individual is a part-time student, "qualified  
tuition and fees" includes tuition and fees paid for the  
academic equivalent of the first two years of post-secondary  
education during a maximum of five taxable years, not exceeding  
a total of five thousand dollars. "Qualified tuition and fees"  
does not include:

(a) Expenses for any course or activity involving sports,  
games, or hobbies unless the course or activity is part of the  
individual's degree or diploma program;

(b) The cost of books, room and board, student activity  
fees, athletic fees, insurance expenses, or other expenses  
unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed  
through an employer, scholarship, grant in aid, or other  
educational benefit program.

(BB) (1) "Modified business income" means the business  
income included in a trust's Ohio taxable income after such  
taxable income is first reduced by the qualifying trust amount,  
if any.

(2) "Qualifying trust amount" of a trust means capital  
gains and losses from the sale, exchange, or other disposition  
of equity or ownership interests in, or debt obligations of, a  
qualifying investee to the extent included in the trust's Ohio  
taxable income, but only if the following requirements are  
satisfied:

(a) The book value of the qualifying investee's physical  
assets in this state and everywhere, as of the last day of the  
qualifying investee's fiscal or calendar year ending immediately  
prior to the date on which the trust recognizes the gain or

loss, is available to the trust. 2956

(b) The requirements of section 5747.011 of the Revised 2957  
Code are satisfied for the trust's taxable year in which the 2958  
trust recognizes the gain or loss. 2959

Any gain or loss that is not a qualifying trust amount is 2960  
modified business income, qualifying investment income, or 2961  
modified nonbusiness income, as the case may be. 2962

(3) "Modified nonbusiness income" means a trust's Ohio 2963  
taxable income other than modified business income, other than 2964  
the qualifying trust amount, and other than qualifying 2965  
investment income, as defined in section 5747.012 of the Revised 2966  
Code, to the extent such qualifying investment income is not 2967  
otherwise part of modified business income. 2968

(4) "Modified Ohio taxable income" applies only to trusts, 2969  
and means the sum of the amounts described in divisions (BB) (4) 2970  
(a) to (c) of this section: 2971

(a) The fraction, calculated under section 5747.013, and 2972  
applying section 5747.231 of the Revised Code, multiplied by the 2973  
sum of the following amounts: 2974

(i) The trust's modified business income; 2975

(ii) The trust's qualifying investment income, as defined 2976  
in section 5747.012 of the Revised Code, but only to the extent 2977  
the qualifying investment income does not otherwise constitute 2978  
modified business income and does not otherwise constitute a 2979  
qualifying trust amount. 2980

(b) The qualifying trust amount multiplied by a fraction, 2981  
the numerator of which is the sum of the book value of the 2982  
qualifying investee's physical assets in this state on the last 2983

day of the qualifying investee's fiscal or calendar year ending 2984  
immediately prior to the day on which the trust recognizes the 2985  
qualifying trust amount, and the denominator of which is the sum 2986  
of the book value of the qualifying investee's total physical 2987  
assets everywhere on the last day of the qualifying investee's 2988  
fiscal or calendar year ending immediately prior to the day on 2989  
which the trust recognizes the qualifying trust amount. If, for 2990  
a taxable year, the trust recognizes a qualifying trust amount 2991  
with respect to more than one qualifying investee, the amount 2992  
described in division (BB) (4) (b) of this section shall equal the 2993  
sum of the products so computed for each such qualifying 2994  
investee. 2995

(c) (i) With respect to a trust or portion of a trust that 2996  
is a resident as ascertained in accordance with division (I) (3) 2997  
(d) of this section, its modified nonbusiness income. 2998

(ii) With respect to a trust or portion of a trust that is 2999  
not a resident as ascertained in accordance with division (I) (3) 3000  
(d) of this section, the amount of its modified nonbusiness 3001  
income satisfying the descriptions in divisions (B) (2) to (5) of 3002  
section 5747.20 of the Revised Code, except as otherwise 3003  
provided in division (BB) (4) (c) (ii) of this section. With 3004  
respect to a trust or portion of a trust that is not a resident 3005  
as ascertained in accordance with division (I) (3) (d) of this 3006  
section, the trust's portion of modified nonbusiness income 3007  
recognized from the sale, exchange, or other disposition of a 3008  
debt interest in or equity interest in a section 5747.212 3009  
entity, as defined in section 5747.212 of the Revised Code, 3010  
without regard to division (A) of that section, shall not be 3011  
allocated to this state in accordance with section 5747.20 of 3012  
the Revised Code but shall be apportioned to this state in 3013  
accordance with division (B) of section 5747.212 of the Revised 3014



Code without regard to division (A) of that section. 3015

If the allocation and apportionment of a trust's income 3016  
under divisions (BB)(4)(a) and (c) of this section do not fairly 3017  
represent the modified Ohio taxable income of the trust in this 3018  
state, the alternative methods described in division (C) of 3019  
section 5747.21 of the Revised Code may be applied in the manner 3020  
and to the same extent provided in that section. 3021

(5)(a) Except as set forth in division (BB)(5)(b) of this 3022  
section, "qualifying investee" means a person in which a trust 3023  
has an equity or ownership interest, or a person or unit of 3024  
government the debt obligations of either of which are owned by 3025  
a trust. For the purposes of division (BB)(2)(a) of this section 3026  
and for the purpose of computing the fraction described in 3027  
division (BB)(4)(b) of this section, all of the following apply: 3028

(i) If the qualifying investee is a member of a qualifying 3029  
controlled group on the last day of the qualifying investee's 3030  
fiscal or calendar year ending immediately prior to the date on 3031  
which the trust recognizes the gain or loss, then "qualifying 3032  
investee" includes all persons in the qualifying controlled 3033  
group on such last day. 3034

(ii) If the qualifying investee, or if the qualifying 3035  
investee and any members of the qualifying controlled group of 3036  
which the qualifying investee is a member on the last day of the 3037  
qualifying investee's fiscal or calendar year ending immediately 3038  
prior to the date on which the trust recognizes the gain or 3039  
loss, separately or cumulatively own, directly or indirectly, on 3040  
the last day of the qualifying investee's fiscal or calendar 3041  
year ending immediately prior to the date on which the trust 3042  
recognizes the qualifying trust amount, more than fifty per cent 3043  
of the equity of a pass-through entity, then the qualifying 3044

investee and the other members are deemed to own the 3045  
proportionate share of the pass-through entity's physical assets 3046  
which the pass-through entity directly or indirectly owns on the 3047  
last day of the pass-through entity's calendar or fiscal year 3048  
ending within or with the last day of the qualifying investee's 3049  
fiscal or calendar year ending immediately prior to the date on 3050  
which the trust recognizes the qualifying trust amount. 3051

(iii) For the purposes of division (BB) (5) (a) (iii) of this 3052  
section, "upper level pass-through entity" means a pass-through 3053  
entity directly or indirectly owning any equity of another pass- 3054  
through entity, and "lower level pass-through entity" means that 3055  
other pass-through entity. 3056

An upper level pass-through entity, whether or not it is 3057  
also a qualifying investee, is deemed to own, on the last day of 3058  
the upper level pass-through entity's calendar or fiscal year, 3059  
the proportionate share of the lower level pass-through entity's 3060  
physical assets that the lower level pass-through entity 3061  
directly or indirectly owns on the last day of the lower level 3062  
pass-through entity's calendar or fiscal year ending within or 3063  
with the last day of the upper level pass-through entity's 3064  
fiscal or calendar year. If the upper level pass-through entity 3065  
directly and indirectly owns less than fifty per cent of the 3066  
equity of the lower level pass-through entity on each day of the 3067  
upper level pass-through entity's calendar or fiscal year in 3068  
which or with which ends the calendar or fiscal year of the 3069  
lower level pass-through entity and if, based upon clear and 3070  
convincing evidence, complete information about the location and 3071  
cost of the physical assets of the lower pass-through entity is 3072  
not available to the upper level pass-through entity, then 3073  
solely for purposes of ascertaining if a gain or loss 3074  
constitutes a qualifying trust amount, the upper level pass- 3075

through entity shall be deemed as owning no equity of the lower 3076  
level pass-through entity for each day during the upper level 3077  
pass-through entity's calendar or fiscal year in which or with 3078  
which ends the lower level pass-through entity's calendar or 3079  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 3080  
shall be construed to provide for any deduction or exclusion in 3081  
computing any trust's Ohio taxable income. 3082

(b) With respect to a trust that is not a resident for the 3083  
taxable year and with respect to a part of a trust that is not a 3084  
resident for the taxable year, "qualifying investee" for that 3085  
taxable year does not include a C corporation if both of the 3086  
following apply: 3087

(i) During the taxable year the trust or part of the trust 3088  
recognizes a gain or loss from the sale, exchange, or other 3089  
disposition of equity or ownership interests in, or debt 3090  
obligations of, the C corporation. 3091

(ii) Such gain or loss constitutes nonbusiness income. 3092

(6) "Available" means information is such that a person is 3093  
able to learn of the information by the due date plus 3094  
extensions, if any, for filing the return for the taxable year 3095  
in which the trust recognizes the gain or loss. 3096

(CC) "Qualifying controlled group" has the same meaning as 3097  
in section 5733.04 of the Revised Code. 3098

(DD) "Related member" has the same meaning as in section 3099  
5733.042 of the Revised Code. 3100

(EE) (1) For the purposes of division (EE) of this section: 3101

(a) "Qualifying person" means any person other than a 3102  
qualifying corporation. 3103

(b) "Qualifying corporation" means any person classified 3104  
for federal income tax purposes as an association taxable as a 3105  
corporation, except either of the following: 3106

(i) A corporation that has made an election under 3107  
subchapter S, chapter one, subtitle A, of the Internal Revenue 3108  
Code for its taxable year ending within, or on the last day of, 3109  
the investor's taxable year; 3110

(ii) A subsidiary that is wholly owned by any corporation 3111  
that has made an election under subchapter S, chapter one, 3112  
subtitle A of the Internal Revenue Code for its taxable year 3113  
ending within, or on the last day of, the investor's taxable 3114  
year. 3115

(2) For the purposes of this chapter, unless expressly 3116  
stated otherwise, no qualifying person indirectly owns any asset 3117  
directly or indirectly owned by any qualifying corporation. 3118

(FF) For purposes of this chapter and Chapter 5751. of the 3119  
Revised Code: 3120

(1) "Trust" does not include a qualified pre-income tax 3121  
trust. 3122

(2) A "qualified pre-income tax trust" is any pre-income 3123  
tax trust that makes a qualifying pre-income tax trust election 3124  
as described in division (FF) (3) of this section. 3125

(3) A "qualifying pre-income tax trust election" is an 3126  
election by a pre-income tax trust to subject to the tax imposed 3127  
by section 5751.02 of the Revised Code the pre-income tax trust 3128  
and all pass-through entities of which the trust owns or 3129  
controls, directly, indirectly, or constructively through 3130  
related interests, five per cent or more of the ownership or 3131  
equity interests. The trustee shall notify the tax commissioner 3132

in writing of the election on or before April 15, 2006. The 3133  
election, if timely made, shall be effective on and after 3134  
January 1, 2006, and shall apply for all tax periods and tax 3135  
years until revoked by the trustee of the trust. 3136

(4) A "pre-income tax trust" is a trust that satisfies all 3137  
of the following requirements: 3138

(a) The document or instrument creating the trust was 3139  
executed by the grantor before January 1, 1972; 3140

(b) The trust became irrevocable upon the creation of the 3141  
trust; and 3142

(c) The grantor was domiciled in this state at the time 3143  
the trust was created. 3144

(GG) "Uniformed services" has the same meaning as in 10 3145  
U.S.C. 101. 3146

(HH) "Taxable business income" means the amount by which 3147  
an individual's business income that is included in federal 3148  
adjusted gross income exceeds the amount of business income the 3149  
individual is authorized to deduct under division (A) (31) of 3150  
this section for the taxable year. 3151

**Sec. 5747.09.** (A) As used in this section: 3152

(1) "Estimated taxes" means the amount that the taxpayer 3153  
estimates to be the taxpayer's combined tax liability under this 3154  
chapter and Chapter 5748. of the Revised Code for the current 3155  
taxable year. 3156

(2) "Tax liability" means the total taxes due for the 3157  
taxable year, after allowing any credit to which the taxpayer is 3158  
entitled, but prior to applying any estimated tax payment, 3159  
withholding payment, or refund from another tax year. 3160

(3) "Taxes paid" include payments of estimated taxes made 3161  
under division (C) of this section, taxes withheld from the 3162  
taxpayer's compensation, and tax refunds applied by the taxpayer 3163  
in payment of estimated taxes. 3164

(4) "Required installment" means a payment equal to 3165  
twenty-five per cent of the lesser of the following: 3166

(a) Ninety per cent of the tax liability for the taxable 3167  
year; 3168

(b) One hundred per cent of the tax liability shown on the 3169  
return of a taxpayer for the preceding taxable year. 3170

Division (A) (4) (b) of this section applies only if the 3171  
taxpayer filed a return under section 5747.08 of the Revised 3172  
Code for the preceding taxable year and if the preceding taxable 3173  
year was a twelve-month taxable year. 3174

(B) Every taxpayer shall make declaration of estimated 3175  
taxes for the current taxable year, in the form that the tax 3176  
commissioner shall prescribe, if the amount payable as estimated 3177  
taxes, less the amount to be withheld from the taxpayer's 3178  
compensation, is more than five hundred dollars. For purposes of 3179  
this section, taxes withheld from compensation shall be 3180  
considered as paid in equal amounts on each payment date unless 3181  
the taxpayer establishes the dates on which all amounts were 3182  
actually withheld, in which case the amounts withheld shall be 3183  
considered as paid on the dates on which the amounts were 3184  
actually withheld. Taxpayers filing joint returns pursuant to 3185  
section 5747.08 of the Revised Code shall file joint 3186  
declarations of estimated taxes. A taxpayer may amend a 3187  
declaration under rules prescribed by the commissioner. A 3188  
taxpayer having a taxable year of less than twelve months shall 3189

make a declaration under rules prescribed by the commissioner. 3190  
The declaration of estimated taxes for an individual under a 3191  
disability shall be made and filed by the person who is required 3192  
to file the income tax return. 3193

The declaration of estimated taxes shall be filed on or 3194  
before the fifteenth day of April of each year or on or before 3195  
the fifteenth day of the fourth month after the taxpayer becomes 3196  
subject to tax for the first time. 3197

Taxpayers reporting on a fiscal year basis shall file a 3198  
declaration on or before the fifteenth day of the fourth month 3199  
after the beginning of each fiscal year or period. 3200

The declaration shall be filed upon a form prescribed by 3201  
the commissioner and furnished by or obtainable from the 3202  
commissioner. 3203

The original declaration or any subsequent amendment may 3204  
be increased or decreased on or before any subsequent quarterly 3205  
payment day as provided in this section. 3206

(C) The required portion of the tax liability for the 3207  
taxable year that shall be paid through estimated taxes made 3208  
payable to the treasurer of state, including the application of 3209  
tax refunds to estimated taxes, and withholding on or before the 3210  
applicable payment date shall be as follows: 3211

(1) On or before the fifteenth day of the fourth month 3212  
after the beginning of the taxable year, twenty-two and one-half 3213  
per cent of the tax liability for the taxable year; 3214

(2) On or before the fifteenth day of the sixth month 3215  
after the beginning of the taxable year, forty-five per cent of 3216  
the tax liability for the taxable year; 3217

(3) On or before the fifteenth day of the ninth month 3218  
after the beginning of the taxable year, sixty-seven and one- 3219  
half per cent of the tax liability for the taxable year; 3220

(4) On or before the fifteenth day of the first month of 3221  
the following taxable year, ninety per cent of the tax liability 3222  
for the taxable year. 3223

When an amended return has been filed, the unpaid balance 3224  
shown due on the amended return shall be paid in equal 3225  
installments on or before the remaining payment dates. 3226

On or before the fifteenth day of the fourth month of the 3227  
year following that for which the declaration or amended 3228  
declaration was filed, an annual return shall be filed and any 3229  
balance which may be due shall be paid with the return in 3230  
accordance with section 5747.08 of the Revised Code. 3231

(D) In the case of any underpayment of estimated taxes, an 3232  
interest penalty shall be added to the taxes for the tax year at 3233  
the rate per annum prescribed by section 5703.47 of the Revised 3234  
Code upon the amount of underpayment for the period of 3235  
underpayment, unless the underpayment is due to reasonable cause 3236  
as described in division (E) of this section. The amount of the 3237  
underpayment shall be determined as follows: 3238

(1) For the first payment of estimated taxes each year, 3239  
~~twenty-two and one-half per cent of the tax liability, the~~ 3240  
required installment less the amount of taxes paid by the date 3241  
prescribed for that payment; 3242

(2) For the second payment of estimated taxes each year, 3243  
~~forty-five per cent of the tax liability, the required~~ 3244  
installment less the amount of taxes paid by the date prescribed 3245  
for that payment; 3246



(3) For the third payment of estimated taxes each year, 3247  
~~sixty-seven and one-half per cent of the tax liability, the~~ 3248  
required installment less the amount of taxes paid by the date 3249  
prescribed for that payment; 3250

(4) For the fourth payment of estimated taxes each year, 3251  
~~ninety per cent of the tax liability, the required installment~~ 3252  
less the amount of taxes paid by the date prescribed for that 3253  
payment. 3254

The period of the underpayment shall run from the day the 3255  
estimated payment was required to be made to the date on which 3256  
the payment is made. For purposes of this section, a payment of 3257  
estimated taxes on or before any payment date shall be 3258  
considered a payment of any previous underpayment only to the 3259  
extent the payment of estimated taxes exceeds the amount of the 3260  
payment presently required to be paid to avoid any penalty. 3261

The interest penalty imposed under division (D) of this 3262  
section shall be in lieu of any other interest charge or penalty 3263  
imposed for failure to file an estimated return and make 3264  
estimated payments as required by this section. 3265

(E) An underpayment of estimated taxes determined under 3266  
division (D) of this section shall be due to reasonable cause 3267  
and the interest penalty imposed by this section shall not be 3268  
added to the taxes for the tax year if either of the following 3269  
apply: 3270

(1) The amount of tax that was paid equals at least ninety 3271  
per cent of the tax liability for the current taxable year, 3272  
determined by annualizing the income received during the year up 3273  
to the end of the month immediately preceding the month in which 3274  
the payment is due; 3275

(2) The amount of tax that was paid equals at least one 3276  
hundred per cent of the tax liability shown on the return of the 3277  
taxpayer for the preceding taxable year, provided that the 3278  
immediately preceding taxable year reflected a period of twelve 3279  
months and the taxpayer filed a return under section 5747.08 of 3280  
the Revised Code for that year. 3281

The tax commissioner may waive the requirement for filing 3282  
a declaration of estimated taxes for any class of taxpayers 3283  
after finding that the waiver is reasonable and proper in view 3284  
of administrative costs and other factors. 3285

**Sec. 5747.43.** (A) As used in this section: 3286

(1) "Estimated taxes" means the amount that a qualifying 3287  
entity estimates to be the sum of its liability under sections 3288  
5733.41 and 5747.41 of the Revised Code for its current 3289  
qualifying taxable year. 3290

(2) "Tax liability" means the total of the taxes and 3291  
withholding taxes due under sections 5733.41 and 5747.41 of the 3292  
Revised Code for the qualifying taxable year prior to applying 3293  
any estimated tax payment or refund from another year. 3294

(3) "Taxes paid" includes payments of estimated taxes made 3295  
under division (C) of this section and tax refunds applied by 3296  
the qualifying entity in payment of estimated taxes. 3297

(4) "Required installment" means a payment equal to 3298  
twenty-five per cent of the lesser of the following: 3299

(a) Ninety per cent of the tax liability for the 3300  
qualifying taxable year; 3301

(b) One hundred per cent of the tax liability shown on the 3302  
return of a qualifying entity for the preceding qualifying 3303

taxable year. 3304

Division (A) (4) (b) of this section applies only if the 3305  
qualifying entity filed a return under section 5747.42 of the 3306  
Revised Code for the preceding qualifying taxable year and if 3307  
the preceding qualifying taxable year was a twelve-month taxable 3308  
year. 3309

(B) In addition to the return required to be filed 3310  
pursuant to section 5747.42 of the Revised Code, each qualifying 3311  
entity subject to the tax imposed under section 5733.41 and to 3312  
the withholding tax imposed by section 5747.41 of the Revised 3313  
Code shall file an estimated tax return and pay a portion of the 3314  
qualifying entity's tax liability for its qualifying taxable 3315  
year. The portion of those taxes required to be paid, and the 3316  
last day prescribed for payment thereof, shall be as prescribed 3317  
by divisions (B) (1), (2), (3), and (4) of this section: 3318

(1) On or before the fifteenth day of the month following 3319  
the last day of the first quarter of the qualifying entity's 3320  
qualifying taxable year, twenty-two and one-half per cent of the 3321  
qualifying entity's estimated tax liability for that taxable 3322  
year; 3323

(2) On or before the fifteenth day of the month following 3324  
the last day of the second quarter of the qualifying entity's 3325  
qualifying taxable year, forty-five per cent of the qualifying 3326  
entity's estimated tax liability for that taxable year; 3327

(3) On or before the fifteenth day of the month following 3328  
the last day of the third quarter of the qualifying entity's 3329  
qualifying taxable year, sixty-seven and one-half per cent of 3330  
the qualifying entity's estimated tax liability for that taxable 3331  
year; 3332

(4) On or before the fifteenth day of the month following 3333  
the last day of the fourth quarter of the qualifying entity's 3334  
qualifying taxable year, ninety per cent of the qualifying 3335  
entity's estimated tax liability for that taxable year. 3336

Payments of estimated taxes shall be made payable to the 3337  
treasurer of state. 3338

(C) If a payment of estimated taxes is not paid in the 3339  
full amount required under division (B) of this section, a 3340  
penalty shall be added to the taxes charged for the qualifying 3341  
taxable year unless the underpayment is due to reasonable cause 3342  
as described in division (D) of this section. The penalty shall 3343  
accrue at the rate per annum prescribed by section 5703.47 of 3344  
the Revised Code upon the amount of underpayment from the day 3345  
the estimated payment was required to be made to the day the 3346  
payment is made. 3347

The amount of the underpayment upon which the penalty 3348  
shall accrue shall be determined as follows: 3349

(1) For the first payment of estimated taxes each year, 3350  
~~twenty-two and one-half per cent of the tax liability the~~ 3351  
~~required installment~~ less the amount of taxes paid by the date 3352  
prescribed for that payment; 3353

(2) For the second payment of estimated taxes each year, 3354  
~~forty-five per cent of the tax liability the required~~ 3355  
~~installment~~ less the amount of taxes paid by the date prescribed 3356  
for that payment; 3357

(3) For the third payment of estimated taxes each year, 3358  
~~sixty-seven and one-half per cent of the tax liability the~~ 3359  
~~required installment~~ less the amount of taxes paid by the date 3360  
prescribed for that payment; 3361

(4) For the fourth payment of estimated taxes each year, 3362  
~~ninety per cent of the tax liability the required installment~~ 3363  
less the amount of taxes paid by the date prescribed for that 3364  
payment. 3365

For the purposes of this section, a payment of estimated 3366  
taxes on or before any payment date shall be considered a 3367  
payment of a previous underpayment only to the extent the 3368  
payment of estimated taxes exceeds the amount of the payment 3369  
presently required to be paid to avoid any penalty. 3370

The penalty imposed under division (C) of this section is 3371  
in lieu of any other interest charge or penalty imposed for 3372  
failure to file a declaration of estimated tax report and make 3373  
estimated payments as required by this section. 3374

(D) An underpayment of estimated taxes determined under 3375  
division (C) of this section is due to reasonable cause if any 3376  
of the following apply: 3377

(1) The amount of tax that was paid equals at least ninety 3378  
per cent of the tax liability for the current qualifying taxable 3379  
year, determined by annualizing the income received during that 3380  
year up to the end of the month immediately preceding the month 3381  
in which the payment is due; 3382

(2) The amount of tax liability that was paid equals at 3383  
least ninety per cent of the tax liability for the current 3384  
qualifying taxable year; 3385

(3) The amount of tax liability that was paid equals at 3386  
least one hundred per cent of the tax liability shown on the 3387  
return of the qualifying entity for the preceding qualifying 3388  
taxable year, provided that the immediately preceding qualifying 3389  
taxable year reflected a period of twelve months and the 3390

qualifying entity filed a return under section 5747.42 of the 3391  
Revised Code for that year. 3392

(E) (1) Divisions (B) and (C) of this section do not apply 3393  
for a taxable year if either of the following applies to the 3394  
qualifying entity: 3395

(a) For the immediately preceding taxable year, the entity 3396  
computes in good faith and in a reasonable manner that the sum 3397  
of its adjusted qualifying amounts is ten thousand dollars or 3398  
less. 3399

(b) For the taxable year the entity computes in good faith 3400  
and in a reasonable manner that the sum of its adjusted 3401  
qualifying amounts is ten thousand dollars or less. 3402

(2) Notwithstanding any other provision of Title LVII of 3403  
the Revised Code to the contrary, the entity shall establish by 3404  
a preponderance of the evidence that its computation of the 3405  
adjusted qualifying amounts for the immediately preceding 3406  
taxable year and the taxable year was, in fact, made in good 3407  
faith and in a reasonable manner. 3408

(F) The tax commissioner may waive the requirement for 3409  
filing a declaration of estimated taxes for any class of 3410  
qualifying entities if the commissioner finds the waiver is 3411  
reasonable and proper in view of administrative costs and other 3412  
factors. 3413

**Sec. 5751.01.** As used in this chapter: 3414

(A) "Person" means, but is not limited to, individuals, 3415  
combinations of individuals of any form, receivers, assignees, 3416  
trustees in bankruptcy, firms, companies, joint-stock companies, 3417  
business trusts, estates, partnerships, limited liability 3418  
partnerships, limited liability companies, associations, joint 3419

ventures, clubs, societies, for-profit corporations, S 3420  
corporations, qualified subchapter S subsidiaries, qualified 3421  
subchapter S trusts, trusts, entities that are disregarded for 3422  
federal income tax purposes, and any other entities. 3423

(B) "Consolidated elected taxpayer" means a group of two 3424  
or more persons treated as a single taxpayer for purposes of 3425  
this chapter as the result of an election made under section 3426  
5751.011 of the Revised Code. 3427

(C) "Combined taxpayer" means a group of two or more 3428  
persons treated as a single taxpayer for purposes of this 3429  
chapter under section 5751.012 of the Revised Code. 3430

(D) "Taxpayer" means any person, or any group of persons 3431  
in the case of a consolidated elected taxpayer or combined 3432  
taxpayer treated as one taxpayer, required to register or pay 3433  
tax under this chapter. "Taxpayer" does not include excluded 3434  
persons. 3435

(E) "Excluded person" means any of the following: 3436

(1) Any person with not more than one hundred fifty 3437  
thousand dollars of taxable gross receipts during the calendar 3438  
year. Division (E)(1) of this section does not apply to a person 3439  
that is a member of a consolidated elected taxpayer; 3440

(2) A public utility that paid the excise tax imposed by 3441  
section 5727.24 or 5727.30 of the Revised Code based on one or 3442  
more measurement periods that include the entire tax period 3443  
under this chapter, except that a public utility that is a 3444  
combined company is a taxpayer with regard to the following 3445  
gross receipts: 3446

(a) Taxable gross receipts directly attributed to a public 3447  
utility activity, but not directly attributed to an activity 3448

that is subject to the excise tax imposed by section 5727.24 or 3449  
5727.30 of the Revised Code; 3450

(b) Taxable gross receipts that cannot be directly 3451  
attributed to any activity, multiplied by a fraction whose 3452  
numerator is the taxable gross receipts described in division 3453  
(E) (2) (a) of this section and whose denominator is the total 3454  
taxable gross receipts that can be directly attributed to any 3455  
activity; 3456

(c) Except for any differences resulting from the use of 3457  
an accrual basis method of accounting for purposes of 3458  
determining gross receipts under this chapter and the use of the 3459  
cash basis method of accounting for purposes of determining 3460  
gross receipts under section 5727.24 of the Revised Code, the 3461  
gross receipts directly attributed to the activity of a natural 3462  
gas company shall be determined in a manner consistent with 3463  
division (D) of section 5727.03 of the Revised Code. 3464

As used in division (E) (2) of this section, "combined 3465  
company" and "public utility" have the same meanings as in 3466  
section 5727.01 of the Revised Code. 3467

(3) A financial institution, as defined in section 5726.01 3468  
of the Revised Code, that paid the tax imposed by section 3469  
5726.02 of the Revised Code based on one or more taxable years 3470  
that include the entire tax period under this chapter; 3471

(4) A person directly or indirectly owned by one or more 3472  
financial institutions, as defined in section 5726.01 of the 3473  
Revised Code, that paid the tax imposed by section 5726.02 of 3474  
the Revised Code based on one or more taxable years that include 3475  
the entire tax period under this chapter. 3476

For the purposes of division (E) (4) of this section, a 3477



person owns another person under the following circumstances: 3478

(a) In the case of corporations issuing capital stock, one 3479  
corporation owns another corporation if it owns fifty per cent 3480  
or more of the other corporation's capital stock with current 3481  
voting rights; 3482

(b) In the case of a limited liability company, one person 3483  
owns the company if that person's membership interest, as 3484  
defined in section 1705.01 of the Revised Code, is fifty per 3485  
cent or more of the combined membership interests of all persons 3486  
owning such interests in the company; 3487

(c) In the case of a partnership, trust, or other 3488  
unincorporated business organization other than a limited 3489  
liability company, one person owns the organization if, under 3490  
the articles of organization or other instrument governing the 3491  
affairs of the organization, that person has a beneficial 3492  
interest in the organization's profits, surpluses, losses, or 3493  
distributions of fifty per cent or more of the combined 3494  
beneficial interests of all persons having such an interest in 3495  
the organization. 3496

(5) A domestic insurance company or foreign insurance 3497  
company, as defined in section 5725.01 of the Revised Code, that 3498  
paid the insurance company premiums tax imposed by section 3499  
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 3500  
insurance company whose gross premiums are subject to tax under 3501  
section 3905.36 of the Revised Code based on one or more 3502  
measurement periods that include the entire tax period under 3503  
this chapter; 3504

(6) A person that solely facilitates or services one or 3505  
more securitizations of phase-in-recovery property pursuant to a 3506

final financing order as those terms are defined in section 3507  
4928.23 of the Revised Code. For purposes of this division, 3508  
"securitization" means transferring one or more assets to one or 3509  
more persons and then issuing securities backed by the right to 3510  
receive payment from the asset or assets so transferred. 3511

(7) Except as otherwise provided in this division, a pre- 3512  
income tax trust as defined in division (FF) (4) of section 3513  
5747.01 of the Revised Code and any pass-through entity of which 3514  
such pre-income tax trust owns or controls, directly, 3515  
indirectly, or constructively through related interests, more 3516  
than five per cent of the ownership or equity interests. If the 3517  
pre-income tax trust has made a qualifying pre-income tax trust 3518  
election under division (FF) (3) of section 5747.01 of the 3519  
Revised Code, then the trust and the pass-through entities of 3520  
which it owns or controls, directly, indirectly, or 3521  
constructively through related interests, more than five per 3522  
cent of the ownership or equity interests, shall not be excluded 3523  
persons for purposes of the tax imposed under section 5751.02 of 3524  
the Revised Code. 3525

(8) Nonprofit organizations or the state and its agencies, 3526  
instrumentalities, or political subdivisions. 3527

(F) Except as otherwise provided in divisions (F) (2), (3), 3528  
and (4) of this section, "gross receipts" means the total amount 3529  
realized by a person, without deduction for the cost of goods 3530  
sold or other expenses incurred, that contributes to the 3531  
production of gross income of the person, including the fair 3532  
market value of any property and any services received, and any 3533  
debt transferred or forgiven as consideration. 3534

(1) The following are examples of gross receipts: 3535

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another; 3536  
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(b) Amounts realized from the taxpayer's performance of services for another; 3538  
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(c) Amounts realized from another's use or possession of the taxpayer's property or capital; 3540  
3541

(d) Any combination of the foregoing amounts. 3542

(2) "Gross receipts" excludes the following amounts: 3543

(a) Interest income except interest on credit sales; 3544

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code; 3545  
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(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the 3549  
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purposes of division (F) (2) (c) of this section, the actual 3565  
transfer of title of real or tangible personal property to 3566  
another entity is not a hedging transaction. 3567

(d) Proceeds received attributable to the repayment, 3568  
maturity, or redemption of the principal of a loan, bond, mutual 3569  
fund, certificate of deposit, or marketable instrument; 3570

(e) The principal amount received under a repurchase 3571  
agreement or on account of any transaction properly 3572  
characterized as a loan to the person; 3573

(f) Contributions received by a trust, plan, or other 3574  
arrangement, any of which is described in section 501(a) of the 3575  
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 3576  
1, Subchapter (D) of the Internal Revenue Code applies; 3577

(g) Compensation, whether current or deferred, and whether 3578  
in cash or in kind, received or to be received by an employee, 3579  
former employee, or the employee's legal successor for services 3580  
rendered to or for an employer, including reimbursements 3581  
received by or for an individual for medical or education 3582  
expenses, health insurance premiums, or employee expenses, or on 3583  
account of a dependent care spending account, legal services 3584  
plan, any cafeteria plan described in section 125 of the 3585  
Internal Revenue Code, or any similar employee reimbursement; 3586

(h) Proceeds received from the issuance of the taxpayer's 3587  
own stock, options, warrants, puts, or calls, or from the sale 3588  
of the taxpayer's treasury stock; 3589

(i) Proceeds received on the account of payments from 3590  
insurance policies, except those proceeds received for the loss 3591  
of business revenue; 3592

(j) Gifts or charitable contributions received; membership 3593

dues received by trade, professional, homeowners', or 3594  
condominium associations; and payments received for educational 3595  
courses, meetings, meals, or similar payments to a trade, 3596  
professional, or other similar association; and fundraising 3597  
receipts received by any person when any excess receipts are 3598  
donated or used exclusively for charitable purposes; 3599

(k) Damages received as the result of litigation in excess 3600  
of amounts that, if received without litigation, would be gross 3601  
receipts; 3602

(l) Property, money, and other amounts received or 3603  
acquired by an agent on behalf of another in excess of the 3604  
agent's commission, fee, or other remuneration; 3605

(m) Tax refunds, other tax benefit recoveries, and 3606  
reimbursements for the tax imposed under this chapter made by 3607  
entities that are part of the same combined taxpayer or 3608  
consolidated elected taxpayer group, and reimbursements made by 3609  
entities that are not members of a combined taxpayer or 3610  
consolidated elected taxpayer group that are required to be made 3611  
for economic parity among multiple owners of an entity whose tax 3612  
obligation under this chapter is required to be reported and 3613  
paid entirely by one owner, pursuant to the requirements of 3614  
sections 5751.011 and 5751.012 of the Revised Code; 3615

(n) Pension reversions; 3616

(o) Contributions to capital; 3617

(p) Sales or use taxes collected as a vendor or an out-of- 3618  
state seller on behalf of the taxing jurisdiction from a 3619  
consumer or other taxes the taxpayer is required by law to 3620  
collect directly from a purchaser and remit to a local, state, 3621  
or federal tax authority; 3622

(q) In the case of receipts from the sale of cigarettes or 3623  
tobacco products by a wholesale dealer, retail dealer, 3624  
distributor, manufacturer, or seller, all as defined in section 3625  
5743.01 of the Revised Code, an amount equal to the federal and 3626  
state excise taxes paid by any person on or for such cigarettes 3627  
or tobacco products under subtitle E of the Internal Revenue 3628  
Code or Chapter 5743. of the Revised Code; 3629

(r) In the case of receipts from the sale, transfer, 3630  
exchange, or other disposition of motor fuel as "motor fuel" is 3631  
defined in section 5736.01 of the Revised Code, an amount equal 3632  
to the value of the motor fuel, including federal and state 3633  
motor fuel excise taxes and receipts from billing or invoicing 3634  
the tax imposed under section 5736.02 of the Revised Code to 3635  
another person; 3636

(s) In the case of receipts from the sale of beer or 3637  
intoxicating liquor, as defined in section 4301.01 of the 3638  
Revised Code, by a person holding a permit issued under Chapter 3639  
4301. or 4303. of the Revised Code, an amount equal to federal 3640  
and state excise taxes paid by any person on or for such beer or 3641  
intoxicating liquor under subtitle E of the Internal Revenue 3642  
Code or Chapter 4301. or 4305. of the Revised Code; 3643

(t) Receipts realized by a new motor vehicle dealer or 3644  
used motor vehicle dealer, as defined in section 4517.01 of the 3645  
Revised Code, from the sale or other transfer of a motor 3646  
vehicle, as defined in that section, to another motor vehicle 3647  
dealer for the purpose of resale by the transferee motor vehicle 3648  
dealer, but only if the sale or other transfer was based upon 3649  
the transferee's need to meet a specific customer's preference 3650  
for a motor vehicle; 3651

(u) Receipts from a financial institution described in 3652

division (E) (3) of this section for services provided to the 3653  
financial institution in connection with the issuance, 3654  
processing, servicing, and management of loans or credit 3655  
accounts, if such financial institution and the recipient of 3656  
such receipts have at least fifty per cent of their ownership 3657  
interests owned or controlled, directly or constructively 3658  
through related interests, by common owners; 3659

(v) Receipts realized from administering anti-neoplastic 3660  
drugs and other cancer chemotherapy, biologicals, therapeutic 3661  
agents, and supportive drugs in a physician's office to patients 3662  
with cancer; 3663

(w) Funds received or used by a mortgage broker that is 3664  
not a dealer in intangibles, other than fees or other 3665  
consideration, pursuant to a table-funding mortgage loan or 3666  
warehouse-lending mortgage loan. Terms used in division (F) (2) 3667  
(w) of this section have the same meanings as in section 1322.01 3668  
of the Revised Code, except "mortgage broker" means a person 3669  
assisting a buyer in obtaining a mortgage loan for a fee or 3670  
other consideration paid by the buyer or a lender, or a person 3671  
engaged in table-funding or warehouse-lending mortgage loans 3672  
that are first lien mortgage loans. 3673

(x) Property, money, and other amounts received by a 3674  
professional employer organization, as defined in section 3675  
4125.01 of the Revised Code, from a client employer, as defined 3676  
in that section, in excess of the administrative fee charged by 3677  
the professional employer organization to the client employer; 3678

(y) In the case of amounts retained as commissions by a 3679  
permit holder under Chapter 3769. of the Revised Code, an amount 3680  
equal to the amounts specified under that chapter that must be 3681  
paid to or collected by the tax commissioner as a tax and the 3682

amounts specified under that chapter to be used as purse money; 3683

(z) Qualifying distribution center receipts. 3684

(i) For purposes of division (F) (2) (z) of this section: 3685

(I) "Qualifying distribution center receipts" means 3686  
receipts of a supplier from qualified property that is delivered 3687  
to a qualified distribution center, multiplied by a quantity 3688  
that equals one minus the Ohio delivery percentage. If the 3689  
qualified distribution center is a refining facility, "supplier" 3690  
includes all dealers, brokers, processors, sellers, vendors, 3691  
cosigners, and distributors of qualified property. 3692

(II) "Qualified property" means tangible personal property 3693  
delivered to a qualified distribution center that is shipped to 3694  
that qualified distribution center solely for further shipping 3695  
by the qualified distribution center to another location in this 3696  
state or elsewhere or, in the case of gold, silver, platinum, or 3697  
palladium delivered to a refining facility solely for refining 3698  
to a grade and fineness acceptable for delivery to a registered 3699  
commodities exchange. "Further shipping" includes storing and 3700  
repackaging property into smaller or larger bundles, so long as 3701  
the property is not subject to further manufacturing or 3702  
processing. "Refining" is limited to extracting impurities from 3703  
gold, silver, platinum, or palladium through smelting or some 3704  
other process at a refining facility. 3705

(III) "Qualified distribution center" means a warehouse, a 3706  
facility similar to a warehouse, or a refining facility in this 3707  
state that, for the qualifying year, is operated by a person 3708  
that is not part of a combined taxpayer group and that has a 3709  
qualifying certificate. All warehouses or facilities similar to 3710  
warehouses that are operated by persons in the same taxpayer 3711



group and that are located within one mile of each other shall 3712  
be treated as one qualified distribution center. All refining 3713  
facilities that are operated by persons in the same taxpayer 3714  
group and that are located in the same or adjacent counties may 3715  
be treated as one qualified distribution center. 3716

(IV) "Qualifying year" means the calendar year to which 3717  
the qualifying certificate applies. 3718

(V) "Qualifying period" means the period of the first day 3719  
of July of the second year preceding the qualifying year through 3720  
the thirtieth day of June of the year preceding the qualifying 3721  
year. 3722

(VI) "Qualifying certificate" means the certificate issued 3723  
by the tax commissioner after the operator of a distribution 3724  
center files an annual application with the commissioner. The 3725  
application and annual fee shall be filed and paid for each 3726  
qualified distribution center on or before the first day of 3727  
September before the qualifying year or within forty-five days 3728  
after the distribution center opens, whichever is later. 3729

The applicant must substantiate to the commissioner's 3730  
satisfaction that, for the qualifying period, all persons 3731  
operating the distribution center have more than fifty per cent 3732  
of the cost of the qualified property shipped to a location such 3733  
that it would be situated outside this state under the provisions 3734  
of division (E) of section 5751.033 of the Revised Code. The 3735  
applicant must also substantiate that the distribution center 3736  
cumulatively had costs from its suppliers equal to or exceeding 3737  
five hundred million dollars during the qualifying period. (For 3738  
purposes of division (F) (2) (z) (i) (VI) of this section, 3739  
"supplier" excludes any person that is part of the consolidated 3740  
elected taxpayer group, if applicable, of the operator of the 3741

qualified distribution center.) The commissioner may require the 3742  
applicant to have an independent certified public accountant 3743  
certify that the calculation of the minimum thresholds required 3744  
for a qualified distribution center by the operator of a 3745  
distribution center has been made in accordance with generally 3746  
accepted accounting principles. The commissioner shall issue or 3747  
deny the issuance of a certificate within sixty days after the 3748  
receipt of the application. A denial is subject to appeal under 3749  
section 5717.02 of the Revised Code. If the operator files a 3750  
timely appeal under section 5717.02 of the Revised Code, the 3751  
operator shall be granted a qualifying certificate effective for 3752  
the remainder of the qualifying year or until the appeal is 3753  
finalized, whichever is earlier. If the operator does not 3754  
prevail in the appeal, the operator shall pay the ineligible 3755  
operator's supplier tax liability. 3756

(VII) "Ohio delivery percentage" means the proportion of 3757  
the total property delivered to a destination inside Ohio from 3758  
the qualified distribution center during the qualifying period 3759  
compared with total deliveries from such distribution center 3760  
everywhere during the qualifying period. 3761

(VIII) "Refining facility" means one or more buildings 3762  
located in a county in the Appalachian region of this state as 3763  
defined by section 107.21 of the Revised Code and utilized for 3764  
refining or smelting gold, silver, platinum, or palladium to a 3765  
grade and fineness acceptable for delivery to a registered 3766  
commodities exchange. 3767

(IX) "Registered commodities exchange" means a board of 3768  
trade, such as New York mercantile exchange, inc. or commodity 3769  
exchange, inc., designated as a contract market by the commodity 3770  
futures trading commission under the "Commodity Exchange Act," 7 3771

U.S.C. 1 et seq., as amended. 3772

(X) "Ineligible operator's supplier tax liability" means 3773  
an amount equal to the tax liability of all suppliers of a 3774  
distribution center had the distribution center not been issued 3775  
a qualifying certificate for the qualifying year. Ineligible 3776  
operator's supplier tax liability shall not include interest or 3777  
penalties. The tax commissioner shall determine an ineligible 3778  
operator's supplier tax liability based on information that the 3779  
commissioner may request from the operator of the distribution 3780  
center. An operator shall provide a list of all suppliers of the 3781  
distribution center and the corresponding costs of qualified 3782  
property for the qualifying year at issue within sixty days of a 3783  
request by the commissioner under this division. 3784

(ii) (I) If the distribution center is new and was not open 3785  
for the entire qualifying period, the operator of the 3786  
distribution center may request that the commissioner grant a 3787  
qualifying certificate. If the certificate is granted and it is 3788  
later determined that more than fifty per cent of the qualified 3789  
property during that year was not shipped to a location such 3790  
that it would be situated outside of this state under the 3791  
provisions of division (E) of section 5751.033 of the Revised 3792  
Code or if it is later determined that the person that operates 3793  
the distribution center had average monthly costs from its 3794  
suppliers of less than forty million dollars during that year, 3795  
then the operator of the distribution center shall pay the 3796  
ineligible operator's supplier tax liability. (For purposes of 3797  
division (F) (2) (z) (ii) of this section, "supplier" excludes any 3798  
person that is part of the consolidated elected taxpayer group, 3799  
if applicable, of the operator of the qualified distribution 3800  
center.) 3801

(II) The commissioner may grant a qualifying certificate 3802  
to a distribution center that does not qualify as a qualified 3803  
distribution center for an entire qualifying period if the 3804  
operator of the distribution center demonstrates that the 3805  
business operations of the distribution center have changed or 3806  
will change such that the distribution center will qualify as a 3807  
qualified distribution center within thirty-six months after the 3808  
date the operator first applies for a certificate. If, at the 3809  
end of that thirty-six-month period, the business operations of 3810  
the distribution center have not changed such that the 3811  
distribution center qualifies as a qualified distribution 3812  
center, the operator of the distribution center shall pay the 3813  
ineligible operator's supplier tax liability for each year that 3814  
the distribution center received a certificate but did not 3815  
qualify as a qualified distribution center. For each year the 3816  
distribution center receives a certificate under division (F) (2) 3817  
(z) (ii) (II) of this section, the distribution center shall pay 3818  
all applicable fees required under division (F) (2) (z) of this 3819  
section and shall submit an updated business plan showing the 3820  
progress the distribution center made toward qualifying as a 3821  
qualified distribution center during the preceding year. 3822

(III) An operator may appeal a determination under 3823  
division (F) (2) (z) (ii) (I) or (II) of this section that the 3824  
ineligible operator is liable for the operator's supplier tax 3825  
liability as a result of not qualifying as a qualified 3826  
distribution center, as provided in section 5717.02 of the 3827  
Revised Code. 3828

(iii) When filing an application for a qualifying 3829  
certificate under division (F) (2) (z) (i) (VI) of this section, the 3830  
operator of a qualified distribution center also shall provide 3831  
documentation, as the commissioner requires, for the 3832

commissioner to ascertain the Ohio delivery percentage. The 3833  
commissioner, upon issuing the qualifying certificate, also 3834  
shall certify the Ohio delivery percentage. The operator of the 3835  
qualified distribution center may appeal the commissioner's 3836  
certification of the Ohio delivery percentage in the same manner 3837  
as an appeal is taken from the denial of a qualifying 3838  
certificate under division (F) (2) (z) (i) (VI) of this section. 3839

(iv) (I) In the case where the distribution center is new 3840  
and not open for the entire qualifying period, the operator 3841  
shall make a good faith estimate of an Ohio delivery percentage 3842  
for use by suppliers in their reports of taxable gross receipts 3843  
for the remainder of the qualifying period. The operator of the 3844  
facility shall disclose to the suppliers that such Ohio delivery 3845  
percentage is an estimate and is subject to recalculation. By 3846  
the due date of the next application for a qualifying 3847  
certificate, the operator shall determine the actual Ohio 3848  
delivery percentage for the estimated qualifying period and 3849  
proceed as provided in division (F) (2) (z) (iii) of this section 3850  
with respect to the calculation and recalculation of the Ohio 3851  
delivery percentage. The supplier is required to file, within 3852  
sixty days after receiving notice from the operator of the 3853  
qualified distribution center, amended reports for the impacted 3854  
calendar quarter or quarters or calendar year, whichever the 3855  
case may be. Any additional tax liability or tax overpayment 3856  
shall be subject to interest but shall not be subject to the 3857  
imposition of any penalty so long as the amended returns are 3858  
timely filed. 3859

(II) The operator of a distribution center that receives a 3860  
qualifying certificate under division (F) (2) (z) (ii) (II) of this 3861  
section shall make a good faith estimate of the Ohio delivery 3862  
percentage that the operator estimates will apply to the 3863

distribution center at the end of the thirty-six-month period 3864  
after the operator first applied for a qualifying certificate 3865  
under that division. The result of the estimate shall be 3866  
multiplied by a factor of one and seventy-five one-hundredths. 3867  
The product of that calculation shall be the Ohio delivery 3868  
percentage used by suppliers in their reports of taxable gross 3869  
receipts for each qualifying year that the distribution center 3870  
receives a qualifying certificate under division (F) (2) (z) (ii) 3871  
(II) of this section, except that, if the product is less than 3872  
five per cent, the Ohio delivery percentage used shall be five 3873  
per cent and that, if the product exceeds forty-nine per cent, 3874  
the Ohio delivery percentage used shall be forty-nine per cent. 3875

(v) Qualifying certificates and Ohio delivery percentages 3876  
issued by the commissioner shall be open to public inspection 3877  
and shall be timely published by the commissioner. A supplier 3878  
relying in good faith on a certificate issued under this 3879  
division shall not be subject to tax on the qualifying 3880  
distribution center receipts under division (F) (2) (z) of this 3881  
section. An operator receiving a qualifying certificate is 3882  
liable for the ineligible operator's supplier tax liability for 3883  
each year the operator received a certificate but did not 3884  
qualify as a qualified distribution center. 3885

(vi) The annual fee for a qualifying certificate shall be 3886  
one hundred thousand dollars for each qualified distribution 3887  
center. If a qualifying certificate is not issued, the annual 3888  
fee is subject to refund after the exhaustion of all appeals 3889  
provided for in division (F) (2) (z) (i) (VI) of this section. The 3890  
first one hundred thousand dollars of the annual application 3891  
fees collected each calendar year shall be credited to the 3892  
revenue enhancement fund. The remainder of the annual 3893  
application fees collected shall be distributed in the same 3894

manner required under section 5751.20 of the Revised Code. 3895

(vii) The tax commissioner may require that adequate 3896  
security be posted by the operator of the distribution center on 3897  
appeal when the commissioner disagrees that the applicant has 3898  
met the minimum thresholds for a qualified distribution center 3899  
as set forth in division (F) (2) (z) of this section. 3900

(aa) Receipts of an employer from payroll deductions 3901  
relating to the reimbursement of the employer for advancing 3902  
moneys to an unrelated third party on an employee's behalf; 3903

(bb) Cash discounts allowed and taken; 3904

(cc) Returns and allowances; 3905

(dd) Bad debts from receipts on the basis of which the tax 3906  
imposed by this chapter was paid in a prior quarterly tax 3907  
payment period. For the purpose of this division, "bad debts" 3908  
means any debts that have become worthless or uncollectible 3909  
between the preceding and current quarterly tax payment periods, 3910  
have been uncollected for at least six months, and that may be 3911  
claimed as a deduction under section 166 of the Internal Revenue 3912  
Code and the regulations adopted under that section, or that 3913  
could be claimed as such if the taxpayer kept its accounts on 3914  
the accrual basis. "Bad debts" does not include repossessed 3915  
property, uncollectible amounts on property that remains in the 3916  
possession of the taxpayer until the full purchase price is 3917  
paid, or expenses in attempting to collect any account 3918  
receivable or for any portion of the debt recovered; 3919

(ee) Any amount realized from the sale of an account 3920  
receivable to the extent the receipts from the underlying 3921  
transaction giving rise to the account receivable were included 3922  
in the gross receipts of the taxpayer; 3923

(ff) Any receipts directly attributed to a transfer 3924  
agreement or to the enterprise transferred under that agreement 3925  
under section 4313.02 of the Revised Code. 3926

(gg) (i) As used in this division: 3927

(I) "Qualified uranium receipts" means receipts from the 3928  
sale, exchange, lease, loan, production, processing, or other 3929  
disposition of uranium within a uranium enrichment zone 3930  
certified by the tax commissioner under division (F) (2) (gg) (ii) 3931  
of this section. "Qualified uranium receipts" does not include 3932  
any receipts with a situs in this state outside a uranium 3933  
enrichment zone certified by the tax commissioner under division 3934  
(F) (2) (gg) (ii) of this section. 3935

(II) "Uranium enrichment zone" means all real property 3936  
that is part of a uranium enrichment facility licensed by the 3937  
United States nuclear regulatory commission and that was or is 3938  
owned or controlled by the United States department of energy or 3939  
its successor. 3940

(ii) Any person that owns, leases, or operates real or 3941  
tangible personal property constituting or located within a 3942  
uranium enrichment zone may apply to the tax commissioner to 3943  
have the uranium enrichment zone certified for the purpose of 3944  
excluding qualified uranium receipts under division (F) (2) (gg) 3945  
of this section. The application shall include such information 3946  
that the tax commissioner prescribes. Within sixty days after 3947  
receiving the application, the tax commissioner shall certify 3948  
the zone for that purpose if the commissioner determines that 3949  
the property qualifies as a uranium enrichment zone as defined 3950  
in division (F) (2) (gg) of this section, or, if the tax 3951  
commissioner determines that the property does not qualify, the 3952  
commissioner shall deny the application or request additional 3953



information from the applicant. If the tax commissioner denies 3954  
an application, the commissioner shall state the reasons for the 3955  
denial. The applicant may appeal the denial of an application to 3956  
the board of tax appeals pursuant to section 5717.02 of the 3957  
Revised Code. If the applicant files a timely appeal, the tax 3958  
commissioner shall conditionally certify the applicant's 3959  
property. The conditional certification shall expire when all of 3960  
the applicant's appeals are exhausted. Until final resolution of 3961  
the appeal, the applicant shall retain the applicant's records 3962  
in accordance with section 5751.12 of the Revised Code, 3963  
notwithstanding any time limit on the preservation of records 3964  
under that section. 3965

(hh) In the case of amounts collected by a licensed casino 3966  
operator from casino gaming, amounts in excess of the casino 3967  
operator's gross casino revenue. In this division, "casino 3968  
operator" and "casino gaming" have the meanings defined in 3969  
section 3772.01 of the Revised Code, and "gross casino revenue" 3970  
has the meaning defined in section 5753.01 of the Revised Code. 3971

(ii) Receipts realized from the sale of agricultural 3972  
commodities by an agricultural commodity handler, both as 3973  
defined in section 926.01 of the Revised Code, that is licensed 3974  
by the director of agriculture to handle agricultural 3975  
commodities in this state. 3976

(jj) Qualifying integrated supply chain receipts. 3977

As used in division (F)(2)(jj) of this section: 3978

(i) "Qualifying integrated supply chain receipts" means 3979  
receipts of a qualified integrated supply chain vendor from the 3980  
sale of qualified property delivered to, or integrated supply 3981  
chain services provided to, another qualified integrated supply 3982

chain vendor or to a retailer that is a member of the integrated 3983  
supply chain. "Qualifying integrated supply chain receipts" does 3984  
not include receipts of a person that is not a qualified 3985  
integrated supply chain vendor from the sale of raw materials to 3986  
a member of an integrated supply chain, or receipts of a member 3987  
of an integrated supply chain from the sale of qualified 3988  
property or integrated supply chain services to a person that is 3989  
not a member of the integrated supply chain. 3990

(ii) "Qualified property" means any of the following: 3991

(I) Component parts used to hold, contain, package, or 3992  
dispense qualified products, excluding equipment; 3993

(II) Work-in-process inventory that will become, comprise, 3994  
or form a component part of a qualified product capable of being 3995  
sold at retail, excluding equipment, machinery, furniture, and 3996  
fixtures; 3997

(III) Finished goods inventory that is a qualified product 3998  
capable of being sold at retail in the inventory's present form. 3999

(iii) "Qualified integrated supply chain vendor" means a 4000  
person that is a member of an integrated supply chain and that 4001  
provides integrated supply chain services within a qualified 4002  
integrated supply chain district to a retailer that is a member 4003  
of the integrated supply chain or to another qualified 4004  
integrated supply chain vendor that is located within the same 4005  
such district as the person but does not share a common owner 4006  
with that person. 4007

(iv) "Qualified product" means a personal care, health, or 4008  
beauty product or an aromatic product, including a candle. 4009  
"Qualified product" does not include a drug that may be 4010  
dispensed only pursuant to a prescription, durable medical 4011

equipment, mobility enhancing equipment, or a prosthetic device, 4012  
as those terms are defined in section 5739.01 of the Revised 4013  
Code. 4014

(v) "Integrated supply chain" means two or more qualified 4015  
integrated supply chain vendors certified on the most recent 4016  
list certified to the tax commissioner under this division that 4017  
systematically collaborate and coordinate business operations 4018  
with a retailer on the flow of tangible personal property from 4019  
material sourcing through manufacturing, assembly, packaging, 4020  
and delivery to the retailer to improve long-term financial 4021  
performance of each vendor and the supply chain that includes 4022  
the retailer. 4023

For the purpose of the certification required under this 4024  
division, the reporting person for each retailer, on or before 4025  
the first day of October of each year, shall certify to the tax 4026  
commissioner a list of the qualified integrated supply chain 4027  
vendors providing or receiving integrated supply chain services 4028  
within a qualified integrated supply chain district for the 4029  
ensuing calendar year. On or before the following first day of 4030  
November, the commissioner shall issue a certificate to the 4031  
retailer and to each vendor certified to the commissioner on 4032  
that list. The certificate shall include the names of the 4033  
retailer and of the qualified integrated supply chain vendors. 4034

The retailer shall notify the commissioner of any changes 4035  
to the list, including additions to or subtractions from the 4036  
list or changes in the name or legal entity of vendors certified 4037  
on the list, within sixty days after the date the retailer 4038  
becomes aware of the change. Within thirty days after receiving 4039  
that notification, the commissioner shall issue a revised 4040  
certificate to the retailer and to each vendor certified on the 4041

list. The revised certificate shall include the effective date 4042  
of the change. 4043

Each recipient of a certificate issued pursuant to this 4044  
division shall maintain a copy of the certificate for four years 4045  
from the date the certificate was received. 4046

(vi) "Integrated supply chain services" means procuring 4047  
raw materials or manufacturing, processing, refining, 4048  
assembling, packaging, or repackaging tangible personal property 4049  
that will become finished goods inventory capable of being sold 4050  
at retail by a retailer that is a member of an integrated supply 4051  
chain. 4052

(vii) "Retailer" means a person primarily engaged in 4053  
making retail sales and any member of that person's consolidated 4054  
elected taxpayer group or combined taxpayer group, whether or 4055  
not that member is primarily engaged in making retail sales. 4056

(viii) "Qualified integrated supply chain district" means 4057  
the parcel or parcels of land from which a retailer's integrated 4058  
supply chain that existed on September 29, 2015, provides or 4059  
receives integrated supply chain services, and to which all of 4060  
the following apply: 4061

(I) The parcel or parcels are located wholly in a county 4062  
having a population of greater than one hundred sixty-five 4063  
thousand but less than one hundred seventy thousand based on the 4064  
2010 federal decennial census. 4065

(II) The parcel or parcels are located wholly in the 4066  
corporate limits of a municipal corporation with a population 4067  
greater than seven thousand five hundred and less than eight 4068  
thousand based on the 2010 federal decennial census that is 4069  
partly located in the county described in division (F)(2)(jj) 4070

(viii) (I) of this section, as those corporate limits existed on 4071  
September 29, 2015. 4072

(III) The aggregate acreage of the parcel or parcels 4073  
equals or exceeds one hundred acres. 4074

(kk) In the case of a railroad company described in 4075  
division (D) (9) of section 5727.01 of the Revised Code that 4076  
purchases dyed diesel fuel directly from a supplier as defined 4077  
by section 5736.01 of the Revised Code, an amount equal to the 4078  
product of the number of gallons of dyed diesel fuel purchased 4079  
directly from such a supplier multiplied by the average 4080  
wholesale price for a gallon of diesel fuel as determined under 4081  
section 5736.02 of the Revised Code for the period during which 4082  
the fuel was purchased multiplied by a fraction, the numerator 4083  
of which equals the rate of tax levied by section 5736.02 of the 4084  
Revised Code less the rate of tax computed in section 5751.03 of 4085  
the Revised Code, and the denominator of which equals the rate 4086  
of tax computed in section 5751.03 of the Revised Code. 4087

(ll) Receipts realized by an out-of-state disaster 4088  
business from disaster work conducted in this state during a 4089  
disaster response period pursuant to a qualifying solicitation 4090  
received by the business. Terms used in this division (F) (2) (ll) 4091  
have the same meanings as in section 5703.94 of the Revised 4092  
Code. 4093

(mm) Any receipts for which the tax imposed by this 4094  
chapter is prohibited by the constitution or laws of the United 4095  
States or the constitution of this state. 4096

(3) In the case of a taxpayer when acting as a real estate 4097  
broker, "gross receipts" includes only the portion of any fee 4098  
for the service of a real estate broker, or service of a real 4099

estate salesperson associated with that broker, that is retained 4100  
by the broker and not paid to an associated real estate 4101  
salesperson or another real estate broker. For the purposes of 4102  
this division, "real estate broker" and "real estate 4103  
salesperson" have the same meanings as in section 4735.01 of the 4104  
Revised Code. 4105

(4) A taxpayer's method of accounting for gross receipts 4106  
for a tax period shall be the same as the taxpayer's method of 4107  
accounting for federal income tax purposes for the taxpayer's 4108  
federal taxable year that includes the tax period. If a 4109  
taxpayer's method of accounting for federal income tax purposes 4110  
changes, its method of accounting for gross receipts under this 4111  
chapter shall be changed accordingly. 4112

(G) "Taxable gross receipts" means gross receipts situated 4113  
to this state under section 5751.033 of the Revised Code. 4114

(H) A person has "substantial nexus with this state" if 4115  
any of the following applies. The person: 4116

(1) Owns or uses a part or all of its capital in this 4117  
state; 4118

(2) Holds a certificate of compliance with the laws of 4119  
this state authorizing the person to do business in this state; 4120

(3) Has bright-line presence in this state; 4121

(4) Otherwise has nexus with this state to an extent that 4122  
the person can be required to remit the tax imposed under this 4123  
chapter under the Constitution of the United States. 4124

(I) A person has "bright-line presence" in this state for 4125  
a reporting period and for the remaining portion of the calendar 4126  
year if any of the following applies. The person: 4127

(1) Has at any time during the calendar year property in 4128  
this state with an aggregate value of at least fifty thousand 4129  
dollars. For the purpose of division (I) (1) of this section, 4130  
owned property is valued at original cost and rented property is 4131  
valued at eight times the net annual rental charge. 4132

(2) Has during the calendar year payroll in this state of 4133  
at least fifty thousand dollars. Payroll in this state includes 4134  
all of the following: 4135

(a) Any amount subject to withholding by the person under 4136  
section 5747.06 of the Revised Code; 4137

(b) Any other amount the person pays as compensation to an 4138  
individual under the supervision or control of the person for 4139  
work done in this state; and 4140

(c) Any amount the person pays for services performed in 4141  
this state on its behalf by another. 4142

(3) Has during the calendar year taxable gross receipts of 4143  
at least five hundred thousand dollars. 4144

(4) Has at any time during the calendar year within this 4145  
state at least twenty-five per cent of the person's total 4146  
property, total payroll, or total gross receipts. 4147

(5) Is domiciled in this state as an individual or for 4148  
corporate, commercial, or other business purposes. 4149

(J) "Tangible personal property" has the same meaning as 4150  
in section 5739.01 of the Revised Code. 4151

(K) "Internal Revenue Code" means the Internal Revenue 4152  
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 4153  
used in this chapter that is not otherwise defined has the same 4154  
meaning as when used in a comparable context in the laws of the 4155

United States relating to federal income taxes unless a 4156  
different meaning is clearly required. Any reference in this 4157  
chapter to the Internal Revenue Code includes other laws of the 4158  
United States relating to federal income taxes. 4159

(L) "Calendar quarter" means a three-month period ending 4160  
on the thirty-first day of March, the thirtieth day of June, the 4161  
thirtieth day of September, or the thirty-first day of December. 4162

(M) "Tax period" means the calendar quarter or calendar 4163  
year on the basis of which a taxpayer is required to pay the tax 4164  
imposed under this chapter. 4165

(N) "Calendar year taxpayer" means a taxpayer for which 4166  
the tax period is a calendar year. 4167

(O) "Calendar quarter taxpayer" means a taxpayer for which 4168  
the tax period is a calendar quarter. 4169

(P) "Agent" means a person authorized by another person to 4170  
act on its behalf to undertake a transaction for the other, 4171  
including any of the following: 4172

(1) A person receiving a fee to sell financial 4173  
instruments; 4174

(2) A person retaining only a commission from a 4175  
transaction with the other proceeds from the transaction being 4176  
remitted to another person; 4177

(3) A person issuing licenses and permits under section 4178  
1533.13 of the Revised Code; 4179

(4) A lottery sales agent holding a valid license issued 4180  
under section 3770.05 of the Revised Code; 4181

(5) A person acting as an agent of the division of liquor 4182



control under section 4301.17 of the Revised Code. 4183

(Q) "Received" includes amounts accrued under the accrual 4184  
method of accounting. 4185

(R) "Reporting person" means a person in a consolidated 4186  
elected taxpayer or combined taxpayer group that is designated 4187  
by that group to legally bind the group for all filings and tax 4188  
liabilities and to receive all legal notices with respect to 4189  
matters under this chapter, or, for the purposes of section 4190  
5751.04 of the Revised Code, a separate taxpayer that is not a 4191  
member of such a group. 4192

**Section 2.** That existing sections 111.16, 718.01, 718.05, 4193  
1329.01, 4123.01, 4141.42, 5741.02, 5747.01, 5747.09, 5747.43, 4194  
and 5751.01 of the Revised Code are hereby repealed. 4195

**Section 3.** The amendment by this act of sections 5747.09 4196  
and 5747.43 of the Revised Code applies to taxable years and to 4197  
qualifying taxable years, respectively, beginning on or after 4198  
January 1, 2017. 4199

**Section 4.** The General Assembly finds that the ability of 4200  
the state to respond to a declared disaster is a matter of 4201  
statewide concern and requires statewide regulation. Therefore, 4202  
it is the intent of the General Assembly in enacting the 4203  
Disaster Relief Act to enact a general law permitting the state 4204  
to adequately respond to a declared disaster by establishing a 4205  
comprehensive plan for the application of state and local laws 4206  
and regulations with respect to out-of-state disaster businesses 4207  
and their employees while engaging in disaster relief activities 4208  
in this state. 4209