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Sub. S. B. No. 26

Senator Kunze

Cosponsors: Senators Maharath, Thomas, Roegner, Sykes, Williams, Fedor, Manning, Antonio, Coley, Craig, Eklund, Gavarone, Hackett, Hoagland, Hottinger, Huffman, S., Lehner, McColley, Obhof, Peterson, Rulli, Schaffer, Schuring, Terhar, Uecker, Wilson, Yuko Representatives Butler, Edwards, Carfagna, Greenspan, Hambley, O'Brien, Patterson, Perales, Roemer, Rogers, Abrams, Antani, Baldridge, Blair, Boggs, Brent, Brown, Callender, Carruthers, Cera, Clites, Crawley, Cross, Crossman, Denson, Galonski, Ghanbari, Ginter, Hicks-Hudson, Hillyer, Hood, Hoops, Howse, Ingram, Jordan, Keller, Kelly, Koehler, Lanese, Lang, Lepore-Hagan, Lightbody, Liston, Manning, D., Manning, G., Miller, A., Miller, J., Miranda, Oelslager, Patton, Plummer, Reineke, Richardson, Riedel, Robinson, Russo, Ryan, Seitz, Sheehy, Smith, T., Sobecki, Stein, Swearingen, Sweeney, Sykes, Upchurch, Weinstein, West, Wiggam, Wilkin

A BILL

To amend sections 5739.01, 5739.012, 5739.02,	1
5739.03, 5747.01, and 5747.08 and to repeal	2
section 101.61 of the Revised Code and to amend	3
Sections 333.83 and 757.150 of H.B. 166 of the	4
133rd General Assembly to authorize a state	5
income tax deduction for teachers' out-of-pocket	6
expenses for professional development and	7
classroom supplies, to modify the business	8
income deduction and delay some tax credit	9
repeals, to exempt feminine hygiene products and	10
some incontinence products from sales and use	11
tax, to abolish the Public Office Compensation	12
Advisory Commission, and to modify a "Food	13
Farmacy" pilot project earmark.	14

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

Section 1. That sections 5739.01, 5739.012, 5739.02,
5739.03, 5747.01, and 5747.08 of the Revised Code be amended to
read as follows:

Sec. 5739.01. As used in this chapter:

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

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

(1) All transactions by which title or possession, or
both, of tangible personal property, is or is to be transferred,
or a license to use or consume tangible personal property is or
is to be granted;

(2) All transactions by which lodging by a hotel is or is
to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be
repaired, except property, the purchase of which would not be
subject to the tax imposed by section 5739.02 of the Revised
Code;

(b) An item of tangible personal property is or is to be

installed, except property, the purchase of which would not be 40
subject to the tax imposed by section 5739.02 of the Revised 41
Code or property that is or is to be incorporated into and will 42
become a part of a production, transmission, transportation, or 43
distribution system for the delivery of a public utility 44
service; 45

(c) The service of washing, cleaning, waxing, polishing, 46
or painting a motor vehicle is or is to be furnished; 47

(d) Until August 1, 2003, industrial laundry cleaning 48
services are or are to be provided and, on and after August 1, 49
2003, laundry and dry cleaning services are or are to be 50
provided; 51

(e) Automatic data processing, computer services, or 52
electronic information services are or are to be provided for 53
use in business when the true object of the transaction is the 54
receipt by the consumer of automatic data processing, computer 55
services, or electronic information services rather than the 56
receipt of personal or professional services to which automatic 57
data processing, computer services, or electronic information 58
services are incidental or supplemental. Notwithstanding any 59
other provision of this chapter, such transactions that occur 60
between members of an affiliated group are not sales. An 61
"affiliated group" means two or more persons related in such a 62
way that one person owns or controls the business operation of 63
another member of the group. In the case of corporations with 64
stock, one corporation owns or controls another if it owns more 65
than fifty per cent of the other corporation's common stock with 66
voting rights. 67

(f) Telecommunications service, including prepaid calling 68
service, prepaid wireless calling service, or ancillary service, 69

is or is to be provided, but not including coin-operated 70
telephone service; 71

(g) Landscaping and lawn care service is or is to be 72
provided; 73

(h) Private investigation and security service is or is to 74
be provided; 75

(i) Information services or tangible personal property is 76
provided or ordered by means of a nine hundred telephone call; 77

(j) Building maintenance and janitorial service is or is 78
to be provided; 79

(k) Employment service is or is to be provided; 80

(l) Employment placement service is or is to be provided; 81

(m) Exterminating service is or is to be provided; 82

(n) Physical fitness facility service is or is to be 83
provided; 84

(o) Recreation and sports club service is or is to be 85
provided; 86

(p) On and after August 1, 2003, satellite broadcasting 87
service is or is to be provided; 88

(q) On and after August 1, 2003, personal care service is 89
or is to be provided to an individual. As used in this division, 90
"personal care service" includes skin care, the application of 91
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 92
piercing, tanning, massage, and other similar services. 93
"Personal care service" does not include a service provided by 94
or on the order of a licensed physician or licensed 95
chiropractor, or the cutting, coloring, or styling of an 96

individual's hair. 97

(r) On and after August 1, 2003, the transportation of 98
persons by motor vehicle or aircraft is or is to be provided, 99
when the transportation is entirely within this state, except 100
for transportation provided by an ambulance service, by a 101
transit bus, as defined in section 5735.01 of the Revised Code, 102
and transportation provided by a citizen of the United States 103
holding a certificate of public convenience and necessity issued 104
under 49 U.S.C. 41102; 105

(s) On and after August 1, 2003, motor vehicle towing 106
service is or is to be provided. As used in this division, 107
"motor vehicle towing service" means the towing or conveyance of 108
a wrecked, disabled, or illegally parked motor vehicle. 109

(t) On and after August 1, 2003, snow removal service is 110
or is to be provided. As used in this division, "snow removal 111
service" means the removal of snow by any mechanized means, but 112
does not include the providing of such service by a person that 113
has less than five thousand dollars in sales of such service 114
during the calendar year. 115

(u) Electronic publishing service is or is to be provided 116
to a consumer for use in business, except that such transactions 117
occurring between members of an affiliated group, as defined in 118
division (B) (3) (e) of this section, are not sales. 119

(4) All transactions by which printed, imprinted, 120
overprinted, lithographic, multilithic, blueprinted, 121
photostatic, or other productions or reproductions of written or 122
graphic matter are or are to be furnished or transferred; 123

(5) The production or fabrication of tangible personal 124
property for a consideration for consumers who furnish either 125

directly or indirectly the materials used in the production of 126
fabrication work; and include the furnishing, preparing, or 127
serving for a consideration of any tangible personal property 128
consumed on the premises of the person furnishing, preparing, or 129
serving such tangible personal property. Except as provided in 130
section 5739.03 of the Revised Code, a construction contract 131
pursuant to which tangible personal property is or is to be 132
incorporated into a structure or improvement on and becoming a 133
part of real property is not a sale of such tangible personal 134
property. The construction contractor is the consumer of such 135
tangible personal property, provided that the sale and 136
installation of carpeting, the sale and installation of 137
agricultural land tile, the sale and erection or installation of 138
portable grain bins, or the provision of landscaping and lawn 139
care service and the transfer of property as part of such 140
service is never a construction contract. 141

As used in division (B) (5) of this section: 142

(a) "Agricultural land tile" means fired clay or concrete 143
tile, or flexible or rigid perforated plastic pipe or tubing, 144
incorporated or to be incorporated into a subsurface drainage 145
system appurtenant to land used or to be used primarily in 146
production by farming, agriculture, horticulture, or 147
floriculture. The term does not include such materials when they 148
are or are to be incorporated into a drainage system appurtenant 149
to a building or structure even if the building or structure is 150
used or to be used in such production. 151

(b) "Portable grain bin" means a structure that is used or 152
to be used by a person engaged in farming or agriculture to 153
shelter the person's grain and that is designed to be 154
disassembled without significant damage to its component parts. 155

(6) All transactions in which all of the shares of stock 156
of a closely held corporation are transferred, or an ownership 157
interest in a pass-through entity, as defined in section 5733.04 158
of the Revised Code, is transferred, if the corporation or pass- 159
through entity is not engaging in business and its entire assets 160
consist of boats, planes, motor vehicles, or other tangible 161
personal property operated primarily for the use and enjoyment 162
of the shareholders or owners; 163

(7) All transactions in which a warranty, maintenance or 164
service contract, or similar agreement by which the vendor of 165
the warranty, contract, or agreement agrees to repair or 166
maintain the tangible personal property of the consumer is or is 167
to be provided; 168

(8) The transfer of copyrighted motion picture films used 169
solely for advertising purposes, except that the transfer of 170
such films for exhibition purposes is not a sale; 171

(9) On and after August 1, 2003, all transactions by which 172
tangible personal property is or is to be stored, except such 173
property that the consumer of the storage holds for sale in the 174
regular course of business; 175

(10) All transactions in which "guaranteed auto 176
protection" is provided whereby a person promises to pay to the 177
consumer the difference between the amount the consumer receives 178
from motor vehicle insurance and the amount the consumer owes to 179
a person holding title to or a lien on the consumer's motor 180
vehicle in the event the consumer's motor vehicle suffers a 181
total loss under the terms of the motor vehicle insurance policy 182
or is stolen and not recovered, if the protection and its price 183
are included in the purchase or lease agreement; 184

(11) (a) Except as provided in division (B) (11) (b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

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

(12) All transactions by which a specified digital product is provided for permanent use or less than permanent use, regardless of whether continued payment is required.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for

which no separate charges are made. 215

(C) "Vendor" means the person providing the service or by 216
whom the transfer effected or license given by a sale is or is 217
to be made or given and, for sales described in division (B) (3) 218
(i) of this section, the telecommunications service vendor that 219
provides the nine hundred telephone service; if two or more 220
persons are engaged in business at the same place of business 221
under a single trade name in which all collections on account of 222
sales by each are made, such persons shall constitute a single 223
vendor. 224

Physicians, dentists, hospitals, and veterinarians who are 225
engaged in selling tangible personal property as received from 226
others, such as eyeglasses, mouthwashes, dentifrices, or similar 227
articles, are vendors. Veterinarians who are engaged in 228
transferring to others for a consideration drugs, the dispensing 229
of which does not require an order of a licensed veterinarian or 230
physician under federal law, are vendors. 231

The operator of any peer-to-peer car sharing program shall 232
be considered to be the vendor. 233

(D) (1) "Consumer" means the person for whom the service is 234
provided, to whom the transfer effected or license given by a 235
sale is or is to be made or given, to whom the service described 236
in division (B) (3) (f) or (i) of this section is charged, or to 237
whom the admission is granted. 238

(2) Physicians, dentists, hospitals, and blood banks 239
operated by nonprofit institutions and persons licensed to 240
practice veterinary medicine, surgery, and dentistry are 241
consumers of all tangible personal property and services 242
purchased by them in connection with the practice of medicine, 243

dentistry, the rendition of hospital or blood bank service, or 244
the practice of veterinary medicine, surgery, and dentistry. In 245
addition to being consumers of drugs administered by them or by 246
their assistants according to their direction, veterinarians 247
also are consumers of drugs that under federal law may be 248
dispensed only by or upon the order of a licensed veterinarian 249
or physician, when transferred by them to others for a 250
consideration to provide treatment to animals as directed by the 251
veterinarian. 252

(3) A person who performs a facility management, or 253
similar service contract for a contractee is a consumer of all 254
tangible personal property and services purchased for use in 255
connection with the performance of such contract, regardless of 256
whether title to any such property vests in the contractee. The 257
purchase of such property and services is not subject to the 258
exception for resale under division (E) of this section. 259

(4) (a) In the case of a person who purchases printed 260
matter for the purpose of distributing it or having it 261
distributed to the public or to a designated segment of the 262
public, free of charge, that person is the consumer of that 263
printed matter, and the purchase of that printed matter for that 264
purpose is a sale. 265

(b) In the case of a person who produces, rather than 266
purchases, printed matter for the purpose of distributing it or 267
having it distributed to the public or to a designated segment 268
of the public, free of charge, that person is the consumer of 269
all tangible personal property and services purchased for use or 270
consumption in the production of that printed matter. That 271
person is not entitled to claim exemption under division (B) (42) 272
(f) of section 5739.02 of the Revised Code for any material 273

incorporated into the printed matter or any equipment, supplies, 274
or services primarily used to produce the printed matter. 275

(c) The distribution of printed matter to the public or to 276
a designated segment of the public, free of charge, is not a 277
sale to the members of the public to whom the printed matter is 278
distributed or to any persons who purchase space in the printed 279
matter for advertising or other purposes. 280

(5) A person who makes sales of any of the services listed 281
in division (B) (3) of this section is the consumer of any 282
tangible personal property used in performing the service. The 283
purchase of that property is not subject to the resale exception 284
under division (E) of this section. 285

(6) A person who engages in highway transportation for 286
hire is the consumer of all packaging materials purchased by 287
that person and used in performing the service, except for 288
packaging materials sold by such person in a transaction 289
separate from the service. 290

(7) In the case of a transaction for health care services 291
under division (B) (11) of this section, a medicaid health 292
insuring corporation is the consumer of such services. The 293
purchase of such services by a medicaid health insuring 294
corporation is not subject to the exception for resale under 295
division (E) of this section or to the exemptions provided under 296
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 297
the Revised Code. 298

(E) "Retail sale" and "sales at retail" include all sales, 299
except those in which the purpose of the consumer is to resell 300
the thing transferred or benefit of the service provided, by a 301
person engaging in business, in the form in which the same is, 302

or is to be, received by the person. 303

(F) "Business" includes any activity engaged in by any 304
person with the object of gain, benefit, or advantage, either 305
direct or indirect. "Business" does not include the activity of 306
a person in managing and investing the person's own funds. 307

(G) "Engaging in business" means commencing, conducting, 308
or continuing in business, and liquidating a business when the 309
liquidator thereof holds itself out to the public as conducting 310
such business. Making a casual sale is not engaging in business. 311

(H) (1) (a) "Price," except as provided in divisions (H) (2), 312
(3), and (4) of this section, means the total amount of 313
consideration, including cash, credit, property, and services, 314
for which tangible personal property or services are sold, 315
leased, or rented, valued in money, whether received in money or 316
otherwise, without any deduction for any of the following: 317

(i) The vendor's cost of the property sold; 318

(ii) The cost of materials used, labor or service costs, 319
interest, losses, all costs of transportation to the vendor, all 320
taxes imposed on the vendor, including the tax imposed under 321
Chapter 5751. of the Revised Code, and any other expense of the 322
vendor; 323

(iii) Charges by the vendor for any services necessary to 324
complete the sale; 325

(iv) On and after August 1, 2003, delivery charges. As 326
used in this division, "delivery charges" means charges by the 327
vendor for preparation and delivery to a location designated by 328
the consumer of tangible personal property or a service, 329
including transportation, shipping, postage, handling, crating, 330
and packing. 331

(v) Installation charges;	332
(vi) Credit for any trade-in.	333
(b) "Price" includes consideration received by the vendor	334
from a third party, if the vendor actually receives the	335
consideration from a party other than the consumer, and the	336
consideration is directly related to a price reduction or	337
discount on the sale; the vendor has an obligation to pass the	338
price reduction or discount through to the consumer; the amount	339
of the consideration attributable to the sale is fixed and	340
determinable by the vendor at the time of the sale of the item	341
to the consumer; and one of the following criteria is met:	342
(i) The consumer presents a coupon, certificate, or other	343
document to the vendor to claim a price reduction or discount	344
where the coupon, certificate, or document is authorized,	345
distributed, or granted by a third party with the understanding	346
that the third party will reimburse any vendor to whom the	347
coupon, certificate, or document is presented;	348
(ii) The consumer identifies the consumer's self to the	349
seller as a member of a group or organization entitled to a	350
price reduction or discount. A preferred customer card that is	351
available to any patron does not constitute membership in such a	352
group or organization.	353
(iii) The price reduction or discount is identified as a	354
third party price reduction or discount on the invoice received	355
by the consumer, or on a coupon, certificate, or other document	356
presented by the consumer.	357
(c) "Price" does not include any of the following:	358
(i) Discounts, including cash, term, or coupons that are	359
not reimbursed by a third party that are allowed by a vendor and	360

taken by a consumer on a sale; 361

(ii) Interest, financing, and carrying charges from credit 362
extended on the sale of tangible personal property or services, 363
if the amount is separately stated on the invoice, bill of sale, 364
or similar document given to the purchaser; 365

(iii) Any taxes legally imposed directly on the consumer 366
that are separately stated on the invoice, bill of sale, or 367
similar document given to the consumer. For the purpose of this 368
division, the tax imposed under Chapter 5751. of the Revised 369
Code is not a tax directly on the consumer, even if the tax or a 370
portion thereof is separately stated. 371

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 372
this section, any discount allowed by an automobile manufacturer 373
to its employee, or to the employee of a supplier, on the 374
purchase of a new motor vehicle from a new motor vehicle dealer 375
in this state. 376

(v) The dollar value of a gift card that is not sold by a 377
vendor or purchased by a consumer and that is redeemed by the 378
consumer in purchasing tangible personal property or services if 379
the vendor is not reimbursed and does not receive compensation 380
from a third party to cover all or part of the gift card value. 381
For the purposes of this division, a gift card is not sold by a 382
vendor or purchased by a consumer if it is distributed pursuant 383
to an awards, loyalty, or promotional program. Past and present 384
purchases of tangible personal property or services by the 385
consumer shall not be treated as consideration exchanged for a 386
gift card. 387

(2) In the case of a sale of any new motor vehicle by a 388
new motor vehicle dealer, as defined in section 4517.01 of the 389

Revised Code, in which another motor vehicle is accepted by the 390
dealer as part of the consideration received, "price" has the 391
same meaning as in division (H) (1) of this section, reduced by 392
the credit afforded the consumer by the dealer for the motor 393
vehicle received in trade. 394

(3) In the case of a sale of any watercraft or outboard 395
motor by a watercraft dealer licensed in accordance with section 396
1547.543 of the Revised Code, in which another watercraft, 397
watercraft and trailer, or outboard motor is accepted by the 398
dealer as part of the consideration received, "price" has the 399
same meaning as in division (H) (1) of this section, reduced by 400
the credit afforded the consumer by the dealer for the 401
watercraft, watercraft and trailer, or outboard motor received 402
in trade. As used in this division, "watercraft" includes an 403
outdrive unit attached to the watercraft. 404

(4) In the case of transactions for health care services 405
under division (B) (11) of this section, "price" means the amount 406
of managed care premiums received each month by a medicaid 407
health insuring corporation. 408

(I) "Receipts" means the total amount of the prices of the 409
sales of vendors, provided that the dollar value of gift cards 410
distributed pursuant to an awards, loyalty, or promotional 411
program, and cash discounts allowed and taken on sales at the 412
time they are consummated are not included, minus any amount 413
deducted as a bad debt pursuant to section 5739.121 of the 414
Revised Code. "Receipts" does not include the sale price of 415
property returned or services rejected by consumers when the 416
full sale price and tax are refunded either in cash or by 417
credit. 418

(J) "Place of business" means any location at which a 419

person engages in business. 420

(K) "Premises" includes any real property or portion 421
thereof upon which any person engages in selling tangible 422
personal property at retail or making retail sales and also 423
includes any real property or portion thereof designated for, or 424
devoted to, use in conjunction with the business engaged in by 425
such person. 426

(L) "Casual sale" means a sale of an item of tangible 427
personal property that was obtained by the person making the 428
sale, through purchase or otherwise, for the person's own use 429
and was previously subject to any state's taxing jurisdiction on 430
its sale or use, and includes such items acquired for the 431
seller's use that are sold by an auctioneer employed directly by 432
the person for such purpose, provided the location of such sales 433
is not the auctioneer's permanent place of business. As used in 434
this division, "permanent place of business" includes any 435
location where such auctioneer has conducted more than two 436
auctions during the year. 437

(M) "Hotel" means every establishment kept, used, 438
maintained, advertised, or held out to the public to be a place 439
where sleeping accommodations are offered to guests, in which 440
five or more rooms are used for the accommodation of such 441
guests, whether the rooms are in one or several structures, 442
except as otherwise provided in division (G) of section 5739.09 443
of the Revised Code. 444

(N) "Transient guests" means persons occupying a room or 445
rooms for sleeping accommodations for less than thirty 446
consecutive days. 447

(O) "Making retail sales" means the effecting of 448

transactions wherein one party is obligated to pay the price and 449
the other party is obligated to provide a service or to transfer 450
title to or possession of the item sold. "Making retail sales" 451
does not include the preliminary acts of promoting or soliciting 452
the retail sales, other than the distribution of printed matter 453
which displays or describes and prices the item offered for 454
sale, nor does it include delivery of a predetermined quantity 455
of tangible personal property or transportation of property or 456
personnel to or from a place where a service is performed. 457

(P) "Used directly in the rendition of a public utility 458
service" means that property that is to be incorporated into and 459
will become a part of the consumer's production, transmission, 460
transportation, or distribution system and that retains its 461
classification as tangible personal property after such 462
incorporation; fuel or power used in the production, 463
transmission, transportation, or distribution system; and 464
tangible personal property used in the repair and maintenance of 465
the production, transmission, transportation, or distribution 466
system, including only such motor vehicles as are specially 467
designed and equipped for such use. Tangible personal property 468
and services used primarily in providing highway transportation 469
for hire are not used directly in the rendition of a public 470
utility service. In this definition, "public utility" includes a 471
citizen of the United States holding, and required to hold, a 472
certificate of public convenience and necessity issued under 49 473
U.S.C. 41102. 474

(Q) "Refining" means removing or separating a desirable 475
product from raw or contaminated materials by distillation or 476
physical, mechanical, or chemical processes. 477

(R) "Assembly" and "assembling" mean attaching or fitting 478

together parts to form a product, but do not include packaging a 479
product. 480

(S) "Manufacturing operation" means a process in which 481
materials are changed, converted, or transformed into a 482
different state or form from which they previously existed and 483
includes refining materials, assembling parts, and preparing raw 484
materials and parts by mixing, measuring, blending, or otherwise 485
committing such materials or parts to the manufacturing process. 486
"Manufacturing operation" does not include packaging. 487

(T) "Fiscal officer" means, with respect to a regional 488
transit authority, the secretary-treasurer thereof, and with 489
respect to a county that is a transit authority, the fiscal 490
officer of the county transit board if one is appointed pursuant 491
to section 306.03 of the Revised Code or the county auditor if 492
the board of county commissioners operates the county transit 493
system. 494

(U) "Transit authority" means a regional transit authority 495
created pursuant to section 306.31 of the Revised Code or a 496
county in which a county transit system is created pursuant to 497
section 306.01 of the Revised Code. For the purposes of this 498
chapter, a transit authority must extend to at least the entire 499
area of a single county. A transit authority that includes 500
territory in more than one county must include all the area of 501
the most populous county that is a part of such transit 502
authority. County population shall be measured by the most 503
recent census taken by the United States census bureau. 504

(V) "Legislative authority" means, with respect to a 505
regional transit authority, the board of trustees thereof, and 506
with respect to a county that is a transit authority, the board 507
of county commissioners. 508

(W) "Territory of the transit authority" means all of the 509
area included within the territorial boundaries of a transit 510
authority as they from time to time exist. Such territorial 511
boundaries must at all times include all the area of a single 512
county or all the area of the most populous county that is a 513
part of such transit authority. County population shall be 514
measured by the most recent census taken by the United States 515
census bureau. 516

(X) "Providing a service" means providing or furnishing 517
anything described in division (B) (3) of this section for 518
consideration. 519

(Y) (1) (a) "Automatic data processing" means processing of 520
others' data, including keypunching or similar data entry 521
services together with verification thereof, or providing access 522
to computer equipment for the purpose of processing data. 523

(b) "Computer services" means providing services 524
consisting of specifying computer hardware configurations and 525
evaluating technical processing characteristics, computer 526
programming, and training of computer programmers and operators, 527
provided in conjunction with and to support the sale, lease, or 528
operation of taxable computer equipment or systems. 529

(c) "Electronic information services" means providing 530
access to computer equipment by means of telecommunications 531
equipment for the purpose of either of the following: 532

(i) Examining or acquiring data stored in or accessible to 533
the computer equipment; 534

(ii) Placing data into the computer equipment to be 535
retrieved by designated recipients with access to the computer 536
equipment. 537

For transactions occurring on or after the effective date 538
of the amendment of this section by H.B. 157 of the 127th 539
general assembly, December 21, 2007, "electronic information 540
services" does not include electronic publishing. 541

(d) "Automatic data processing, computer services, or 542
electronic information services" shall not include personal or 543
professional services. 544

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 545
section, "personal and professional services" means all services 546
other than automatic data processing, computer services, or 547
electronic information services, including but not limited to: 548

(a) Accounting and legal services such as advice on tax 549
matters, asset management, budgetary matters, quality control, 550
information security, and auditing and any other situation where 551
the service provider receives data or information and studies, 552
alters, analyzes, interprets, or adjusts such material; 553

(b) Analyzing business policies and procedures; 554

(c) Identifying management information needs; 555

(d) Feasibility studies, including economic and technical 556
analysis of existing or potential computer hardware or software 557
needs and alternatives; 558

(e) Designing policies, procedures, and custom software 559
for collecting business information, and determining how data 560
should be summarized, sequenced, formatted, processed, 561
controlled, and reported so that it will be meaningful to 562
management; 563

(f) Developing policies and procedures that document how 564
business events and transactions are to be authorized, executed, 565

and controlled; 566

(g) Testing of business procedures; 567

(h) Training personnel in business procedure applications; 568

(i) Providing credit information to users of such 569
information by a consumer reporting agency, as defined in the 570
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 571
U.S.C. 1681a(f), or as hereafter amended, including but not 572
limited to gathering, organizing, analyzing, recording, and 573
furnishing such information by any oral, written, graphic, or 574
electronic medium; 575

(j) Providing debt collection services by any oral, 576
written, graphic, or electronic means; 577

(k) Providing digital advertising services. 578

The services listed in divisions (Y) (2) (a) to (k) of this 579
section are not automatic data processing or computer services. 580

(Z) "Highway transportation for hire" means the 581
transportation of personal property belonging to others for 582
consideration by any of the following: 583

(1) The holder of a permit or certificate issued by this 584
state or the United States authorizing the holder to engage in 585
transportation of personal property belonging to others for 586
consideration over or on highways, roadways, streets, or any 587
similar public thoroughfare; 588

(2) A person who engages in the transportation of personal 589
property belonging to others for consideration over or on 590
highways, roadways, streets, or any similar public thoroughfare 591
but who could not have engaged in such transportation on 592
December 11, 1985, unless the person was the holder of a permit 593

or certificate of the types described in division (Z)(1) of this 594
section; 595

(3) A person who leases a motor vehicle to and operates it 596
for a person described by division (Z)(1) or (2) of this 597
section. 598

(AA)(1) "Telecommunications service" means the electronic 599
transmission, conveyance, or routing of voice, data, audio, 600
video, or any other information or signals to a point, or 601
between or among points. "Telecommunications service" includes 602
such transmission, conveyance, or routing in which computer 603
processing applications are used to act on the form, code, or 604
protocol of the content for purposes of transmission, 605
conveyance, or routing without regard to whether the service is 606
referred to as voice-over internet protocol service or is 607
classified by the federal communications commission as enhanced 608
or value-added. "Telecommunications service" does not include 609
any of the following: 610

(a) Data processing and information services that allow 611
data to be generated, acquired, stored, processed, or retrieved 612
and delivered by an electronic transmission to a consumer where 613
the consumer's primary purpose for the underlying transaction is 614
the processed data or information; 615

(b) Installation or maintenance of wiring or equipment on 616
a customer's premises; 617

(c) Tangible personal property; 618

(d) Advertising, including directory advertising; 619

(e) Billing and collection services provided to third 620
parties; 621

- (f) Internet access service; 622
- (g) Radio and television audio and video programming 623
services, regardless of the medium, including the furnishing of 624
transmission, conveyance, and routing of such services by the 625
programming service provider. Radio and television audio and 626
video programming services include, but are not limited to, 627
cable service, as defined in 47 U.S.C. 522(6), and audio and 628
video programming services delivered by commercial mobile radio 629
service providers, as defined in 47 C.F.R. 20.3; 630
- (h) Ancillary service; 631
- (i) Digital products delivered electronically, including 632
software, music, video, reading materials, or ring tones. 633
- (2) "Ancillary service" means a service that is associated 634
with or incidental to the provision of telecommunications 635
service, including conference bridging service, detailed 636
telecommunications billing service, directory assistance, 637
vertical service, and voice mail service. As used in this 638
division: 639
- (a) "Conference bridging service" means an ancillary 640
service that links two or more participants of an audio or video 641
conference call, including providing a telephone number. 642
"Conference bridging service" does not include 643
telecommunications services used to reach the conference bridge. 644
- (b) "Detailed telecommunications billing service" means an 645
ancillary service of separately stating information pertaining 646
to individual calls on a customer's billing statement. 647
- (c) "Directory assistance" means an ancillary service of 648
providing telephone number or address information. 649

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

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

(3) "900 service" means an inbound toll telecommunications
service purchased by a subscriber that allows the subscriber's
customers to call in to the subscriber's prerecorded
announcement or live service, and which is typically marketed
under the name "900 service" and any subsequent numbers
designated by the federal communications commission. "900
service" does not include the charge for collection services
provided by the seller of the telecommunications service to the
subscriber, or services or products sold by the subscriber to
the subscriber's customer.

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

(5) "Prepaid wireless calling service" means a
telecommunications service that provides the right to utilize
mobile telecommunications service as well as other non-

telecommunications services, including the download of digital 680
products delivered electronically, and content and ancillary 681
services, that must be paid for in advance and that is sold in 682
predetermined units or dollars of which the number declines with 683
use in a known amount. 684

(6) "Value-added non-voice data service" means a 685
telecommunications service in which computer processing 686
applications are used to act on the form, content, code, or 687
protocol of the information or data primarily for a purpose 688
other than transmission, conveyance, or routing. 689

(7) "Coin-operated telephone service" means a 690
telecommunications service paid for by inserting money into a 691
telephone accepting direct deposits of money to operate. 692

(8) "Customer" has the same meaning as in section 5739.034 693
of the Revised Code. 694

(BB) "Laundry and dry cleaning services" means removing 695
soil or dirt from towels, linens, articles of clothing, or other 696
fabric items that belong to others and supplying towels, linens, 697
articles of clothing, or other fabric items. "Laundry and dry 698
cleaning services" does not include the provision of self- 699
service facilities for use by consumers to remove soil or dirt 700
from towels, linens, articles of clothing, or other fabric 701
items. 702

(CC) "Magazines distributed as controlled circulation 703
publications" means magazines containing at least twenty-four 704
pages, at least twenty-five per cent editorial content, issued 705
at regular intervals four or more times a year, and circulated 706
without charge to the recipient, provided that such magazines 707
are not owned or controlled by individuals or business concerns 708

which conduct such publications as an auxiliary to, and 709
essentially for the advancement of the main business or calling 710
of, those who own or control them. 711

(DD) "Landscaping and lawn care service" means the 712
services of planting, seeding, sodding, removing, cutting, 713
trimming, pruning, mulching, aerating, applying chemicals, 714
watering, fertilizing, and providing similar services to 715
establish, promote, or control the growth of trees, shrubs, 716
flowers, grass, ground cover, and other flora, or otherwise 717
maintaining a lawn or landscape grown or maintained by the owner 718
for ornamentation or other nonagricultural purpose. However, 719
"landscaping and lawn care service" does not include the 720
providing of such services by a person who has less than five 721
thousand dollars in sales of such services during the calendar 722
year. 723

(EE) "Private investigation and security service" means 724
the performance of any activity for which the provider of such 725
service is required to be licensed pursuant to Chapter 4749. of 726
the Revised Code, or would be required to be so licensed in 727
performing such services in this state, and also includes the 728
services of conducting polygraph examinations and of monitoring 729
or overseeing the activities on or in, or the condition of, the 730
consumer's home, business, or other facility by means of 731
electronic or similar monitoring devices. "Private investigation 732
and security service" does not include special duty services 733
provided by off-duty police officers, deputy sheriffs, and other 734
peace officers regularly employed by the state or a political 735
subdivision. 736

(FF) "Information services" means providing conversation, 737
giving consultation or advice, playing or making a voice or 738

other recording, making or keeping a record of the number of 739
callers, and any other service provided to a consumer by means 740
of a nine hundred telephone call, except when the nine hundred 741
telephone call is the means by which the consumer makes a 742
contribution to a recognized charity. 743

(GG) "Research and development" means designing, creating, 744
or formulating new or enhanced products, equipment, or 745
manufacturing processes, and also means conducting scientific or 746
technological inquiry and experimentation in the physical 747
sciences with the goal of increasing scientific knowledge which 748
may reveal the bases for new or enhanced products, equipment, or 749
manufacturing processes. 750

(HH) "Qualified research and development equipment" means 751
capitalized tangible personal property, and leased personal 752
property that would be capitalized if purchased, used by a 753
person primarily to perform research and development. Tangible 754
personal property primarily used in testing, as defined in 755
division (A)(4) of section 5739.011 of the Revised Code, or used 756
for recording or storing test results, is not qualified research 757
and development equipment unless such property is primarily used 758
by the consumer in testing the product, equipment, or 759
manufacturing process being created, designed, or formulated by 760
the consumer in the research and development activity or in 761
recording or storing such test results. 762

(II) "Building maintenance and janitorial service" means 763
cleaning the interior or exterior of a building and any tangible 764
personal property located therein or thereon, including any 765
services incidental to such cleaning for which no separate 766
charge is made. However, "building maintenance and janitorial 767
service" does not include the providing of such service by a 768

person who has less than five thousand dollars in sales of such 769
service during the calendar year. As used in this division, 770
"cleaning" does not include sanitation services necessary for an 771
establishment described in 21 U.S.C. 608 to comply with rules 772
and regulations adopted pursuant to that section. 773

(JJ) "Employment service" means providing or supplying 774
personnel, on a temporary or long-term basis, to perform work or 775
labor under the supervision or control of another, when the 776
personnel so provided or supplied receive their wages, salary, 777
or other compensation from the provider or supplier of the 778
employment service or from a third party that provided or 779
supplied the personnel to the provider or supplier. "Employment 780
service" does not include: 781

(1) Acting as a contractor or subcontractor, where the 782
personnel performing the work are not under the direct control 783
of the purchaser. 784

(2) Medical and health care services. 785

(3) Supplying personnel to a purchaser pursuant to a 786
contract of at least one year between the service provider and 787
the purchaser that specifies that each employee covered under 788
the contract is assigned to the purchaser on a permanent basis. 789

(4) Transactions between members of an affiliated group, 790
as defined in division (B) (3) (e) of this section. 791

(5) Transactions where the personnel so provided or 792
supplied by a provider or supplier to a purchaser of an 793
employment service are then provided or supplied by that 794
purchaser to a third party as an employment service, except 795
"employment service" does include the transaction between that 796
purchaser and the third party. 797

(KK) "Employment placement service" means locating or 798
finding employment for a person or finding or locating an 799
employee to fill an available position. 800

(LL) "Exterminating service" means eradicating or 801
attempting to eradicate vermin infestations from a building or 802
structure, or the area surrounding a building or structure, and 803
includes activities to inspect, detect, or prevent vermin 804
infestation of a building or structure. 805

(MM) "Physical fitness facility service" means all 806
transactions by which a membership is granted, maintained, or 807
renewed, including initiation fees, membership dues, renewal 808
fees, monthly minimum fees, and other similar fees and dues, by 809
a physical fitness facility such as an athletic club, health 810
spa, or gymnasium, which entitles the member to use the facility 811
for physical exercise. 812

(NN) "Recreation and sports club service" means all 813
transactions by which a membership is granted, maintained, or 814
renewed, including initiation fees, membership dues, renewal 815
fees, monthly minimum fees, and other similar fees and dues, by 816
a recreation and sports club, which entitles the member to use 817
the facilities of the organization. "Recreation and sports club" 818
means an organization that has ownership of, or controls or 819
leases on a continuing, long-term basis, the facilities used by 820
its members and includes an aviation club, gun or shooting club, 821
yacht club, card club, swimming club, tennis club, golf club, 822
country club, riding club, amateur sports club, or similar 823
organization. 824

(OO) "Livestock" means farm animals commonly raised for 825
food, food production, or other agricultural purposes, 826
including, but not limited to, cattle, sheep, goats, swine, 827

poultry, and captive deer. "Livestock" does not include 828
invertebrates, amphibians, reptiles, domestic pets, animals for 829
use in laboratories or for exhibition, or other animals not 830
commonly raised for food or food production. 831

(PP) "Livestock structure" means a building or structure 832
used exclusively for the housing, raising, feeding, or 833
sheltering of livestock, and includes feed storage or handling 834
structures and structures for livestock waste handling. 835

(QQ) "Horticulture" means the growing, cultivation, and 836
production of flowers, fruits, herbs, vegetables, sod, 837
mushrooms, and nursery stock. As used in this division, "nursery 838
stock" has the same meaning as in section 927.51 of the Revised 839
Code. 840

(RR) "Horticulture structure" means a building or 841
structure used exclusively for the commercial growing, raising, 842
or overwintering of horticultural products, and includes the 843
area used for stocking, storing, and packing horticultural 844
products when done in conjunction with the production of those 845
products. 846

(SS) "Newspaper" means an unbound publication bearing a 847
title or name that is regularly published, at least as 848
frequently as biweekly, and distributed from a fixed place of 849
business to the public in a specific geographic area, and that 850
contains a substantial amount of news matter of international, 851
national, or local events of interest to the general public. 852

(TT) (1) "Feminine hygiene products" means tampons, panty 853
liners, menstrual cups, sanitary napkins, and other similar 854
tangible personal property designed for feminine hygiene in 855
connection with the human menstrual cycle, but does not include 856

grooming and hygiene products. 857

(2) "Grooming and hygiene products" means soaps and 858
cleaning solutions, shampoo, toothpaste, mouthwash, 859
antiperspirants, and sun tan lotions and screens, regardless of 860
whether any of these products are over-the-counter drugs. 861

(3) "Over-the-counter drugs" means a drug that contains a 862
label that identifies the product as a drug as required by 21 863
C.F.R. 201.66, which label includes a drug facts panel or a 864
statement of the active ingredients with a list of those 865
ingredients contained in the compound, substance, or 866
preparation. 867

(UU) (1) "Lease" or "rental" means any transfer of the 868
possession or control of tangible personal property for a fixed 869
or indefinite term, for consideration. "Lease" or "rental" 870
includes future options to purchase or extend, and agreements 871
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 872
trailers where the amount of consideration may be increased or 873
decreased by reference to the amount realized upon the sale or 874
disposition of the property. "Lease" or "rental" does not 875
include: 876

(a) A transfer of possession or control of tangible 877
personal property under a security agreement or a deferred 878
payment plan that requires the transfer of title upon completion 879
of the required payments; 880

(b) A transfer of possession or control of tangible 881
personal property under an agreement that requires the transfer 882
of title upon completion of required payments and payment of an 883
option price that does not exceed the greater of one hundred 884
dollars or one per cent of the total required payments; 885

(c) Providing tangible personal property along with an 886
operator for a fixed or indefinite period of time, if the 887
operator is necessary for the property to perform as designed. 888
For purposes of this division, the operator must do more than 889
maintain, inspect, or set up the tangible personal property. 890

(2) "Lease" and "rental," as defined in division (UU) of 891
this section, shall not apply to leases or rentals that exist 892
before June 26, 2003. 893

(3) "Lease" and "rental" have the same meaning as in 894
division (UU) (1) of this section regardless of whether a 895
transaction is characterized as a lease or rental under 896
generally accepted accounting principles, the Internal Revenue 897
Code, Title XIII of the Revised Code, or other federal, state, 898
or local laws. 899

(VV) "Mobile telecommunications service" has the same 900
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 901
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 902
amended, and, on and after August 1, 2003, includes related fees 903
and ancillary services, including universal service fees, 904
detailed billing service, directory assistance, service 905
initiation, voice mail service, and vertical services, such as 906
caller ID and three-way calling. 907

(WW) "Certified service provider" has the same meaning as 908
in section 5740.01 of the Revised Code. 909

(XX) "Satellite broadcasting service" means the 910
distribution or broadcasting of programming or services by 911
satellite directly to the subscriber's receiving equipment 912
without the use of ground receiving or distribution equipment, 913
except the subscriber's receiving equipment or equipment used in 914

the uplink process to the satellite, and includes all service 915
and rental charges, premium channels or other special services, 916
installation and repair service charges, and any other charges 917
having any connection with the provision of the satellite 918
broadcasting service. 919

(YY) "Tangible personal property" means personal property 920
that can be seen, weighed, measured, felt, or touched, or that 921
is in any other manner perceptible to the senses. For purposes 922
of this chapter and Chapter 5741. of the Revised Code, "tangible 923
personal property" includes motor vehicles, electricity, water, 924
gas, steam, and prewritten computer software. 925

(ZZ) "Municipal gas utility" means a municipal corporation 926
that owns or operates a system for the distribution of natural 927
gas. 928

(AAA) "Computer" means an electronic device that accepts 929
information in digital or similar form and manipulates it for a 930
result based on a sequence of instructions. 931

(BBB) "Computer software" means a set of coded 932
instructions designed to cause a computer or automatic data 933
processing equipment to perform a task. 934

(CCC) "Delivered electronically" means delivery of 935
computer software from the seller to the purchaser by means 936
other than tangible storage media. 937

(DDD) "Prewritten computer software" means computer 938
software, including prewritten upgrades, that is not designed 939
and developed by the author or other creator to the 940
specifications of a specific purchaser. The combining of two or 941
more prewritten computer software programs or prewritten 942
portions thereof does not cause the combination to be other than 943

prewritten computer software. "Prewritten computer software" 944
includes software designed and developed by the author or other 945
creator to the specifications of a specific purchaser when it is 946
sold to a person other than the purchaser. If a person modifies 947
or enhances computer software of which the person is not the 948
author or creator, the person shall be deemed to be the author 949
or creator only of such person's modifications or enhancements. 950
Prewritten computer software or a prewritten portion thereof 951
that is modified or enhanced to any degree, where such 952
modification or enhancement is designed and developed to the 953
specifications of a specific purchaser, remains prewritten 954
computer software; provided, however, that where there is a 955
reasonable, separately stated charge or an invoice or other 956
statement of the price given to the purchaser for the 957
modification or enhancement, the modification or enhancement 958
shall not constitute prewritten computer software. 959

(EEE) (1) "Food" means substances, whether in liquid, 960
concentrated, solid, frozen, dried, or dehydrated form, that are 961
sold for ingestion or chewing by humans and are consumed for 962
their taste or nutritional value. "Food" does not include 963
alcoholic beverages, dietary supplements, soft drinks, or 964
tobacco. 965

(2) As used in division (EEE) (1) of this section: 966

(a) "Alcoholic beverages" means beverages that are 967
suitable for human consumption and contain one-half of one per 968
cent or more of alcohol by volume. 969

(b) "Dietary supplements" means any product, other than 970
tobacco, that is intended to supplement the diet and that is 971
intended for ingestion in tablet, capsule, powder, softgel, 972
gelcap, or liquid form, or, if not intended for ingestion in 973

such a form, is not represented as conventional food for use as 974
a sole item of a meal or of the diet; that is required to be 975
labeled as a dietary supplement, identifiable by the "supplement 976
facts" box found on the label, as required by 21 C.F.R. 101.36; 977
and that contains one or more of the following dietary 978
ingredients: 979

(i) A vitamin; 980

(ii) A mineral; 981

(iii) An herb or other botanical; 982

(iv) An amino acid; 983

(v) A dietary substance for use by humans to supplement 984
the diet by increasing the total dietary intake; 985

(vi) A concentrate, metabolite, constituent, extract, or 986
combination of any ingredient described in divisions (EEE) (2) (b) 987
(i) to (v) of this section. 988

(c) "Soft drinks" means nonalcoholic beverages that 989
contain natural or artificial sweeteners. "Soft drinks" does not 990
include beverages that contain milk or milk products, soy, rice, 991
or similar milk substitutes, or that contains greater than fifty 992
per cent vegetable or fruit juice by volume. 993

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 994
tobacco, or any other item that contains tobacco. 995

(FFF) "Drug" means a compound, substance, or preparation, 996
and any component of a compound, substance, or preparation, 997
other than food, dietary supplements, or alcoholic beverages 998
that is recognized in the official United States pharmacopoeia, 999
official homeopathic pharmacopoeia of the United States, or 1000
official national formulary, and supplements to them; is 1001

intended for use in the diagnosis, cure, mitigation, treatment, 1002
or prevention of disease; or is intended to affect the structure 1003
or any function of the body. 1004

(GGG) "Prescription" means an order, formula, or recipe 1005
issued in any form of oral, written, electronic, or other means 1006
of transmission by a duly licensed practitioner authorized by 1007
the laws of this state to issue a prescription. 1008

(HHH) "Durable medical equipment" means equipment, 1009
including repair and replacement parts for such equipment, that 1010
can withstand repeated use, is primarily and customarily used to 1011
serve a medical purpose, generally is not useful to a person in 1012
the absence of illness or injury, and is not worn in or on the 1013
body. "Durable medical equipment" does not include mobility 1014
enhancing equipment. 1015

(III) "Mobility enhancing equipment" means equipment, 1016
including repair and replacement parts for such equipment, that 1017
is primarily and customarily used to provide or increase the 1018
ability to move from one place to another and is appropriate for 1019
use either in a home or a motor vehicle, that is not generally 1020
used by persons with normal mobility, and that does not include 1021
any motor vehicle or equipment on a motor vehicle normally 1022
provided by a motor vehicle manufacturer. "Mobility enhancing 1023
equipment" does not include durable medical equipment. 1024

(JJJ) "Prosthetic device" means a replacement, corrective, 1025
or supportive device, including repair and replacement parts for 1026
the device, worn on or in the human body to artificially replace 1027
a missing portion of the body, prevent or correct physical 1028
deformity or malfunction, or support a weak or deformed portion 1029
of the body. As used in this division, before July 1, 2019, 1030
"prosthetic device" does not include corrective eyeglasses, 1031

contact lenses, or dental prosthesis. On or after July 1, 2019, 1032
"prosthetic device" does not include dental prosthesis but does 1033
include corrective eyeglasses or contact lenses. 1034

(KKK)(1) "Fractional aircraft ownership program" means a 1035
program in which persons within an affiliated group sell and 1036
manage fractional ownership program aircraft, provided that at 1037
least one hundred airworthy aircraft are operated in the program 1038
and the program meets all of the following criteria: 1039

(a) Management services are provided by at least one 1040
program manager within an affiliated group on behalf of the 1041
fractional owners. 1042

(b) Each program aircraft is owned or possessed by at 1043
least one fractional owner. 1044

(c) Each fractional owner owns or possesses at least a 1045
one-sixteenth interest in at least one fixed-wing program 1046
aircraft. 1047

(d) A dry-lease aircraft interchange arrangement is in 1048
effect among all of the fractional owners. 1049

(e) Multi-year program agreements are in effect regarding 1050
the fractional ownership, management services, and dry-lease 1051
aircraft interchange arrangement aspects of the program. 1052

(2) As used in division (KKK)(1) of this section: 1053

(a) "Affiliated group" has the same meaning as in division 1054
(B)(3)(e) of this section. 1055

(b) "Fractional owner" means a person that owns or 1056
possesses at least a one-sixteenth interest in a program 1057
aircraft and has entered into the agreements described in 1058
division (KKK)(1)(e) of this section. 1059

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK) (1) (d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK) (1) (e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

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

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials;

editorials, columns, reader commentary, or features; photos or 1090
images; archival or research material; legal notices, identity 1091
verification, or public records; scientific, educational, 1092
instructional, technical, professional, trade, or other literary 1093
materials; or other similar information which has been gathered 1094
and made available by the provider to the consumer in an 1095
electronic format. Providing electronic publishing includes the 1096
functions necessary for the acquisition, formatting, editing, 1097
storage, and dissemination of data or information that is the 1098
subject of a sale. 1099

(MMM) "Medicaid health insuring corporation" means a 1100
health insuring corporation that holds a certificate of 1101
authority under Chapter 1751. of the Revised Code and is under 1102
contract with the department of medicaid pursuant to section 1103
5167.10 of the Revised Code. 1104

(NNN) "Managed care premium" means any premium, 1105
capitation, or other payment a medicaid health insuring 1106
corporation receives for providing or arranging for the 1107
provision of health care services to its members or enrollees 1108
residing in this state. 1109

(OOO) "Captive deer" means deer and other cervidae that 1110
have been legally acquired, or their offspring, that are 1111
privately owned for agricultural or farming purposes. 1112

(PPP) "Gift card" means a document, card, certificate, or 1113
other record, whether tangible or intangible, that may be 1114
redeemed by a consumer for a dollar value when making a purchase 1115
of tangible personal property or services. 1116

(QQQ) "Specified digital product" means an electronically 1117
transferred digital audiovisual work, digital audio work, or 1118

digital book. 1119

As used in division (QQQ) of this section: 1120

(1) "Digital audiovisual work" means a series of related 1121
images that, when shown in succession, impart an impression of 1122
motion, together with accompanying sounds, if any. 1123

(2) "Digital audio work" means a work that results from 1124
the fixation of a series of musical, spoken, or other sounds, 1125
including digitized sound files that are downloaded onto a 1126
device and that may be used to alert the customer with respect 1127
to a communication. 1128

(3) "Digital book" means a work that is generally 1129
recognized in the ordinary and usual sense as a book. 1130

(4) "Electronically transferred" means obtained by the 1131
purchaser by means other than tangible storage media. 1132

(RRR) "Digital advertising services" means providing 1133
access, by means of telecommunications equipment, to computer 1134
equipment that is used to enter, upload, download, review, 1135
manipulate, store, add, or delete data for the purpose of 1136
electronically displaying, delivering, placing, or transferring 1137
promotional advertisements to potential customers about products 1138
or services or about industry or business brands. 1139

(SSS) "Peer-to-peer car sharing program" has the same 1140
meaning as in section 4516.01 of the Revised Code. 1141

Sec. 5739.012. (A) As used in this section: 1142

(1) "Bundled transaction" means the retail sale of two or 1143
more products, except real property and services to real 1144
property, where the products are otherwise distinct and 1145
identifiable products and are sold for one non-itemized price. 1146

"Bundled transaction" does not include the sale of any products 1147
in which the sales price varies, or is negotiable, based on the 1148
selection by the consumer of the products included in the 1149
transaction. 1150

As used in division (A) (1) of this section: 1151

(a) "Distinct and identifiable products" does not include 1152
any of the following: 1153

(i) Packaging, including containers, boxes, sacks, bags, 1154
and bottles, and packaging materials, including wrapping, 1155
labels, tags, and instruction guides that accompany the retail 1156
sale of the products and are incidental or immaterial to the 1157
retail sale thereof; 1158

(ii) A product provided free of charge with the required 1159
purchase of another product. A product is provided free of 1160
charge if the sales price of the product purchased does not vary 1161
depending on the inclusion of the product provided free of 1162
charge. 1163

(iii) Items included in the definition of "price" under 1164
division (H) of section 5739.01 of the Revised Code. 1165

(b) "One non-itemized price" does not include a price that 1166
is separately identified by product on binding sales or other 1167
supporting sales-related documents made available to the 1168
consumer in paper or electronic form, including, but not limited 1169
to, an invoice, bill of sale, receipt, contract, service 1170
agreement, lease agreement, periodic notice of rates and 1171
services, rate card, or price list. 1172

(2) "De minimis" means the vendor's or seller's purchase 1173
price or sales price of taxable products is ten per cent or less 1174
of the total purchase price or sales price of bundled products. 1175

Vendors and sellers shall use either the purchase price or the 1176
sales price of the products to determine if the taxable products 1177
are de minimis, and shall use the full term of a service 1178
contract to determine if the taxable products are de minimis. 1179
Vendors and sellers shall not use a combination of the purchase 1180
price and sales price of the products to determine if the 1181
taxable products are de minimis. 1182

~~(3) "Over the counter drug" means a drug that contains a 1183
label that identifies the product as a drug as required by 21- 1184
C.F.R. 201.66, and the label includes either a "Drug Facts" 1185
panel or a statement of the active ingredients with a list of 1186
those ingredients contained in the drug. 1187~~

(B) A transaction that otherwise meets the definition of a 1188
bundled transaction is not a bundled transaction if it is any of 1189
the following: 1190

(1) A retail sale of tangible personal property and a 1191
service where the tangible personal property is essential to the 1192
use of the service, and is provided exclusively in connection 1193
with the service, and the true object of the transaction is the 1194
service; 1195

(2) A retail sale of services where one service is 1196
provided that is essential to the use or receipt of a second 1197
service, the first service is provided exclusively in connection 1198
with the second service, and the true object of the transaction 1199
is the second service; 1200

(3) A transaction that includes taxable products and 1201
nontaxable products, and the purchase price or sales price of 1202
the taxable products is de minimis; 1203

(4) A retail sale of exempt tangible personal property and 1204

taxable tangible personal property where the transaction 1205
includes food and food ingredients, drugs, durable medical 1206
equipment, mobility enhancing equipment, over-the-counter drugs, 1207
prosthetic devices, or medical supplies, and the vendor's or 1208
seller's purchase price or sales price of the taxable tangible 1209
personal property is fifty per cent or less of the total 1210
purchase price or sales price of the bundled tangible personal 1211
property. Vendors and sellers may not use a combination of the 1212
purchase price and sales price of the tangible personal property 1213
when making the fifty per cent determination for a transaction. 1214

(C) In the case of a bundled transaction that includes 1215
telecommunications service, ancillary service, internet access, 1216
or audio or video programming service: 1217

(1) If the price is attributable to products that are 1218
taxable and products that are nontaxable, the portion of the 1219
price attributable to the nontaxable products shall be subject 1220
to tax unless the provider, by reasonable and verifiable 1221
standards, can identify the portion from its books and records 1222
that are kept in the regular course of business for other 1223
purposes, including, but not limited to, non-tax purposes. 1224

(2) If the price is attributable to products that are 1225
subject to tax at different tax rates, the total price shall be 1226
treated as attributable to the products subject to tax at the 1227
highest tax rate unless the provider can identify by reasonable 1228
and verifiable standards the portion of the price attributable 1229
to the products subject to tax at the lower rate from its books 1230
and records that are kept in the regular course of business for 1231
other purposes, including, but not limited to, non-tax purposes. 1232

(D) In all other cases of bundled transactions, the 1233
taxability of the transaction shall be determined by the true 1234

object of the consumer entering into the transaction. 1235

Sec. 5739.02. For the purpose of providing revenue with 1236
which to meet the needs of the state, for the use of the general 1237
revenue fund of the state, for the purpose of securing a 1238
thorough and efficient system of common schools throughout the 1239
state, for the purpose of affording revenues, in addition to 1240
those from general property taxes, permitted under 1241
constitutional limitations, and from other sources, for the 1242
support of local governmental functions, and for the purpose of 1243
reimbursing the state for the expense of administering this 1244
chapter, an excise tax is hereby levied on each retail sale made 1245
in this state. 1246

(A) (1) The tax shall be collected as provided in section 1247
5739.025 of the Revised Code. The rate of the tax shall be five 1248
and three-fourths per cent. The tax applies and is collectible 1249
when the sale is made, regardless of the time when the price is 1250
paid or delivered. 1251

(2) In the case of the lease or rental, with a fixed term 1252
of more than thirty days or an indefinite term with a minimum 1253
period of more than thirty days, of any motor vehicles designed 1254
by the manufacturer to carry a load of not more than one ton, 1255
watercraft, outboard motor, or aircraft, or of any tangible 1256
personal property, other than motor vehicles designed by the 1257
manufacturer to carry a load of more than one ton, to be used by 1258
the lessee or renter primarily for business purposes, the tax 1259
shall be collected by the vendor at the time the lease or rental 1260
is consummated and shall be calculated by the vendor on the 1261
basis of the total amount to be paid by the lessee or renter 1262
under the lease agreement. If the total amount of the 1263
consideration for the lease or rental includes amounts that are 1264

not calculated at the time the lease or rental is executed, the 1265
tax shall be calculated and collected by the vendor at the time 1266
such amounts are billed to the lessee or renter. In the case of 1267
an open-end lease or rental, the tax shall be calculated by the 1268
vendor on the basis of the total amount to be paid during the 1269
initial fixed term of the lease or rental, and for each 1270
subsequent renewal period as it comes due. As used in this 1271
division, "motor vehicle" has the same meaning as in section 1272
4501.01 of the Revised Code, and "watercraft" includes an 1273
outdrive unit attached to the watercraft. 1274

A lease with a renewal clause and a termination penalty or 1275
similar provision that applies if the renewal clause is not 1276
exercised is presumed to be a sham transaction. In such a case, 1277
the tax shall be calculated and paid on the basis of the entire 1278
length of the lease period, including any renewal periods, until 1279
the termination penalty or similar provision no longer applies. 1280
The taxpayer shall bear the burden, by a preponderance of the 1281
evidence, that the transaction or series of transactions is not 1282
a sham transaction. 1283

(3) Except as provided in division (A) (2) of this section, 1284
in the case of a sale, the price of which consists in whole or 1285
in part of the lease or rental of tangible personal property, 1286
the tax shall be measured by the installments of that lease or 1287
rental. 1288

(4) In the case of a sale of a physical fitness facility 1289
service or recreation and sports club service, the price of 1290
which consists in whole or in part of a membership for the 1291
receipt of the benefit of the service, the tax applicable to the 1292
sale shall be measured by the installments thereof. 1293

(B) The tax does not apply to the following: 1294

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;	1295 1296 1297 1298
(2) Sales of food for human consumption off the premises where sold;	1299 1300
(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;	1301 1302 1303
(4) Sales of newspapers and sales or transfers of magazines distributed as controlled circulation publications;	1304 1305
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	1306 1307 1308 1309
(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;	1310 1311 1312 1313 1314 1315 1316 1317 1318 1319
(b) Sales of motor fuel other than that described in division (B) (6) (a) of this section and used for powering a refrigeration unit on a vehicle other than one used primarily to provide comfort to the operator or occupants of the vehicle.	1320 1321 1322 1323

(7) Sales of natural gas by a natural gas company or 1324
municipal gas utility, of water by a water-works company, or of 1325
steam by a heating company, if in each case the thing sold is 1326
delivered to consumers through pipes or conduits, and all sales 1327
of communications services by a telegraph company, all terms as 1328
defined in section 5727.01 of the Revised Code, and sales of 1329
electricity delivered through wires; 1330

(8) Casual sales by a person, or auctioneer employed 1331
directly by the person to conduct such sales, except as to such 1332
sales of motor vehicles, watercraft or outboard motors required 1333
to be titled under section 1548.06 of the Revised Code, 1334
watercraft documented with the United States coast guard, 1335
snowmobiles, and all-purpose vehicles as defined in section 1336
4519.01 of the Revised Code; 1337

(9) (a) Sales of services or tangible personal property, 1338
other than motor vehicles, mobile homes, and manufactured homes, 1339
by churches, organizations exempt from taxation under section 1340
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1341
organizations operated exclusively for charitable purposes as 1342
defined in division (B)(12) of this section, provided that the 1343
number of days on which such tangible personal property or 1344
services, other than items never subject to the tax, are sold 1345
does not exceed six in any calendar year, except as otherwise 1346
provided in division (B)(9)(b) of this section. If the number of 1347
days on which such sales are made exceeds six in any calendar 1348
year, the church or organization shall be considered to be 1349
engaged in business and all subsequent sales by it shall be 1350
subject to the tax. In counting the number of days, all sales by 1351
groups within a church or within an organization shall be 1352
considered to be sales of that church or organization. 1353

(b) The limitation on the number of days on which tax- 1354
exempt sales may be made by a church or organization under 1355
division (B) (9) (a) of this section does not apply to sales made 1356
by student clubs and other groups of students of a primary or 1357
secondary school, or a parent-teacher association, booster 1358
group, or similar organization that raises money to support or 1359
fund curricular or extracurricular activities of a primary or 1360
secondary school. 1361

(c) Divisions (B) (9) (a) and (b) of this section do not 1362
apply to sales by a noncommercial educational radio or 1363
television broadcasting station. 1364

(10) Sales not within the taxing power of this state under 1365
the Constitution or laws of the United States or the 1366
Constitution of this state; 1367

(11) Except for transactions that are sales under division 1368
(B) (3) (r) of section 5739.01 of the Revised Code, the 1369
transportation of persons or property, unless the transportation 1370
is by a private investigation and security service; 1371

(12) Sales of tangible personal property or services to 1372
churches, to organizations exempt from taxation under section 1373
501(c) (3) of the Internal Revenue Code of 1986, and to any other 1374
nonprofit organizations operated exclusively for charitable 1375
purposes in this state, no part of the net income of which 1376
inures to the benefit of any private shareholder or individual, 1377
and no substantial part of the activities of which consists of 1378
carrying on propaganda or otherwise attempting to influence 1379
legislation; sales to offices administering one or more homes 1380
for the aged or one or more hospital facilities exempt under 1381
section 140.08 of the Revised Code; and sales to organizations 1382
described in division (D) of section 5709.12 of the Revised 1383

Code. 1384

"Charitable purposes" means the relief of poverty; the 1385
improvement of health through the alleviation of illness, 1386
disease, or injury; the operation of an organization exclusively 1387
for the provision of professional, laundry, printing, and 1388
purchasing services to hospitals or charitable institutions; the 1389
operation of a home for the aged, as defined in section 5701.13 1390
of the Revised Code; the operation of a radio or television 1391
broadcasting station that is licensed by the federal 1392
communications commission as a noncommercial educational radio 1393
or television station; the operation of a nonprofit animal 1394
adoption service or a county humane society; the promotion of 1395
education by an institution of learning that maintains a faculty 1396
of qualified instructors, teaches regular continuous courses of 1397
study, and confers a recognized diploma upon completion of a 1398
specific curriculum; the operation of a parent-teacher 1399
association, booster group, or similar organization primarily 1400
engaged in the promotion and support of the curricular or 1401
extracurricular activities of a primary or secondary school; the 1402
operation of a community or area center in which presentations 1403
in music, dramatics, the arts, and related fields are made in 1404
order to foster public interest and education therein; the 1405
production of performances in music, dramatics, and the arts; or 1406
the promotion of education by an organization engaged in 1407
carrying on research in, or the dissemination of, scientific and 1408
technological knowledge and information primarily for the 1409
public. 1410

Nothing in this division shall be deemed to exempt sales 1411
to any organization for use in the operation or carrying on of a 1412
trade or business, or sales to a home for the aged for use in 1413
the operation of independent living facilities as defined in 1414

division (A) of section 5709.12 of the Revised Code. 1415

(13) Building and construction materials and services sold 1416
to construction contractors for incorporation into a structure 1417
or improvement to real property under a construction contract 1418
with this state or a political subdivision of this state, or 1419
with the United States government or any of its agencies; 1420
building and construction materials and services sold to 1421
construction contractors for incorporation into a structure or 1422
improvement to real property that are accepted for ownership by 1423
this state or any of its political subdivisions, or by the 1424
United States government or any of its agencies at the time of 1425
completion of the structures or improvements; building and 1426
construction materials sold to construction contractors for 1427
incorporation into a horticulture structure or livestock 1428
structure for a person engaged in the business of horticulture 1429
or producing livestock; building materials and services sold to 1430
a construction contractor for incorporation into a house of 1431
public worship or religious education, or a building used 1432
exclusively for charitable purposes under a construction 1433
contract with an organization whose purpose is as described in 1434
division (B)(12) of this section; building materials and 1435
services sold to a construction contractor for incorporation 1436
into a building under a construction contract with an 1437
organization exempt from taxation under section 501(c)(3) of the 1438
Internal Revenue Code of 1986 when the building is to be used 1439
exclusively for the organization's exempt purposes; building and 1440
construction materials sold for incorporation into the original 1441
construction of a sports facility under section 307.696 of the 1442
Revised Code; building and construction materials and services 1443
sold to a construction contractor for incorporation into real 1444
property outside this state if such materials and services, when 1445

1446 sold to a construction contractor in the state in which the real
1447 property is located for incorporation into real property in that
1448 state, would be exempt from a tax on sales levied by that state;
1449 building and construction materials for incorporation into a
1450 transportation facility pursuant to a public-private agreement
1451 entered into under sections 5501.70 to 5501.83 of the Revised
1452 Code; and, until one calendar year after the construction of a
1453 convention center that qualifies for property tax exemption
1454 under section 5709.084 of the Revised Code is completed,
1455 building and construction materials and services sold to a
1456 construction contractor for incorporation into the real property
1457 comprising that convention center;

1458 (14) Sales of ships or vessels or rail rolling stock used
1459 or to be used principally in interstate or foreign commerce, and
1460 repairs, alterations, fuel, and lubricants for such ships or
1461 vessels or rail rolling stock;

1462 (15) Sales to persons primarily engaged in any of the
1463 activities mentioned in division (B) (42) (a), (g), or (h) of this
1464 section, to persons engaged in making retail sales, or to
1465 persons who purchase for sale from a manufacturer tangible
1466 personal property that was produced by the manufacturer in
1467 accordance with specific designs provided by the purchaser, of
1468 packages, including material, labels, and parts for packages,
1469 and of machinery, equipment, and material for use primarily in
1470 packaging tangible personal property produced for sale,
1471 including any machinery, equipment, and supplies used to make
1472 labels or packages, to prepare packages or products for
1473 labeling, or to label packages or products, by or on the order
1474 of the person doing the packaging, or sold at retail. "Packages"
1475 includes bags, baskets, cartons, crates, boxes, cans, bottles,
1476 bindings, wrappings, and other similar devices and containers,

but does not include motor vehicles or bulk tanks, trailers, or 1477
similar devices attached to motor vehicles. "Packaging" means 1478
placing in a package. Division (B) (15) of this section does not 1479
apply to persons engaged in highway transportation for hire. 1480

(16) Sales of food to persons using supplemental nutrition 1481
assistance program benefits to purchase the food. As used in 1482
this division, "food" has the same meaning as in 7 U.S.C. 2012 1483
and federal regulations adopted pursuant to the Food and 1484
Nutrition Act of 2008. 1485

(17) Sales to persons engaged in farming, agriculture, 1486
horticulture, or floriculture, of tangible personal property for 1487
use or consumption primarily in the production by farming, 1488
agriculture, horticulture, or floriculture of other tangible 1489
personal property for use or consumption primarily in the 1490
production of tangible personal property for sale by farming, 1491
agriculture, horticulture, or floriculture; or material and 1492
parts for incorporation into any such tangible personal property 1493
for use or consumption in production; and of tangible personal 1494
property for such use or consumption in the conditioning or 1495
holding of products produced by and for such use, consumption, 1496
or sale by persons engaged in farming, agriculture, 1497
horticulture, or floriculture, except where such property is 1498
incorporated into real property; 1499

(18) Sales of drugs for a human being that may be 1500
dispensed only pursuant to a prescription; insulin as recognized 1501
in the official United States pharmacopoeia; urine and blood 1502
testing materials when used by diabetics or persons with 1503
hypoglycemia to test for glucose or acetone; hypodermic syringes 1504
and needles when used by diabetics for insulin injections; 1505
epoetin alfa when purchased for use in the treatment of persons 1506

with medical disease; hospital beds when purchased by hospitals, 1507
nursing homes, or other medical facilities; and medical oxygen 1508
and medical oxygen-dispensing equipment when purchased by 1509
hospitals, nursing homes, or other medical facilities; 1510

(19) Sales of prosthetic devices, durable medical 1511
equipment for home use, or mobility enhancing equipment, when 1512
made pursuant to a prescription and when such devices or 1513
equipment are for use by a human being. 1514

(20) Sales of emergency and fire protection vehicles and 1515
equipment to nonprofit organizations for use solely in providing 1516
fire protection and emergency services, including trauma care 1517
and emergency medical services, for political subdivisions of 1518
the state; 1519

(21) Sales of tangible personal property manufactured in 1520
this state, if sold by the manufacturer in this state to a 1521
retailer for use in the retail business of the retailer outside 1522
of this state and if possession is taken from the manufacturer 1523
by the purchaser within this state for the sole purpose of 1524
immediately removing the same from this state in a vehicle owned 1525
by the purchaser; 1526

(22) Sales of services provided by the state or any of its 1527
political subdivisions, agencies, instrumentalities, 1528
institutions, or authorities, or by governmental entities of the 1529
state or any of its political subdivisions, agencies, 1530
instrumentalities, institutions, or authorities; 1531

(23) Sales of motor vehicles to nonresidents of this state 1532
under the circumstances described in division (B) of section 1533
5739.029 of the Revised Code; 1534

(24) Sales to persons engaged in the preparation of eggs 1535

for sale of tangible personal property used or consumed directly 1536
in such preparation, including such tangible personal property 1537
used for cleaning, sanitizing, preserving, grading, sorting, and 1538
classifying by size; packages, including material and parts for 1539
packages, and machinery, equipment, and material for use in 1540
packaging eggs for sale; and handling and transportation 1541
equipment and parts therefor, except motor vehicles licensed to 1542
operate on public highways, used in intraplant or interplant 1543
transfers or shipment of eggs in the process of preparation for 1544
sale, when the plant or plants within or between which such 1545
transfers or shipments occur are operated by the same person. 1546
"Packages" includes containers, cases, baskets, flats, fillers, 1547
filler flats, cartons, closure materials, labels, and labeling 1548
materials, and "packaging" means placing therein. 1549

(25) (a) Sales of water to a consumer for residential use; 1550

(b) Sales of water by a nonprofit corporation engaged 1551
exclusively in the treatment, distribution, and sale of water to 1552
consumers, if such water is delivered to consumers through pipes 1553
or tubing. 1554

(26) Fees charged for inspection or reinspection of motor 1555
vehicles under section 3704.14 of the Revised Code; 1556

(27) Sales to persons licensed to conduct a food service 1557
operation pursuant to section 3717.43 of the Revised Code, of 1558
tangible personal property primarily used directly for the 1559
following: 1560

(a) To prepare food for human consumption for sale; 1561

(b) To preserve food that has been or will be prepared for 1562
human consumption for sale by the food service operator, not 1563
including tangible personal property used to display food for 1564

selection by the consumer; 1565

(c) To clean tangible personal property used to prepare or 1566
serve food for human consumption for sale. 1567

(28) Sales of animals by nonprofit animal adoption 1568
services or county humane societies; 1569

(29) Sales of services to a corporation described in 1570
division (A) of section 5709.72 of the Revised Code, and sales 1571
of tangible personal property that qualifies for exemption from 1572
taxation under section 5709.72 of the Revised Code; 1573

(30) Sales and installation of agricultural land tile, as 1574
defined in division (B) (5) (a) of section 5739.01 of the Revised 1575
Code; 1576

(31) Sales and erection or installation of portable grain 1577
bins, as defined in division (B) (5) (b) of section 5739.01 of the 1578
Revised Code; 1579

(32) The sale, lease, repair, and maintenance of, parts 1580
for, or items attached to or incorporated in, motor vehicles 1581
that are primarily used for transporting tangible personal 1582
property belonging to others by a person engaged in highway 1583
transportation for hire, except for packages and packaging used 1584
for the transportation of tangible personal property; 1585

(33) Sales to the state headquarters of any veterans' 1586
organization in this state that is either incorporated and 1587
issued a charter by the congress of the United States or is 1588
recognized by the United States veterans administration, for use 1589
by the headquarters; 1590

(34) Sales to a telecommunications service vendor, mobile 1591
telecommunications service vendor, or satellite broadcasting 1592

service vendor of tangible personal property and services used 1593
directly and primarily in transmitting, receiving, switching, or 1594
recording any interactive, one- or two-way electromagnetic 1595
communications, including voice, image, data, and information, 1596
through the use of any medium, including, but not limited to, 1597
poles, wires, cables, switching equipment, computers, and record 1598
storage devices and media, and component parts for the tangible 1599
personal property. The exemption provided in this division shall 1600
be in lieu of all other exemptions under division (B) (42) (a) or 1601
(n) of this section to which the vendor may otherwise be 1602
entitled, based upon the use of the thing purchased in providing 1603
the telecommunications, mobile telecommunications, or satellite 1604
broadcasting service. 1605

(35) (a) Sales where the purpose of the consumer is to use 1606
or consume the things transferred in making retail sales and 1607
consisting of newspaper inserts, catalogues, coupons, flyers, 1608
gift certificates, or other advertising material that prices and 1609
describes tangible personal property offered for retail sale. 1610

(b) Sales to direct marketing vendors of preliminary 1611
materials such as photographs, artwork, and typesetting that 1612
will be used in printing advertising material; and of printed 1613
matter that offers free merchandise or chances to win sweepstake 1614
prizes and that is mailed to potential customers with 1615
advertising material described in division (B) (35) (a) of this 1616
section; 1617

(c) Sales of equipment such as telephones, computers, 1618
facsimile machines, and similar tangible personal property 1619
primarily used to accept orders for direct marketing retail 1620
sales. 1621

(d) Sales of automatic food vending machines that preserve 1622

food with a shelf life of forty-five days or less by 1623
refrigeration and dispense it to the consumer. 1624

For purposes of division (B) (35) of this section, "direct 1625
marketing" means the method of selling where consumers order 1626
tangible personal property by United States mail, delivery 1627
service, or telecommunication and the vendor delivers or ships 1628
the tangible personal property sold to the consumer from a 1629
warehouse, catalogue distribution center, or similar fulfillment 1630
facility by means of the United States mail, delivery service, 1631
or common carrier. 1632

(36) Sales to a person engaged in the business of 1633
horticulture or producing livestock of materials to be 1634
incorporated into a horticulture structure or livestock 1635
structure; 1636

(37) Sales of personal computers, computer monitors, 1637
computer keyboards, modems, and other peripheral computer 1638
equipment to an individual who is licensed or certified to teach 1639
in an elementary or a secondary school in this state for use by 1640
that individual in preparation for teaching elementary or 1641
secondary school students; 1642

(38) Sales of tangible personal property that is not 1643
required to be registered or licensed under the laws of this 1644
state to a citizen of a foreign nation that is not a citizen of 1645
the United States, provided the property is delivered to a 1646
person in this state that is not a related member of the 1647
purchaser, is physically present in this state for the sole 1648
purpose of temporary storage and package consolidation, and is 1649
subsequently delivered to the purchaser at a delivery address in 1650
a foreign nation. As used in division (B) (38) of this section, 1651
"related member" has the same meaning as in section 5733.042 of 1652

the Revised Code, and "temporary storage" means the storage of 1653
tangible personal property for a period of not more than sixty 1654
days. 1655

(39) Sales of used manufactured homes and used mobile 1656
homes, as defined in section 5739.0210 of the Revised Code, made 1657
on or after January 1, 2000; 1658

(40) Sales of tangible personal property and services to a 1659
provider of electricity used or consumed directly and primarily 1660
in generating, transmitting, or distributing electricity for use 1661
by others, including property that is or is to be incorporated 1662
into and will become a part of the consumer's production, 1663
transmission, or distribution system and that retains its 1664
classification as tangible personal property after 1665
incorporation; fuel or power used in the production, 1666
transmission, or distribution of electricity; energy conversion 1667
equipment as defined in section 5727.01 of the Revised Code; and 1668
tangible personal property and services used in the repair and 1669
maintenance of the production, transmission, or distribution 1670
system, including only those motor vehicles as are specially 1671
designed and equipped for such use. The exemption provided in 1672
this division shall be in lieu of all other exemptions in 1673
division (B) (42) (a) or (n) of this section to which a provider 1674
of electricity may otherwise be entitled based on the use of the 1675
tangible personal property or service purchased in generating, 1676
transmitting, or distributing electricity. 1677

(41) Sales to a person providing services under division 1678
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 1679
personal property and services used directly and primarily in 1680
providing taxable services under that section. 1681

(42) Sales where the purpose of the purchaser is to do any 1682

of the following: 1683

(a) To incorporate the thing transferred as a material or 1684
a part into tangible personal property to be produced for sale 1685
by manufacturing, assembling, processing, or refining; or to use 1686
or consume the thing transferred directly in producing tangible 1687
personal property for sale by mining, including, without 1688
limitation, the extraction from the earth of all substances that 1689
are classed geologically as minerals, or directly in the 1690
rendition of a public utility service, except that the sales tax 1691
levied by this section shall be collected upon all meals, 1692
drinks, and food for human consumption sold when transporting 1693
persons. This paragraph does not exempt from "retail sale" or 1694
"sales at retail" the sale of tangible personal property that is 1695
to be incorporated into a structure or improvement to real 1696
property. 1697

(b) To hold the thing transferred as security for the 1698
performance of an obligation of the vendor; 1699

(c) To resell, hold, use, or consume the thing transferred 1700
as evidence of a contract of insurance; 1701

(d) To use or consume the thing directly in commercial 1702
fishing; 1703

(e) To incorporate the thing transferred as a material or 1704
a part into, or to use or consume the thing transferred directly 1705
in the production of, magazines distributed as controlled 1706
circulation publications; 1707

(f) To use or consume the thing transferred in the 1708
production and preparation in suitable condition for market and 1709
sale of printed, imprinted, overprinted, lithographic, 1710
multilithic, blueprinted, photostatic, or other productions or 1711

reproductions of written or graphic matter; 1712

(g) To use the thing transferred, as described in section 1713
5739.011 of the Revised Code, primarily in a manufacturing 1714
operation to produce tangible personal property for sale; 1715

(h) To use the benefit of a warranty, maintenance or 1716
service contract, or similar agreement, as described in division 1717
(B) (7) of section 5739.01 of the Revised Code, to repair or 1718
maintain tangible personal property, if all of the property that 1719
is the subject of the warranty, contract, or agreement would not 1720
be subject to the tax imposed by this section; 1721

(i) To use the thing transferred as qualified research and 1722
development equipment; 1723

(j) To use or consume the thing transferred primarily in 1724
storing, transporting, mailing, or otherwise handling purchased 1725
sales inventory in a warehouse, distribution center, or similar 1726
facility when the inventory is primarily distributed outside 1727
this state to retail stores of the person who owns or controls 1728
the warehouse, distribution center, or similar facility, to 1729
retail stores of an affiliated group of which that person is a 1730
member, or by means of direct marketing. This division does not 1731
apply to motor vehicles registered for operation on the public 1732
highways. As used in this division, "affiliated group" has the 1733
same meaning as in division (B) (3) (e) of section 5739.01 of the 1734
Revised Code and "direct marketing" has the same meaning as in 1735
division (B) (35) of this section. 1736

(k) To use or consume the thing transferred to fulfill a 1737
contractual obligation incurred by a warrantor pursuant to a 1738
warranty provided as a part of the price of the tangible 1739
personal property sold or by a vendor of a warranty, maintenance 1740

or service contract, or similar agreement the provision of which 1741
is defined as a sale under division (B) (7) of section 5739.01 of 1742
the Revised Code; 1743

(l) To use or consume the thing transferred in the 1744
production of a newspaper for distribution to the public; 1745

(m) To use tangible personal property to perform a service 1746
listed in division (B) (3) of section 5739.01 of the Revised 1747
Code, if the property is or is to be permanently transferred to 1748
the consumer of the service as an integral part of the 1749
performance of the service; 1750

(n) To use or consume the thing transferred primarily in 1751
producing tangible personal property for sale by farming, 1752
agriculture, horticulture, or floriculture. Persons engaged in 1753
rendering farming, agriculture, horticulture, or floriculture 1754
services for others are deemed engaged primarily in farming, 1755
agriculture, horticulture, or floriculture. This paragraph does 1756
not exempt from "retail sale" or "sales at retail" the sale of 1757
tangible personal property that is to be incorporated into a 1758
structure or improvement to real property. 1759

(o) To use or consume the thing transferred in acquiring, 1760
formatting, editing, storing, and disseminating data or 1761
information by electronic publishing; 1762

(p) To provide the thing transferred to the owner or 1763
lessee of a motor vehicle that is being repaired or serviced, if 1764
the thing transferred is a rented motor vehicle and the 1765
purchaser is reimbursed for the cost of the rented motor vehicle 1766
by a manufacturer, warrantor, or provider of a maintenance, 1767
service, or other similar contract or agreement, with respect to 1768
the motor vehicle that is being repaired or serviced; 1769

(q) To use or consume the thing transferred directly in 1770
production of crude oil and natural gas for sale. Persons 1771
engaged in rendering production services for others are deemed 1772
engaged in production. 1773

As used in division (B) (42) (q) of this section, 1774
"production" means operations and tangible personal property 1775
directly used to expose and evaluate an underground reservoir 1776
that may contain hydrocarbon resources, prepare the wellbore for 1777
production, and lift and control all substances yielded by the 1778
reservoir to the surface of the earth. 1779

(i) For the purposes of division (B) (42) (q) of this 1780
section, the "thing transferred" includes, but is not limited 1781
to, any of the following: 1782

(I) Services provided in the construction of permanent 1783
access roads, services provided in the construction of the well 1784
site, and services provided in the construction of temporary 1785
impoundments; 1786

(II) Equipment and rigging used for the specific purpose 1787
of creating with integrity a wellbore pathway to underground 1788
reservoirs; 1789

(III) Drilling and workover services used to work within a 1790
subsurface wellbore, and tangible personal property directly 1791
used in providing such services; 1792

(IV) Casing, tubulars, and float and centralizing 1793
equipment; 1794

(V) Trailers to which production equipment is attached; 1795

(VI) Well completion services, including cementing of 1796
casing, and tangible personal property directly used in 1797

providing such services;	1798
(VII) Wireline evaluation, mud logging, and perforation	1799
services, and tangible personal property directly used in	1800
providing such services;	1801
(VIII) Reservoir stimulation, hydraulic fracturing, and	1802
acidizing services, and tangible personal property directly used	1803
in providing such services, including all material pumped	1804
downhole;	1805
(IX) Pressure pumping equipment;	1806
(X) Artificial lift systems equipment;	1807
(XI) Wellhead equipment and well site equipment used to	1808
separate, stabilize, and control hydrocarbon phases and produced	1809
water;	1810
(XII) Tangible personal property directly used to control	1811
production equipment.	1812
(ii) For the purposes of division (B) (42) (q) of this	1813
section, the "thing transferred" does not include any of the	1814
following:	1815
(I) Tangible personal property used primarily in the	1816
exploration and production of any mineral resource regulated	1817
under Chapter 1509. of the Revised Code other than oil or gas;	1818
(II) Tangible personal property used primarily in storing,	1819
holding, or delivering solutions or chemicals used in well	1820
stimulation as defined in section 1509.01 of the Revised Code;	1821
(III) Tangible personal property used primarily in	1822
preparing, installing, or reclaiming foundations for drilling or	1823
pumping equipment or well stimulation material tanks;	1824

(IV) Tangible personal property used primarily in 1825
transporting, delivering, or removing equipment to or from the 1826
well site or storing such equipment before its use at the well 1827
site; 1828

(V) Tangible personal property used primarily in gathering 1829
operations occurring off the well site, including gathering 1830
pipelines transporting hydrocarbon gas or liquids away from a 1831
crude oil or natural gas production facility; 1832

(VI) Tangible personal property that is to be incorporated 1833
into a structure or improvement to real property; 1834

(VII) Well site fencing, lighting, or security systems; 1835

(VIII) Communication devices or services; 1836

(IX) Office supplies; 1837

(X) Trailers used as offices or lodging; 1838

(XI) Motor vehicles of any kind; 1839

(XII) Tangible personal property used primarily for the 1840
storage of drilling byproducts and fuel not used for production; 1841

(XIII) Tangible personal property used primarily as a 1842
safety device; 1843

(XIV) Data collection or monitoring devices; 1844

(XV) Access ladders, stairs, or platforms attached to 1845
storage tanks. 1846

The enumeration of tangible personal property in division 1847
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 1848
and any tangible personal property not so enumerated shall not 1849
necessarily be construed to be a "thing transferred" for the 1850
purposes of division (B) (42) (q) of this section. 1851

The commissioner shall adopt and promulgate rules under 1852
sections 119.01 to 119.13 of the Revised Code that the 1853
commissioner deems necessary to administer division (B) (42) (q) 1854
of this section. 1855

As used in division (B) (42) of this section, "thing" 1856
includes all transactions included in divisions (B) (3) (a), (b), 1857
and (e) of section 5739.01 of the Revised Code. 1858

(43) Sales conducted through a coin operated device that 1859
activates vacuum equipment or equipment that dispenses water, 1860
whether or not in combination with soap or other cleaning agents 1861
or wax, to the consumer for the consumer's use on the premises 1862
in washing, cleaning, or waxing a motor vehicle, provided no 1863
other personal property or personal service is provided as part 1864
of the transaction. 1865

(44) Sales of replacement and modification parts for 1866
engines, airframes, instruments, and interiors in, and paint 1867
for, aircraft used primarily in a fractional aircraft ownership 1868
program, and sales of services for the repair, modification, and 1869
maintenance of such aircraft, and machinery, equipment, and 1870
supplies primarily used to provide those services. 1871

(45) Sales of telecommunications service that is used 1872
directly and primarily to perform the functions of a call 1873
center. As used in this division, "call center" means any 1874
physical location where telephone calls are placed or received 1875
in high volume for the purpose of making sales, marketing, 1876
customer service, technical support, or other specialized 1877
business activity, and that employs at least fifty individuals 1878
that engage in call center activities on a full-time basis, or 1879
sufficient individuals to fill fifty full-time equivalent 1880
positions. 1881

(46) Sales by a telecommunications service vendor of 900 1882
service to a subscriber. This division does not apply to 1883
information services, as defined in division (FF) of section 1884
5739.01 of the Revised Code. 1885

(47) Sales of value-added non-voice data service. This 1886
division does not apply to any similar service that is not 1887
otherwise a telecommunications service. 1888

(48) (a) Sales of machinery, equipment, and software to a 1889
qualified direct selling entity for use in a warehouse or 1890
distribution center primarily for storing, transporting, or 1891
otherwise handling inventory that is held for sale to 1892
independent salespersons who operate as direct sellers and that 1893
is held primarily for distribution outside this state; 1894

(b) As used in division (B) (48) (a) of this section: 1895

(i) "Direct seller" means a person selling consumer 1896
products to individuals for personal or household use and not 1897
from a fixed retail location, including selling such product at 1898
in-home product demonstrations, parties, and other one-on-one 1899
selling. 1900

(ii) "Qualified direct selling entity" means an entity 1901
selling to direct sellers at the time the entity enters into a 1902
tax credit agreement with the tax credit authority pursuant to 1903
section 122.17 of the Revised Code, provided that the agreement 1904
was entered into on or after January 1, 2007. Neither 1905
contingencies relevant to the granting of, nor later 1906
developments with respect to, the tax credit shall impair the 1907
status of the qualified direct selling entity under division (B) 1908
(48) of this section after execution of the tax credit agreement 1909
by the tax credit authority. 1910

(c) Division (B)(48) of this section is limited to 1911
machinery, equipment, and software first stored, used, or 1912
consumed in this state within the period commencing June 24, 1913
2008, and ending on the date that is five years after that date. 1914

(49) Sales of materials, parts, equipment, or engines used 1915
in the repair or maintenance of aircraft or avionics systems of 1916
such aircraft, and sales of repair, remodeling, replacement, or 1917
maintenance services in this state performed on aircraft or on 1918
an aircraft's avionics, engine, or component materials or parts. 1919
As used in division (B)(49) of this section, "aircraft" means 1920
aircraft of more than six thousand pounds maximum certified 1921
takeoff weight or used exclusively in general aviation. 1922

(50) Sales of full flight simulators that are used for 1923
pilot or flight-crew training, sales of repair or replacement 1924
parts or components, and sales of repair or maintenance services 1925
for such full flight simulators. "Full flight simulator" means a 1926
replica of a specific type, or make, model, and series of 1927
aircraft cockpit. It includes the assemblage of equipment and 1928
computer programs necessary to represent aircraft operations in 1929
ground and flight conditions, a visual system providing an out- 1930
of-the-cockpit view, and a system that provides cues at least 1931
equivalent to those of a three-degree-of-freedom motion system, 1932
and has the full range of capabilities of the systems installed 1933
in the device as described in appendices A and B of part 60 of 1934
chapter 1 of title 14 of the Code of Federal Regulations. 1935

(51) Any transfer or lease of tangible personal property 1936
between the state and JobsOhio in accordance with section 1937
4313.02 of the Revised Code. 1938

(52) (a) Sales to a qualifying corporation. 1939

(b) As used in division (B) (52) of this section:	1940
(i) "Qualifying corporation" means a nonprofit corporation	1941
organized in this state that leases from an eligible county	1942
land, buildings, structures, fixtures, and improvements to the	1943
land that are part of or used in a public recreational facility	1944
used by a major league professional athletic team or a class A	1945
to class AAA minor league affiliate of a major league	1946
professional athletic team for a significant portion of the	1947
team's home schedule, provided the following apply:	1948
(I) The facility is leased from the eligible county	1949
pursuant to a lease that requires substantially all of the	1950
revenue from the operation of the business or activity conducted	1951
by the nonprofit corporation at the facility in excess of	1952
operating costs, capital expenditures, and reserves to be paid	1953
to the eligible county at least once per calendar year.	1954
(II) Upon dissolution and liquidation of the nonprofit	1955
corporation, all of its net assets are distributable to the	1956
board of commissioners of the eligible county from which the	1957
corporation leases the facility.	1958
(ii) "Eligible county" has the same meaning as in section	1959
307.695 of the Revised Code.	1960
(53) Sales to or by a cable service provider, video	1961
service provider, or radio or television broadcast station	1962
regulated by the federal government of cable service or	1963
programming, video service or programming, audio service or	1964
programming, or electronically transferred digital audiovisual	1965
or audio work. As used in division (B) (53) of this section,	1966
"cable service" and "cable service provider" have the same	1967
meanings as in section 1332.01 of the Revised Code, and "video	1968

service," "video service provider," and "video programming" have 1969
the same meanings as in section 1332.21 of the Revised Code. 1970

(54) Sales of a digital audio work electronically 1971
transferred for delivery through use of a machine, such as a 1972
juke box, that does all of the following: 1973

(a) Accepts direct payments to operate; 1974

(b) Automatically plays a selected digital audio work for 1975
a single play upon receipt of a payment described in division 1976
(B) (54) (a) of this section; 1977

(c) Operates exclusively for the purpose of playing 1978
digital audio works in a commercial establishment. 1979

(55) (a) Sales of the following occurring on the first 1980
Friday of August and the following Saturday and Sunday of each 1981
year, beginning in 2018: 1982

(i) An item of clothing, the price of which is seventy- 1983
five dollars or less; 1984

(ii) An item of school supplies, the price of which is 1985
twenty dollars or less; 1986

(iii) An item of school instructional material, the price 1987
of which is twenty dollars or less. 1988

(b) As used in division (B) (55) of this section: 1989

(i) "Clothing" means all human wearing apparel suitable 1990
for general use. "Clothing" includes, but is not limited to, 1991
aprons, household and shop; athletic supporters; baby receiving 1992
blankets; bathing suits and caps; beach capes and coats; belts 1993
and suspenders; boots; coats and jackets; costumes; diapers, 1994
children and adult, including disposable diapers; earmuffs; 1995

footlets; formal wear; garters and garter belts; girdles; gloves 1996
and mittens for general use; hats and caps; hosiery; insoles for 1997
shoes; lab coats; neckties; overshoes; pantyhose; rainwear; 1998
rubber pants; sandals; scarves; shoes and shoe laces; slippers; 1999
sneakers; socks and stockings; steel-toed shoes; underwear; 2000
uniforms, athletic and nonathletic; and wedding apparel. 2001
"Clothing" does not include items purchased for use in a trade 2002
or business; clothing accessories or equipment; protective 2003
equipment; sports or recreational equipment; belt buckles sold 2004
separately; costume masks sold separately; patches and emblems 2005
sold separately; sewing equipment and supplies including, but 2006
not limited to, knitting needles, patterns, pins, scissors, 2007
sewing machines, sewing needles, tape measures, and thimbles; 2008
and sewing materials that become part of "clothing" including, 2009
but not limited to, buttons, fabric, lace, thread, yarn, and 2010
zippers. 2011

(ii) "School supplies" means items commonly used by a 2012
student in a course of study. "School supplies" includes only 2013
the following items: binders; book bags; calculators; cellophane 2014
tape; blackboard chalk; compasses; composition books; crayons; 2015
erasers; folders, expandable, pocket, plastic, and manila; glue, 2016
paste, and paste sticks; highlighters; index cards; index card 2017
boxes; legal pads; lunch boxes; markers; notebooks; paper, 2018
loose-leaf ruled notebook paper, copy paper, graph paper, 2019
tracing paper, manila paper, colored paper, poster board, and 2020
construction paper; pencil boxes and other school supply boxes; 2021
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 2022
and writing tablets. "School supplies" does not include any item 2023
purchased for use in a trade or business. 2024

(iii) "School instructional material" means written 2025
material commonly used by a student in a course of study as a 2026

reference and to learn the subject being taught. "School
instructional material" includes only the following items:
reference books, reference maps and globes, textbooks, and
workbooks. "School instructional material" does not include any
material purchased for use in a trade or business.

(56) (a) Sales of diapers or incontinence underpads sold
pursuant to a prescription for the benefit of a medicaid
recipient with a diagnosis of incontinence, provided that the
medicaid program covers diapers or incontinence underpads as an
incontinence garment.

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

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

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

(57) Sales of feminine hygiene products.

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

(D) The levy of this tax on retail sales of recreation and
sports club service shall not prevent a municipal corporation
from levying any tax on recreation and sports club dues or on
any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer

under this chapter is not part of the price, but is a tax 2055
collection for the benefit of the state, and of counties levying 2056
an additional sales tax pursuant to section 5739.021 or 5739.026 2057
of the Revised Code and of transit authorities levying an 2058
additional sales tax pursuant to section 5739.023 of the Revised 2059
Code. Except for the discount authorized under section 5739.12 2060
of the Revised Code and the effects of any rounding pursuant to 2061
section 5703.055 of the Revised Code, no person other than the 2062
state or such a county or transit authority shall derive any 2063
benefit from the collection or payment of the tax levied by this 2064
section or section 5739.021, 5739.023, or 5739.026 of the 2065
Revised Code. 2066

Sec. 5739.03. (A) Except as provided in section 5739.05 or 2067
section 5739.051 of the Revised Code, the tax imposed by or 2068
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 2069
the Revised Code shall be paid by the consumer to the vendor, 2070
and each vendor shall collect from the consumer, as a trustee 2071
for the state of Ohio, the full and exact amount of the tax 2072
payable on each taxable sale, in the manner and at the times 2073
provided as follows: 2074

(1) If the price is, at or prior to the provision of the 2075
service or the delivery of possession of the thing sold to the 2076
consumer, paid in currency passed from hand to hand by the 2077
consumer or the consumer's agent to the vendor or the vendor's 2078
agent, the vendor or the vendor's agent shall collect the tax 2079
with and at the same time as the price; 2080

(2) If the price is otherwise paid or to be paid, the 2081
vendor or the vendor's agent shall, at or prior to the provision 2082
of the service or the delivery of possession of the thing sold 2083
to the consumer, charge the tax imposed by or pursuant to 2084

section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 2085
Code to the account of the consumer, which amount shall be 2086
collected by the vendor from the consumer in addition to the 2087
price. Such sale shall be reported on and the amount of the tax 2088
applicable thereto shall be remitted with the return for the 2089
period in which the sale is made, and the amount of the tax 2090
shall become a legal charge in favor of the vendor and against 2091
the consumer. 2092

(B) (1) (a) If any sale is claimed to be exempt under 2093
division (E) of section 5739.01 of the Revised Code or under 2094
section 5739.02 of the Revised Code, with the exception of 2095
divisions (B) (1) to (11), (28), ~~or (55)~~, or (57) of section 2096
5739.02 of the Revised Code, or if the consumer claims the 2097
transaction is not a taxable sale due to one or more of the 2098
exclusions provided under divisions (JJ) (1) to (5) of section 2099
5739.01 of the Revised Code, the consumer must provide to the 2100
vendor, and the vendor must obtain from the consumer, a 2101
certificate specifying the reason that the sale is not legally 2102
subject to the tax. The certificate shall be in such form, and 2103
shall be provided either in a hard copy form or electronic form, 2104
as the tax commissioner prescribes. 2105

(b) A vendor that obtains a fully completed exemption 2106
certificate from a consumer is relieved of liability for 2107
collecting and remitting tax on any sale covered by that 2108
certificate. If it is determined the exemption was improperly 2109
claimed, the consumer shall be liable for any tax due on that 2110
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 2111
Chapter 5741. of the Revised Code. Relief under this division 2112
from liability does not apply to any of the following: 2113

(i) A vendor that fraudulently fails to collect tax; 2114

(ii) A vendor that solicits consumers to participate in 2115
the unlawful claim of an exemption; 2116

(iii) A vendor that accepts an exemption certificate from 2117
a consumer that claims an exemption based on who purchases or 2118
who sells property or a service, when the subject of the 2119
transaction sought to be covered by the exemption certificate is 2120
actually received by the consumer at a location operated by the 2121
vendor in this state, and this state has posted to its web site 2122
an exemption certificate form that clearly and affirmatively 2123
indicates that the claimed exemption is not available in this 2124
state; 2125

(iv) A vendor that accepts an exemption certificate from a 2126
consumer who claims a multiple points of use exemption under 2127
division (D) of section 5739.033 of the Revised Code, if the 2128
item purchased is tangible personal property, other than 2129
prewritten computer software. 2130

(2) The vendor shall maintain records, including exemption 2131
certificates, of all sales on which a consumer has claimed an 2132
exemption, and provide them to the tax commissioner on request. 2133

(3) The tax commissioner may establish an identification 2134
system whereby the commissioner issues an identification number 2135
to a consumer that is exempt from payment of the tax. The 2136
consumer must present the number to the vendor, if any sale is 2137
claimed to be exempt as provided in this section. 2138

(4) If no certificate is provided or obtained within 2139
ninety days after the date on which such sale is consummated, it 2140
shall be presumed that the tax applies. Failure to have so 2141
provided or obtained a certificate shall not preclude a vendor, 2142
within one hundred twenty days after the tax commissioner gives 2143

written notice of intent to levy an assessment, from either 2144
establishing that the sale is not subject to the tax, or 2145
obtaining, in good faith, a fully completed exemption 2146
certificate. 2147

(5) Certificates need not be obtained nor provided where 2148
the identity of the consumer is such that the transaction is 2149
never subject to the tax imposed or where the item of tangible 2150
personal property sold or the service provided is never subject 2151
to the tax imposed, regardless of use, or when the sale is in 2152
interstate commerce. 2153

(6) If a transaction is claimed to be exempt under 2154
division (B) (13) of section 5739.02 of the Revised Code, the 2155
contractor shall obtain certification of the claimed exemption 2156
from the contractee. This certification shall be in addition to 2157
an exemption certificate provided by the contractor to the 2158
vendor. A contractee that provides a certification under this 2159
division shall be deemed to be the consumer of all items 2160
purchased by the contractor under the claim of exemption, if it 2161
is subsequently determined that the exemption is not properly 2162
claimed. The certification shall be in such form as the tax 2163
commissioner prescribes. 2164

(C) As used in this division, "contractee" means a person 2165
who seeks to enter or enters into a contract or agreement with a 2166
contractor or vendor for the construction of real property or 2167
for the sale and installation onto real property of tangible 2168
personal property. 2169

Any contractor or vendor may request from any contractee a 2170
certification of what portion of the property to be transferred 2171
under such contract or agreement is to be incorporated into the 2172
realty and what portion will retain its status as tangible 2173

personal property after installation is completed. The 2174
contractor or vendor shall request the certification by 2175
certified mail delivered to the contractee, return receipt 2176
requested. Upon receipt of such request and prior to entering 2177
into the contract or agreement, the contractee shall provide to 2178
the contractor or vendor a certification sufficiently detailed 2179
to enable the contractor or vendor to ascertain the resulting 2180
classification of all materials purchased or fabricated by the 2181
contractor or vendor and transferred to the contractee. This 2182
requirement applies to a contractee regardless of whether the 2183
contractee holds a direct payment permit under section 5739.031 2184
of the Revised Code or provides to the contractor or vendor an 2185
exemption certificate as provided under this section. 2186

For the purposes of the taxes levied by this chapter and 2187
Chapter 5741. of the Revised Code, the contractor or vendor may 2188
in good faith rely on the contractee's certification. 2189
Notwithstanding division (B) of section 5739.01 of the Revised 2190
Code, if the tax commissioner determines that certain property 2191
certified by the contractee as tangible personal property 2192
pursuant to this division is, in fact, real property, the 2193
contractee shall be considered to be the consumer of all 2194
materials so incorporated into that real property and shall be 2195
liable for the applicable tax, and the contractor or vendor 2196
shall be excused from any liability on those materials. 2197

If a contractee fails to provide such certification upon 2198
the request of the contractor or vendor, the contractor or 2199
vendor shall comply with the provisions of this chapter and 2200
Chapter 5741. of the Revised Code without the certification. If 2201
the tax commissioner determines that such compliance has been 2202
performed in good faith and that certain property treated as 2203
tangible personal property by the contractor or vendor is, in 2204

fact, real property, the contractee shall be considered to be 2205
the consumer of all materials so incorporated into that real 2206
property and shall be liable for the applicable tax, and the 2207
construction contractor or vendor shall be excused from any 2208
liability on those materials. 2209

This division does not apply to any contract or agreement 2210
where the tax commissioner determines as a fact that a 2211
certification under this division was made solely on the 2212
decision or advice of the contractor or vendor. 2213

(D) Notwithstanding division (B) of section 5739.01 of the 2214
Revised Code, whenever the total rate of tax imposed under this 2215
chapter is increased after the date after a construction 2216
contract is entered into, the contractee shall reimburse the 2217
construction contractor for any additional tax paid on tangible 2218
property consumed or services received pursuant to the contract. 2219

(E) A vendor who files a petition for reassessment 2220
contesting the assessment of tax on sales for which the vendor 2221
obtained no valid exemption certificates and for which the 2222
vendor failed to establish that the sales were properly not 2223
subject to the tax during the one-hundred-twenty-day period 2224
allowed under division (B) of this section, may present to the 2225
tax commissioner additional evidence to prove that the sales 2226
were properly subject to a claim of exception or exemption. The 2227
vendor shall file such evidence within ninety days of the 2228
receipt by the vendor of the notice of assessment, except that, 2229
upon application and for reasonable cause, the period for 2230
submitting such evidence shall be extended thirty days. 2231

The commissioner shall consider such additional evidence 2232
in reaching the final determination on the assessment and 2233
petition for reassessment. 2234

(F) Whenever a vendor refunds the price, minus any 2235
separately stated delivery charge, of an item of tangible 2236
personal property on which the tax imposed under this chapter 2237
has been paid, the vendor shall also refund the amount of tax 2238
paid, minus the amount of tax attributable to the delivery 2239
charge. 2240

Sec. 5747.01. Except as otherwise expressly provided or 2241
clearly appearing from the context, any term used in this 2242
chapter that is not otherwise defined in this section has the 2243
same meaning as when used in a comparable context in the laws of 2244
the United States relating to federal income taxes or if not 2245
used in a comparable context in those laws, has the same meaning 2246
as in section 5733.40 of the Revised Code. Any reference in this 2247
chapter to the Internal Revenue Code includes other laws of the 2248
United States relating to federal income taxes. 2249

As used in this chapter: 2250

(A) "Adjusted gross income" or "Ohio adjusted gross 2251
income" means federal adjusted gross income, as defined and used 2252
in the Internal Revenue Code, adjusted as provided in this 2253
section: 2254

(1) Add interest or dividends on obligations or securities 2255
of any state or of any political subdivision or authority of any 2256
state, other than this state and its subdivisions and 2257
authorities. 2258

(2) Add interest or dividends on obligations of any 2259
authority, commission, instrumentality, territory, or possession 2260
of the United States to the extent that the interest or 2261
dividends are exempt from federal income taxes but not from 2262
state income taxes. 2263

(3) Deduct interest or dividends on obligations of the 2264
United States and its territories and possessions or of any 2265
authority, commission, or instrumentality of the United States 2266
to the extent that the interest or dividends are included in 2267
federal adjusted gross income but exempt from state income taxes 2268
under the laws of the United States. 2269

(4) Deduct disability and survivor's benefits to the 2270
extent included in federal adjusted gross income. 2271

(5) Deduct benefits under Title II of the Social Security 2272
Act and tier 1 railroad retirement benefits to the extent 2273
included in federal adjusted gross income under section 86 of 2274
the Internal Revenue Code. 2275

(6) In the case of a taxpayer who is a beneficiary of a 2276
trust that makes an accumulation distribution as defined in 2277
section 665 of the Internal Revenue Code, add, for the 2278
beneficiary's taxable years beginning before 2002, the portion, 2279
if any, of such distribution that does not exceed the 2280
undistributed net income of the trust for the three taxable 2281
years preceding the taxable year in which the distribution is 2282
made to the extent that the portion was not included in the 2283
trust's taxable income for any of the trust's taxable years 2284
beginning in 2002 or thereafter. "Undistributed net income of a 2285
trust" means the taxable income of the trust increased by (a) (i) 2286
the additions to adjusted gross income required under division 2287
(A) of this section and (ii) the personal exemptions allowed to 2288
the trust pursuant to section 642(b) of the Internal Revenue 2289
Code, and decreased by (b) (i) the deductions to adjusted gross 2290
income required under division (A) of this section, (ii) the 2291
amount of federal income taxes attributable to such income, and 2292
(iii) the amount of taxable income that has been included in the 2293

adjusted gross income of a beneficiary by reason of a prior 2294
accumulation distribution. Any undistributed net income included 2295
in the adjusted gross income of a beneficiary shall reduce the 2296
undistributed net income of the trust commencing with the 2297
earliest years of the accumulation period. 2298

(7) Deduct the amount of wages and salaries, if any, not 2299
otherwise allowable as a deduction but that would have been 2300
allowable as a deduction in computing federal adjusted gross 2301
income for the taxable year, had the targeted jobs credit 2302
allowed and determined under sections 38, 51, and 52 of the 2303
Internal Revenue Code not been in effect. 2304

(8) Deduct any interest or interest equivalent on public 2305
obligations and purchase obligations to the extent that the 2306
interest or interest equivalent is included in federal adjusted 2307
gross income. 2308

(9) Add any loss or deduct any gain resulting from the 2309
sale, exchange, or other disposition of public obligations to 2310
the extent that the loss has been deducted or the gain has been 2311
included in computing federal adjusted gross income. 2312

(10) Deduct or add amounts, as provided under section 2313
5747.70 of the Revised Code, related to contributions to 2314
variable college savings program accounts made or tuition units 2315
purchased pursuant to Chapter 3334. of the Revised Code. 2316

(11)(a) Deduct, to the extent not otherwise allowable as a 2317
deduction or exclusion in computing federal or Ohio adjusted 2318
gross income for the taxable year, the amount the taxpayer paid 2319
during the taxable year for medical care insurance and qualified 2320
long-term care insurance for the taxpayer, the taxpayer's 2321
spouse, and dependents. No deduction for medical care insurance 2322

under division (A)(11)(a) of this section shall be allowed 2323
either to any taxpayer who is eligible to participate in any 2324
subsidized health plan maintained by any employer of the 2325
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 2326
entitled to, or on application would be entitled to, benefits 2327
under part A of Title XVIII of the "Social Security Act," 49 2328
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 2329
division (A)(11)(a) of this section, "subsidized health plan" 2330
means a health plan for which the employer pays any portion of 2331
the plan's cost. The deduction allowed under division (A)(11)(a) 2332
of this section shall be the net of any related premium refunds, 2333
related premium reimbursements, or related insurance premium 2334
dividends received during the taxable year. 2335

(b) Deduct, to the extent not otherwise deducted or 2336
excluded in computing federal or Ohio adjusted gross income 2337
during the taxable year, the amount the taxpayer paid during the 2338
taxable year, not compensated for by any insurance or otherwise, 2339
for medical care of the taxpayer, the taxpayer's spouse, and 2340
dependents, to the extent the expenses exceed seven and one-half 2341
per cent of the taxpayer's federal adjusted gross income. 2342

(c) Deduct, to the extent not otherwise deducted or 2343
excluded in computing federal or Ohio adjusted gross income, any 2344
amount included in federal adjusted gross income under section 2345
105 or not excluded under section 106 of the Internal Revenue 2346
Code solely because it relates to an accident and health plan 2347
for a person who otherwise would be a "qualifying relative" and 2348
thus a "dependent" under section 152 of the Internal Revenue 2349
Code but for the fact that the person fails to meet the income 2350
and support limitations under section 152(d)(1)(B) and (C) of 2351
the Internal Revenue Code. 2352

(d) For purposes of division (A)(11) of this section, 2353
"medical care" has the meaning given in section 213 of the 2354
Internal Revenue Code, subject to the special rules, 2355
limitations, and exclusions set forth therein, and "qualified 2356
long-term care" has the same meaning given in section 7702B(c) 2357
of the Internal Revenue Code. Solely for purposes of divisions 2358
(A)(11)(a) and (c) of this section, "dependent" includes a 2359
person who otherwise would be a "qualifying relative" and thus a 2360
"dependent" under section 152 of the Internal Revenue Code but 2361
for the fact that the person fails to meet the income and 2362
support limitations under section 152(d)(1)(B) and (C) of the 2363
Internal Revenue Code. 2364

(12)(a) Deduct any amount included in federal adjusted 2365
gross income solely because the amount represents a 2366
reimbursement or refund of expenses that in any year the 2367
taxpayer had deducted as an itemized deduction pursuant to 2368
section 63 of the Internal Revenue Code and applicable United 2369
States department of the treasury regulations. The deduction 2370
otherwise allowed under division (A)(12)(a) of this section 2371
shall be reduced to the extent the reimbursement is attributable 2372
to an amount the taxpayer deducted under this section in any 2373
taxable year. 2374

(b) Add any amount not otherwise included in Ohio adjusted 2375
gross income for any taxable year to the extent that the amount 2376
is attributable to the recovery during the taxable year of any 2377
amount deducted or excluded in computing federal or Ohio 2378
adjusted gross income in any taxable year. 2379

(13) Deduct any portion of the deduction described in 2380
section 1341(a)(2) of the Internal Revenue Code, for repaying 2381
previously reported income received under a claim of right, that 2382

meets both of the following requirements: 2383

(a) It is allowable for repayment of an item that was 2384
included in the taxpayer's adjusted gross income for a prior 2385
taxable year and did not qualify for a credit under division (A) 2386
or (B) of section 5747.05 of the Revised Code for that year; 2387

(b) It does not otherwise reduce the taxpayer's adjusted 2388
gross income for the current or any other taxable year. 2389

(14) Deduct an amount equal to the deposits made to, and 2390
net investment earnings of, a medical savings account during the 2391
taxable year, in accordance with section 3924.66 of the Revised 2392
Code. The deduction allowed by division (A) (14) of this section 2393
does not apply to medical savings account deposits and earnings 2394
otherwise deducted or excluded for the current or any other 2395
taxable year from the taxpayer's federal adjusted gross income. 2396

(15) (a) Add an amount equal to the funds withdrawn from a 2397
medical savings account during the taxable year, and the net 2398
investment earnings on those funds, when the funds withdrawn 2399
were used for any purpose other than to reimburse an account 2400
holder for, or to pay, eligible medical expenses, in accordance 2401
with section 3924.66 of the Revised Code; 2402

(b) Add the amounts distributed from a medical savings 2403
account under division (A) (2) of section 3924.68 of the Revised 2404
Code during the taxable year. 2405

(16) Add any amount claimed as a credit under section 2406
5747.059 of the Revised Code to the extent that such amount 2407
satisfies either of the following: 2408

(a) The amount was deducted or excluded from the 2409
computation of the taxpayer's federal adjusted gross income as 2410
required to be reported for the taxpayer's taxable year under 2411

the Internal Revenue Code; 2412

(b) The amount resulted in a reduction of the taxpayer's 2413
federal adjusted gross income as required to be reported for any 2414
of the taxpayer's taxable years under the Internal Revenue Code. 2415

(17) Deduct the amount contributed by the taxpayer to an 2416
individual development account program established by a county 2417
department of job and family services pursuant to sections 2418
329.11 to 329.14 of the Revised Code for the purpose of matching 2419
funds deposited by program participants. On request of the tax 2420
commissioner, the taxpayer shall provide any information that, 2421
in the tax commissioner's opinion, is necessary to establish the 2422
amount deducted under division (A) (17) of this section. 2423

(18) Beginning in taxable year 2001 but not for any 2424
taxable year beginning after December 31, 2005, if the taxpayer 2425
is married and files a joint return and the combined federal 2426
adjusted gross income of the taxpayer and the taxpayer's spouse 2427
for the taxable year does not exceed one hundred thousand 2428
dollars, or if the taxpayer is single and has a federal adjusted 2429
gross income for the taxable year not exceeding fifty thousand 2430
dollars, deduct amounts paid during the taxable year for 2431
qualified tuition and fees paid to an eligible institution for 2432
the taxpayer, the taxpayer's spouse, or any dependent of the 2433
taxpayer, who is a resident of this state and is enrolled in or 2434
attending a program that culminates in a degree or diploma at an 2435
eligible institution. The deduction may be claimed only to the 2436
extent that qualified tuition and fees are not otherwise 2437
deducted or excluded for any taxable year from federal or Ohio 2438
adjusted gross income. The deduction may not be claimed for 2439
educational expenses for which the taxpayer claims a credit 2440
under section 5747.27 of the Revised Code. 2441

(19) Add any reimbursement received during the taxable 2442
year of any amount the taxpayer deducted under division (A) (18) 2443
of this section in any previous taxable year to the extent the 2444
amount is not otherwise included in Ohio adjusted gross income. 2445

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 2446
(v) of this section, add five-sixths of the amount of 2447
depreciation expense allowed by subsection (k) of section 168 of 2448
the Internal Revenue Code, including the taxpayer's 2449
proportionate or distributive share of the amount of 2450
depreciation expense allowed by that subsection to a pass- 2451
through entity in which the taxpayer has a direct or indirect 2452
ownership interest. 2453

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 2454
of this section, add five-sixths of the amount of qualifying 2455
section 179 depreciation expense, including the taxpayer's 2456
proportionate or distributive share of the amount of qualifying 2457
section 179 depreciation expense allowed to any pass-through 2458
entity in which the taxpayer has a direct or indirect ownership 2459
interest. 2460

(iii) Subject to division (A) (20) (a) (v) of this section, 2461
for taxable years beginning in 2012 or thereafter, if the 2462
increase in income taxes withheld by the taxpayer is equal to or 2463
greater than ten per cent of income taxes withheld by the 2464
taxpayer during the taxpayer's immediately preceding taxable 2465
year, "two-thirds" shall be substituted for "five-sixths" for 2466
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2467

(iv) Subject to division (A) (20) (a) (v) of this section, 2468
for taxable years beginning in 2012 or thereafter, a taxpayer is 2469
not required to add an amount under division (A) (20) of this 2470
section if the increase in income taxes withheld by the taxpayer 2471

and by any pass-through entity in which the taxpayer has a 2472
direct or indirect ownership interest is equal to or greater 2473
than the sum of (I) the amount of qualifying section 179 2474
depreciation expense and (II) the amount of depreciation expense 2475
allowed to the taxpayer by subsection (k) of section 168 of the 2476
Internal Revenue Code, and including the taxpayer's 2477
proportionate or distributive shares of such amounts allowed to 2478
any such pass-through entities. 2479

(v) If a taxpayer directly or indirectly incurs a net 2480
operating loss for the taxable year for federal income tax 2481
purposes, to the extent such loss resulted from depreciation 2482
expense allowed by subsection (k) of section 168 of the Internal 2483
Revenue Code and by qualifying section 179 depreciation expense, 2484
"the entire" shall be substituted for "five-sixths of the" for 2485
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 2486

The tax commissioner, under procedures established by the 2487
commissioner, may waive the add-backs related to a pass-through 2488
entity if the taxpayer owns, directly or indirectly, less than 2489
five per cent of the pass-through entity. 2490

(b) Nothing in division (A) (20) of this section shall be 2491
construed to adjust or modify the adjusted basis of any asset. 2492

(c) To the extent the add-back required under division (A) 2493
(20) (a) of this section is attributable to property generating 2494
nonbusiness income or loss allocated under section 5747.20 of 2495
the Revised Code, the add-back shall be situated to the same 2496
location as the nonbusiness income or loss generated by the 2497
property for the purpose of determining the credit under 2498
division (A) of section 5747.05 of the Revised Code. Otherwise, 2499
the add-back shall be apportioned, subject to one or more of the 2500
four alternative methods of apportionment enumerated in section 2501

5747.21 of the Revised Code. 2502

(d) For the purposes of division (A) (20) (a) (v) of this 2503
section, net operating loss carryback and carryforward shall not 2504
include the allowance of any net operating loss deduction 2505
carryback or carryforward to the taxable year to the extent such 2506
loss resulted from depreciation allowed by section 168(k) of the 2507
Internal Revenue Code and by the qualifying section 179 2508
depreciation expense amount. 2509

(e) For the purposes of divisions (A) (20) and (21) of this 2510
section: 2511

(i) "Income taxes withheld" means the total amount 2512
withheld and remitted under sections 5747.06 and 5747.07 of the 2513
Revised Code by an employer during the employer's taxable year. 2514

(ii) "Increase in income taxes withheld" means the amount 2515
by which the amount of income taxes withheld by an employer 2516
during the employer's current taxable year exceeds the amount of 2517
income taxes withheld by that employer during the employer's 2518
immediately preceding taxable year. 2519

(iii) "Qualifying section 179 depreciation expense" means 2520
the difference between (I) the amount of depreciation expense 2521
directly or indirectly allowed to a taxpayer under section 179 2522
of the Internal Revised Code, and (II) the amount of 2523
depreciation expense directly or indirectly allowed to the 2524
taxpayer under section 179 of the Internal Revenue Code as that 2525
section existed on December 31, 2002. 2526

(21) (a) If the taxpayer was required to add an amount 2527
under division (A) (20) (a) of this section for a taxable year, 2528
deduct one of the following: 2529

(i) One-fifth of the amount so added for each of the five 2530

succeeding taxable years if the amount so added was five-sixths 2531
of qualifying section 179 depreciation expense or depreciation 2532
expense allowed by subsection (k) of section 168 of the Internal 2533
Revenue Code; 2534

(ii) One-half of the amount so added for each of the two 2535
succeeding taxable years if the amount so added was two-thirds 2536
of such depreciation expense; 2537

(iii) One-sixth of the amount so added for each of the six 2538
succeeding taxable years if the entire amount of such 2539
depreciation expense was so added. 2540

(b) If the amount deducted under division (A) (21) (a) of 2541
this section is attributable to an add-back allocated under 2542
division (A) (20) (c) of this section, the amount deducted shall 2543
be situated to the same location. Otherwise, the add-back shall 2544
be apportioned using the apportionment factors for the taxable 2545
year in which the deduction is taken, subject to one or more of 2546
the four alternative methods of apportionment enumerated in 2547
section 5747.21 of the Revised Code. 2548

(c) No deduction is available under division (A) (21) (a) of 2549
this section with regard to any depreciation allowed by section 2550
168(k) of the Internal Revenue Code and by the qualifying 2551
section 179 depreciation expense amount to the extent that such 2552
depreciation results in or increases a federal net operating 2553
loss carryback or carryforward. If no such deduction is 2554
available for a taxable year, the taxpayer may carry forward the 2555
amount not deducted in such taxable year to the next taxable 2556
year and add that amount to any deduction otherwise available 2557
under division (A) (21) (a) of this section for that next taxable 2558
year. The carryforward of amounts not so deducted shall continue 2559
until the entire addition required by division (A) (20) (a) of 2560

this section has been deducted. 2561

(d) No refund shall be allowed as a result of adjustments 2562
made by division (A) (21) of this section. 2563

(22) Deduct, to the extent not otherwise deducted or 2564
excluded in computing federal or Ohio adjusted gross income for 2565
the taxable year, the amount the taxpayer received during the 2566
taxable year as reimbursement for life insurance premiums under 2567
section 5919.31 of the Revised Code. 2568

(23) Deduct, to the extent not otherwise deducted or 2569
excluded in computing federal or Ohio adjusted gross income for 2570
the taxable year, the amount the taxpayer received during the 2571
taxable year as a death benefit paid by the adjutant general 2572
under section 5919.33 of the Revised Code. 2573

(24) Deduct, to the extent included in federal adjusted 2574
gross income and not otherwise allowable as a deduction or 2575
exclusion in computing federal or Ohio adjusted gross income for 2576
the taxable year, military pay and allowances received by the 2577
taxpayer during the taxable year for active duty service in the 2578
United States army, air force, navy, marine corps, or coast 2579
guard or reserve components thereof or the national guard. The 2580
deduction may not be claimed for military pay and allowances 2581
received by the taxpayer while the taxpayer is stationed in this 2582
state. 2583

(25) Deduct, to the extent not otherwise allowable as a 2584
deduction or exclusion in computing federal or Ohio adjusted 2585
gross income for the taxable year and not otherwise compensated 2586
for by any other source, the amount of qualified organ donation 2587
expenses incurred by the taxpayer during the taxable year, not 2588
to exceed ten thousand dollars. A taxpayer may deduct qualified 2589

organ donation expenses only once for all taxable years 2590
beginning with taxable years beginning in 2007. 2591

For the purposes of division (A) (25) of this section: 2592

(a) "Human organ" means all or any portion of a human 2593
liver, pancreas, kidney, intestine, or lung, and any portion of 2594
human bone marrow. 2595

(b) "Qualified organ donation expenses" means travel 2596
expenses, lodging expenses, and wages and salary forgone by a 2597
taxpayer in connection with the taxpayer's donation, while 2598
living, of one or more of the taxpayer's human organs to another 2599
human being. 2600

(26) Deduct, to the extent not otherwise deducted or 2601
excluded in computing federal or Ohio adjusted gross income for 2602
the taxable year, amounts received by the taxpayer as retired 2603
personnel pay for service in the uniformed services or reserve 2604
components thereof, or the national guard, or received by the 2605
surviving spouse or former spouse of such a taxpayer under the 2606
survivor benefit plan on account of such a taxpayer's death. If 2607
the taxpayer receives income on account of retirement paid under 2608
the federal civil service retirement system or federal employees 2609
retirement system, or under any successor retirement program 2610
enacted by the congress of the United States that is established 2611
and maintained for retired employees of the United States 2612
government, and such retirement income is based, in whole or in 2613
part, on credit for the taxpayer's uniformed service, the 2614
deduction allowed under this division shall include only that 2615
portion of such retirement income that is attributable to the 2616
taxpayer's uniformed service, to the extent that portion of such 2617
retirement income is otherwise included in federal adjusted 2618
gross income and is not otherwise deducted under this section. 2619

Any amount deducted under division (A) (26) of this section is 2620
not included in a taxpayer's adjusted gross income for the 2621
purposes of section 5747.055 of the Revised Code. No amount may 2622
be deducted under division (A) (26) of this section on the basis 2623
of which a credit was claimed under section 5747.055 of the 2624
Revised Code. 2625

(27) Deduct, to the extent not otherwise deducted or 2626
excluded in computing federal or Ohio adjusted gross income for 2627
the taxable year, the amount the taxpayer received during the 2628
taxable year from the military injury relief fund created in 2629
section 5902.05 of the Revised Code. 2630

(28) Deduct, to the extent not otherwise deducted or 2631
excluded in computing federal or Ohio adjusted gross income for 2632
the taxable year, the amount the taxpayer received as a veterans 2633
bonus during the taxable year from the Ohio department of 2634
veterans services as authorized by Section 2r of Article VIII, 2635
Ohio Constitution. 2636

(29) Deduct, to the extent not otherwise deducted or 2637
excluded in computing federal or Ohio adjusted gross income for 2638
the taxable year, any income derived from a transfer agreement 2639
or from the enterprise transferred under that agreement under 2640
section 4313.02 of the Revised Code. 2641

(30) Deduct, to the extent not otherwise deducted or 2642
excluded in computing federal or Ohio adjusted gross income for 2643
the taxable year, Ohio college opportunity or federal Pell grant 2644
amounts received by the taxpayer or the taxpayer's spouse or 2645
dependent pursuant to section 3333.122 of the Revised Code or 20 2646
U.S.C. 1070a, et seq., and used to pay room or board furnished 2647
by the educational institution for which the grant was awarded 2648
at the institution's facilities, including meal plans 2649

administered by the institution. For the purposes of this 2650
division, receipt of a grant includes the distribution of a 2651
grant directly to an educational institution and the crediting 2652
of the grant to the enrollee's account with the institution. 2653

(31) Deduct from the portion of an individual's federal 2654
adjusted gross income that is ~~eligible~~-business income, to the 2655
extent not otherwise deducted or excluded in computing federal 2656
adjusted gross income for the taxable year, one hundred twenty- 2657
five thousand dollars for each spouse if spouses file separate 2658
returns under section 5747.08 of the Revised Code or two hundred 2659
fifty thousand dollars for all other individuals. 2660

(32) Deduct, as provided under section 5747.78 of the 2661
Revised Code, contributions to ABLE savings accounts made in 2662
accordance with sections 113.50 to 113.56 of the Revised Code. 2663

(33) (a) Deduct, to the extent not otherwise deducted or 2664
excluded in computing federal or Ohio adjusted gross income 2665
during the taxable year, all of the following: 2666

(i) Compensation paid to a qualifying employee described 2667
in division (A) (14) (a) of section 5703.94 of the Revised Code to 2668
the extent such compensation is for disaster work conducted in 2669
this state during a disaster response period pursuant to a 2670
qualifying solicitation received by the employee's employer; 2671

(ii) Compensation paid to a qualifying employee described 2672
in division (A) (14) (b) of section 5703.94 of the Revised Code to 2673
the extent such compensation is for disaster work conducted in 2674
this state by the employee during the disaster response period 2675
on critical infrastructure owned or used by the employee's 2676
employer; 2677

(iii) Income received by an out-of-state disaster business 2678

for disaster work conducted in this state during a disaster 2679
response period, or, if the out-of-state disaster business is a 2680
pass-through entity, a taxpayer's distributive share of the 2681
pass-through entity's income from the business conducting 2682
disaster work in this state during a disaster response period, 2683
if, in either case, the disaster work is conducted pursuant to a 2684
qualifying solicitation received by the business. 2685

(b) All terms used in division (A) (33) of this section 2686
have the same meanings as in section 5703.94 of the Revised 2687
Code. 2688

(34) For a taxpayer who is a qualifying Ohio educator, 2689
deduct, to the extent not otherwise deducted or excluded in 2690
computing federal or Ohio adjusted gross income for the taxable 2691
year, the lesser of two hundred fifty dollars or the amount of 2692
expenses described in subsections (a) (2) (D) (i) and (ii) of 2693
section 62 of the Internal Revenue Code paid or incurred by the 2694
taxpayer during the taxpayer's taxable year in excess of the 2695
amount the taxpayer is authorized to deduct for that taxable 2696
year under subsection (a) (2) (D) of that section. 2697

(B) ~~(1)~~—"Business income" means income, including gain or 2698
loss, arising from transactions, activities, and sources in the 2699
regular course of a trade or business and includes income, gain, 2700
or loss from real property, tangible property, and intangible 2701
property if the acquisition, rental, management, and disposition 2702
of the property constitute integral parts of the regular course 2703
of a trade or business operation. "Business income" includes 2704
income, including gain or loss, from a partial or complete 2705
liquidation of a business, including, but not limited to, gain 2706
or loss from the sale or other disposition of goodwill. 2707

~~(2) "Eligible business income" means business income~~ 2708

~~excluding income from a trade or business that performs either~~ 2709
~~or both of the following:~~ 2710

~~(a) Legal services provided by an active attorney admitted~~ 2711
~~to the practice of law in this state or by an attorney~~ 2712
~~registered for corporate counsel status under section 6 of rule~~ 2713
~~VI of the Ohio supreme court rules for the government of the bar~~ 2714
~~of Ohio;~~ 2715

~~(b) Executive agency lobbying activity, retirement system~~ 2716
~~lobbying activity, or actively advocating by a person required~~ 2717
~~to register with the joint legislative ethics committee under~~ 2718
~~section 101.78, 101.92, or 121.62 of the Revised Code. Terms~~ 2719
~~used in division (B) (2) of this section have the same meaning as~~ 2720
~~in section 101.70, 101.92, or 121.60 of the Revised Code.~~ 2721

(C) "Nonbusiness income" means all income other than 2722
business income and may include, but is not limited to, 2723
compensation, rents and royalties from real or tangible personal 2724
property, capital gains, interest, dividends and distributions, 2725
patent or copyright royalties, or lottery winnings, prizes, and 2726
awards. 2727

(D) "Compensation" means any form of remuneration paid to 2728
an employee for personal services. 2729

(E) "Fiduciary" means a guardian, trustee, executor, 2730
administrator, receiver, conservator, or any other person acting 2731
in any fiduciary capacity for any individual, trust, or estate. 2732

(F) "Fiscal year" means an accounting period of twelve 2733
months ending on the last day of any month other than December. 2734

(G) "Individual" means any natural person. 2735

(H) "Internal Revenue Code" means the "Internal Revenue 2736

Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2737

(I) "Resident" means any of the following, provided that 2738
division (I)(3) of this section applies only to taxable years of 2739
a trust beginning in 2002 or thereafter: 2740

(1) An individual who is domiciled in this state, subject 2741
to section 5747.24 of the Revised Code; 2742

(2) The estate of a decedent who at the time of death was 2743
domiciled in this state. The domicile tests of section 5747.24 2744
of the Revised Code are not controlling for purposes of division 2745
(I)(2) of this section. 2746

(3) A trust that, in whole or part, resides in this state. 2747
If only part of a trust resides in this state, the trust is a 2748
resident only with respect to that part. 2749

For the purposes of division (I)(3) of this section: 2750

(a) A trust resides in this state for the trust's current 2751
taxable year to the extent, as described in division (I)(3)(d) 2752
of this section, that the trust consists directly or indirectly, 2753
in whole or in part, of assets, net of any related liabilities, 2754
that were transferred, or caused to be transferred, directly or 2755
indirectly, to the trust by any of the following: 2756

(i) A person, a court, or a governmental entity or 2757
instrumentality on account of the death of a decedent, but only 2758
if the trust is described in division (I)(3)(e)(i) or (ii) of 2759
this section; 2760

(ii) A person who was domiciled in this state for the 2761
purposes of this chapter when the person directly or indirectly 2762
transferred assets to an irrevocable trust, but only if at least 2763
one of the trust's qualifying beneficiaries is domiciled in this 2764

state for the purposes of this chapter during all or some 2765
portion of the trust's current taxable year; 2766

(iii) A person who was domiciled in this state for the 2767
purposes of this chapter when the trust document or instrument 2768
or part of the trust document or instrument became irrevocable, 2769
but only if at least one of the trust's qualifying beneficiaries 2770
is a resident domiciled in this state for the purposes of this 2771
chapter during all or some portion of the trust's current 2772
taxable year. If a trust document or instrument became 2773
irrevocable upon the death of a person who at the time of death 2774
was domiciled in this state for purposes of this chapter, that 2775
person is a person described in division (I) (3) (a) (iii) of this 2776
section. 2777

(b) A trust is irrevocable to the extent that the 2778
transferor is not considered to be the owner of the net assets 2779
of the trust under sections 671 to 678 of the Internal Revenue 2780
Code. 2781

(c) With respect to a trust other than a charitable lead 2782
trust, "qualifying beneficiary" has the same meaning as 2783
"potential current beneficiary" as defined in section 1361(e) (2) 2784
of the Internal Revenue Code, and with respect to a charitable 2785
lead trust "qualifying beneficiary" is any current, future, or 2786
contingent beneficiary, but with respect to any trust 2787
"qualifying beneficiary" excludes a person or a governmental 2788
entity or instrumentality to any of which a contribution would 2789
qualify for the charitable deduction under section 170 of the 2790
Internal Revenue Code. 2791

(d) For the purposes of division (I) (3) (a) of this 2792
section, the extent to which a trust consists directly or 2793
indirectly, in whole or in part, of assets, net of any related 2794

liabilities, that were transferred directly or indirectly, in 2795
whole or part, to the trust by any of the sources enumerated in 2796
that division shall be ascertained by multiplying the fair 2797
market value of the trust's assets, net of related liabilities, 2798
by the qualifying ratio, which shall be computed as follows: 2799

(i) The first time the trust receives assets, the 2800
numerator of the qualifying ratio is the fair market value of 2801
those assets at that time, net of any related liabilities, from 2802
sources enumerated in division (I) (3) (a) of this section. The 2803
denominator of the qualifying ratio is the fair market value of 2804
all the trust's assets at that time, net of any related 2805
liabilities. 2806

(ii) Each subsequent time the trust receives assets, a 2807
revised qualifying ratio shall be computed. The numerator of the 2808
revised qualifying ratio is the sum of (1) the fair market value 2809
of the trust's assets immediately prior to the subsequent 2810
transfer, net of any related liabilities, multiplied by the 2811
qualifying ratio last computed without regard to the subsequent 2812
transfer, and (2) the fair market value of the subsequently 2813
transferred assets at the time transferred, net of any related 2814
liabilities, from sources enumerated in division (I) (3) (a) of 2815
this section. The denominator of the revised qualifying ratio is 2816
the fair market value of all the trust's assets immediately 2817
after the subsequent transfer, net of any related liabilities. 2818

(iii) Whether a transfer to the trust is by or from any of 2819
the sources enumerated in division (I) (3) (a) of this section 2820
shall be ascertained without regard to the domicile of the 2821
trust's beneficiaries. 2822

(e) For the purposes of division (I) (3) (a) (i) of this 2823
section: 2824

(i) A trust is described in division (I) (3) (e) (i) of this 2825
section if the trust is a testamentary trust and the testator of 2826
that testamentary trust was domiciled in this state at the time 2827
of the testator's death for purposes of the taxes levied under 2828
Chapter 5731. of the Revised Code. 2829

(ii) A trust is described in division (I) (3) (e) (ii) of 2830
this section if the transfer is a qualifying transfer described 2831
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 2832
trust is an irrevocable inter vivos trust, and at least one of 2833
the trust's qualifying beneficiaries is domiciled in this state 2834
for purposes of this chapter during all or some portion of the 2835
trust's current taxable year. 2836

(f) For the purposes of division (I) (3) (e) (ii) of this 2837
section, a "qualifying transfer" is a transfer of assets, net of 2838
any related liabilities, directly or indirectly to a trust, if 2839
the transfer is described in any of the following: 2840

(i) The transfer is made to a trust, created by the 2841
decedent before the decedent's death and while the decedent was 2842
domiciled in this state for the purposes of this chapter, and, 2843
prior to the death of the decedent, the trust became irrevocable 2844
while the decedent was domiciled in this state for the purposes 2845
of this chapter. 2846

(ii) The transfer is made to a trust to which the 2847
decedent, prior to the decedent's death, had directly or 2848
indirectly transferred assets, net of any related liabilities, 2849
while the decedent was domiciled in this state for the purposes 2850
of this chapter, and prior to the death of the decedent the 2851
trust became irrevocable while the decedent was domiciled in 2852
this state for the purposes of this chapter. 2853

(iii) The transfer is made on account of a contractual 2854
relationship existing directly or indirectly between the 2855
transferor and either the decedent or the estate of the decedent 2856
at any time prior to the date of the decedent's death, and the 2857
decedent was domiciled in this state at the time of death for 2858
purposes of the taxes levied under Chapter 5731. of the Revised 2859
Code. 2860

(iv) The transfer is made to a trust on account of a 2861
contractual relationship existing directly or indirectly between 2862
the transferor and another person who at the time of the 2863
decedent's death was domiciled in this state for purposes of 2864
this chapter. 2865

(v) The transfer is made to a trust on account of the will 2866
of a testator who was domiciled in this state at the time of the 2867
testator's death for purposes of the taxes levied under Chapter 2868
5731. of the Revised Code. 2869

(vi) The transfer is made to a trust created by or caused 2870
to be created by a court, and the trust was directly or 2871
indirectly created in connection with or as a result of the 2872
death of an individual who, for purposes of the taxes levied 2873
under Chapter 5731. of the Revised Code, was domiciled in this 2874
state at the time of the individual's death. 2875

(g) The tax commissioner may adopt rules to ascertain the 2876
part of a trust residing in this state. 2877

(J) "Nonresident" means an individual or estate that is 2878
not a resident. An individual who is a resident for only part of 2879
a taxable year is a nonresident for the remainder of that 2880
taxable year. 2881

(K) "Pass-through entity" has the same meaning as in 2882

section 5733.04 of the Revised Code. 2883

(L) "Return" means the notifications and reports required 2884
to be filed pursuant to this chapter for the purpose of 2885
reporting the tax due and includes declarations of estimated tax 2886
when so required. 2887

(M) "Taxable year" means the calendar year or the 2888
taxpayer's fiscal year ending during the calendar year, or 2889
fractional part thereof, upon which the adjusted gross income is 2890
calculated pursuant to this chapter. 2891

(N) "Taxpayer" means any person subject to the tax imposed 2892
by section 5747.02 of the Revised Code or any pass-through 2893
entity that makes the election under division (D) of section 2894
5747.08 of the Revised Code. 2895

(O) "Dependents" means one of the following: 2896

(1) For taxable years beginning on or after January 1, 2897
2018, and before January 1, 2026, dependents as defined in the 2898
Internal Revenue Code; 2899

(2) For all other taxable years, dependents as defined in 2900
the Internal Revenue Code and as claimed in the taxpayer's 2901
federal income tax return for the taxable year or which the 2902
taxpayer would have been permitted to claim had the taxpayer 2903
filed a federal income tax return. 2904

(P) "Principal county of employment" means, in the case of 2905
a nonresident, the county within the state in which a taxpayer 2906
performs services for an employer or, if those services are 2907
performed in more than one county, the county in which the major 2908
portion of the services are performed. 2909

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2910

Code: 2911

(1) "Subdivision" means any county, municipal corporation,
park district, or township. 2912
2913

(2) "Essential local government purposes" includes all 2914
functions that any subdivision is required by general law to 2915
exercise, including like functions that are exercised under a 2916
charter adopted pursuant to the Ohio Constitution. 2917

(R) "Overpayment" means any amount already paid that 2918
exceeds the figure determined to be the correct amount of the 2919
tax. 2920

(S) "Taxable income" or "Ohio taxable income" applies only 2921
to estates and trusts, and means federal taxable income, as 2922
defined and used in the Internal Revenue Code, adjusted as 2923
follows: 2924

(1) Add interest or dividends, net of ordinary, necessary, 2925
and reasonable expenses not deducted in computing federal 2926
taxable income, on obligations or securities of any state or of 2927
any political subdivision or authority of any state, other than 2928
this state and its subdivisions and authorities, but only to the 2929
extent that such net amount is not otherwise includible in Ohio 2930
taxable income and is described in either division (S) (1) (a) or 2931
(b) of this section: 2932

(a) The net amount is not attributable to the S portion of 2933
an electing small business trust and has not been distributed to 2934
beneficiaries for the taxable year; 2935

(b) The net amount is attributable to the S portion of an 2936
electing small business trust for the taxable year. 2937

(2) Add interest or dividends, net of ordinary, necessary, 2938

and reasonable expenses not deducted in computing federal 2939
taxable income, on obligations of any authority, commission, 2940
instrumentality, territory, or possession of the United States 2941
to the extent that the interest or dividends are exempt from 2942
federal income taxes but not from state income taxes, but only 2943
to the extent that such net amount is not otherwise includible 2944
in Ohio taxable income and is described in either division (S) 2945
(1) (a) or (b) of this section; 2946

(3) Add the amount of personal exemption allowed to the 2947
estate pursuant to section 642(b) of the Internal Revenue Code; 2948

(4) Deduct interest or dividends, net of related expenses 2949
deducted in computing federal taxable income, on obligations of 2950
the United States and its territories and possessions or of any 2951
authority, commission, or instrumentality of the United States 2952
to the extent that the interest or dividends are exempt from 2953
state taxes under the laws of the United States, but only to the 2954
extent that such amount is included in federal taxable income 2955
and is described in either division (S) (1) (a) or (b) of this 2956
section; 2957

(5) Deduct the amount of wages and salaries, if any, not 2958
otherwise allowable as a deduction but that would have been 2959
allowable as a deduction in computing federal taxable income for 2960
the taxable year, had the targeted jobs credit allowed under 2961
sections 38, 51, and 52 of the Internal Revenue Code not been in 2962
effect, but only to the extent such amount relates either to 2963
income included in federal taxable income for the taxable year 2964
or to income of the S portion of an electing small business 2965
trust for the taxable year; 2966

(6) Deduct any interest or interest equivalent, net of 2967
related expenses deducted in computing federal taxable income, 2968

on public obligations and purchase obligations, but only to the 2969
extent that such net amount relates either to income included in 2970
federal taxable income for the taxable year or to income of the 2971
S portion of an electing small business trust for the taxable 2972
year; 2973

(7) Add any loss or deduct any gain resulting from sale, 2974
exchange, or other disposition of public obligations to the 2975
extent that such loss has been deducted or such gain has been 2976
included in computing either federal taxable income or income of 2977
the S portion of an electing small business trust for the 2978
taxable year; 2979

(8) Except in the case of the final return of an estate, 2980
add any amount deducted by the taxpayer on both its Ohio estate 2981
tax return pursuant to section 5731.14 of the Revised Code, and 2982
on its federal income tax return in determining federal taxable 2983
income; 2984

(9) (a) Deduct any amount included in federal taxable 2985
income solely because the amount represents a reimbursement or 2986
refund of expenses that in a previous year the decedent had 2987
deducted as an itemized deduction pursuant to section 63 of the 2988
Internal Revenue Code and applicable treasury regulations. The 2989
deduction otherwise allowed under division (S) (9) (a) of this 2990
section shall be reduced to the extent the reimbursement is 2991
attributable to an amount the taxpayer or decedent deducted 2992
under this section in any taxable year. 2993

(b) Add any amount not otherwise included in Ohio taxable 2994
income for any taxable year to the extent that the amount is 2995
attributable to the recovery during the taxable year of any 2996
amount deducted or excluded in computing federal or Ohio taxable 2997
income in any taxable year, but only to the extent such amount 2998

has not been distributed to beneficiaries for the taxable year. 2999

(10) Deduct any portion of the deduction described in 3000
section 1341(a)(2) of the Internal Revenue Code, for repaying 3001
previously reported income received under a claim of right, that 3002
meets both of the following requirements: 3003

(a) It is allowable for repayment of an item that was 3004
included in the taxpayer's taxable income or the decedent's 3005
adjusted gross income for a prior taxable year and did not 3006
qualify for a credit under division (A) or (B) of section 3007
5747.05 of the Revised Code for that year. 3008

(b) It does not otherwise reduce the taxpayer's taxable 3009
income or the decedent's adjusted gross income for the current 3010
or any other taxable year. 3011

(11) Add any amount claimed as a credit under section 3012
5747.059 of the Revised Code to the extent that the amount 3013
satisfies either of the following: 3014

(a) The amount was deducted or excluded from the 3015
computation of the taxpayer's federal taxable income as required 3016
to be reported for the taxpayer's taxable year under the 3017
Internal Revenue Code; 3018

(b) The amount resulted in a reduction in the taxpayer's 3019
federal taxable income as required to be reported for any of the 3020
taxpayer's taxable years under the Internal Revenue Code. 3021

(12) Deduct any amount, net of related expenses deducted 3022
in computing federal taxable income, that a trust is required to 3023
report as farm income on its federal income tax return, but only 3024
if the assets of the trust include at least ten acres of land 3025
satisfying the definition of "land devoted exclusively to 3026
agricultural use" under section 5713.30 of the Revised Code, 3027

regardless of whether the land is valued for tax purposes as 3028
such land under sections 5713.30 to 5713.38 of the Revised Code. 3029
If the trust is a pass-through entity investor, section 5747.231 3030
of the Revised Code applies in ascertaining if the trust is 3031
eligible to claim the deduction provided by division (S)(12) of 3032
this section in connection with the pass-through entity's farm 3033
income. 3034

Except for farm income attributable to the S portion of an 3035
electing small business trust, the deduction provided by 3036
division (S)(12) of this section is allowed only to the extent 3037
that the trust has not distributed such farm income. Division 3038
(S)(12) of this section applies only to taxable years of a trust 3039
beginning in 2002 or thereafter. 3040

(13) Add the net amount of income described in section 3041
641(c) of the Internal Revenue Code to the extent that amount is 3042
not included in federal taxable income. 3043

(14) Add or deduct the amount the taxpayer would be 3044
required to add or deduct under division (A)(20) or (21) of this 3045
section if the taxpayer's Ohio taxable income were computed in 3046
the same manner as an individual's Ohio adjusted gross income is 3047
computed under this section. In the case of a trust, division 3048
(S)(14) of this section applies only to any of the trust's 3049
taxable years beginning in 2002 or thereafter. 3050

(T) "School district income" and "school district income 3051
tax" have the same meanings as in section 5748.01 of the Revised 3052
Code. 3053

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S) 3054
(7) of this section, "public obligations," "purchase 3055
obligations," and "interest or interest equivalent" have the 3056

same meanings as in section 5709.76 of the Revised Code. 3057

(V) "Limited liability company" means any limited 3058
liability company formed under Chapter 1705. of the Revised Code 3059
or under the laws of any other state. 3060

(W) "Pass-through entity investor" means any person who, 3061
during any portion of a taxable year of a pass-through entity, 3062
is a partner, member, shareholder, or equity investor in that 3063
pass-through entity. 3064

(X) "Banking day" has the same meaning as in section 3065
1304.01 of the Revised Code. 3066

(Y) "Month" means a calendar month. 3067

(Z) "Quarter" means the first three months, the second 3068
three months, the third three months, or the last three months 3069
of the taxpayer's taxable year. 3070

(AA) (1) "Eligible institution" means a state university or 3071
state institution of higher education as defined in section 3072
3345.011 of the Revised Code, or a private, nonprofit college, 3073
university, or other post-secondary institution located in this 3074
state that possesses a certificate of authorization issued by 3075
the chancellor of higher education pursuant to Chapter 1713. of 3076
the Revised Code or a certificate of registration issued by the 3077
state board of career colleges and schools under Chapter 3332. 3078
of the Revised Code. 3079

(2) "Qualified tuition and fees" means tuition and fees 3080
imposed by an eligible institution as a condition of enrollment 3081
or attendance, not exceeding two thousand five hundred dollars 3082
in each of the individual's first two years of post-secondary 3083
education. If the individual is a part-time student, "qualified 3084
tuition and fees" includes tuition and fees paid for the 3085

academic equivalent of the first two years of post-secondary 3086
education during a maximum of five taxable years, not exceeding 3087
a total of five thousand dollars. "Qualified tuition and fees" 3088
does not include: 3089

(a) Expenses for any course or activity involving sports, 3090
games, or hobbies unless the course or activity is part of the 3091
individual's degree or diploma program; 3092

(b) The cost of books, room and board, student activity 3093
fees, athletic fees, insurance expenses, or other expenses 3094
unrelated to the individual's academic course of instruction; 3095

(c) Tuition, fees, or other expenses paid or reimbursed 3096
through an employer, scholarship, grant in aid, or other 3097
educational benefit program. 3098

(BB) (1) "Modified business income" means the business 3099
income included in a trust's Ohio taxable income after such 3100
taxable income is first reduced by the qualifying trust amount, 3101
if any. 3102

(2) "Qualifying trust amount" of a trust means capital 3103
gains and losses from the sale, exchange, or other disposition 3104
of equity or ownership interests in, or debt obligations of, a 3105
qualifying investee to the extent included in the trust's Ohio 3106
taxable income, but only if the following requirements are 3107
satisfied: 3108

(a) The book value of the qualifying investee's physical 3109
assets in this state and everywhere, as of the last day of the 3110
qualifying investee's fiscal or calendar year ending immediately 3111
prior to the date on which the trust recognizes the gain or 3112
loss, is available to the trust. 3113

(b) The requirements of section 5747.011 of the Revised 3114

Code are satisfied for the trust's taxable year in which the 3115
trust recognizes the gain or loss. 3116

Any gain or loss that is not a qualifying trust amount is 3117
modified business income, qualifying investment income, or 3118
modified nonbusiness income, as the case may be. 3119

(3) "Modified nonbusiness income" means a trust's Ohio 3120
taxable income other than modified business income, other than 3121
the qualifying trust amount, and other than qualifying 3122
investment income, as defined in section 5747.012 of the Revised 3123
Code, to the extent such qualifying investment income is not 3124
otherwise part of modified business income. 3125

(4) "Modified Ohio taxable income" applies only to trusts, 3126
and means the sum of the amounts described in divisions (BB) (4) 3127
(a) to (c) of this section: 3128

(a) The fraction, calculated under section 5747.013, and 3129
applying section 5747.231 of the Revised Code, multiplied by the 3130
sum of the following amounts: 3131

(i) The trust's modified business income; 3132

(ii) The trust's qualifying investment income, as defined 3133
in section 5747.012 of the Revised Code, but only to the extent 3134
the qualifying investment income does not otherwise constitute 3135
modified business income and does not otherwise constitute a 3136
qualifying trust amount. 3137

(b) The qualifying trust amount multiplied by a fraction, 3138
the numerator of which is the sum of the book value of the 3139
qualifying investee's physical assets in this state on the last 3140
day of the qualifying investee's fiscal or calendar year ending 3141
immediately prior to the day on which the trust recognizes the 3142
qualifying trust amount, and the denominator of which is the sum 3143

of the book value of the qualifying investee's total physical 3144
assets everywhere on the last day of the qualifying investee's 3145
fiscal or calendar year ending immediately prior to the day on 3146
which the trust recognizes the qualifying trust amount. If, for 3147
a taxable year, the trust recognizes a qualifying trust amount 3148
with respect to more than one qualifying investee, the amount 3149
described in division (BB) (4) (b) of this section shall equal the 3150
sum of the products so computed for each such qualifying 3151
investee. 3152

(c) (i) With respect to a trust or portion of a trust that 3153
is a resident as ascertained in accordance with division (I) (3) 3154
(d) of this section, its modified nonbusiness income. 3155

(ii) With respect to a trust or portion of a trust that is 3156
not a resident as ascertained in accordance with division (I) (3) 3157
(d) of this section, the amount of its modified nonbusiness 3158
income satisfying the descriptions in divisions (B) (2) to (5) of 3159
section 5747.20 of the Revised Code, except as otherwise 3160
provided in division (BB) (4) (c) (ii) of this section. With 3161
respect to a trust or portion of a trust that is not a resident 3162
as ascertained in accordance with division (I) (3) (d) of this 3163
section, the trust's portion of modified nonbusiness income 3164
recognized from the sale, exchange, or other disposition of a 3165
debt interest in or equity interest in a section 5747.212 3166
entity, as defined in section 5747.212 of the Revised Code, 3167
without regard to division (A) of that section, shall not be 3168
allocated to this state in accordance with section 5747.20 of 3169
the Revised Code but shall be apportioned to this state in 3170
accordance with division (B) of section 5747.212 of the Revised 3171
Code without regard to division (A) of that section. 3172

If the allocation and apportionment of a trust's income 3173

under divisions (BB) (4) (a) and (c) of this section do not fairly 3174
represent the modified Ohio taxable income of the trust in this 3175
state, the alternative methods described in division (C) of 3176
section 5747.21 of the Revised Code may be applied in the manner 3177
and to the same extent provided in that section. 3178

(5) (a) Except as set forth in division (BB) (5) (b) of this 3179
section, "qualifying investee" means a person in which a trust 3180
has an equity or ownership interest, or a person or unit of 3181
government the debt obligations of either of which are owned by 3182
a trust. For the purposes of division (BB) (2) (a) of this section 3183
and for the purpose of computing the fraction described in 3184
division (BB) (4) (b) of this section, all of the following apply: 3185

(i) If the qualifying investee is a member of a qualifying 3186
controlled group on the last day of the qualifying investee's 3187
fiscal or calendar year ending immediately prior to the date on 3188
which the trust recognizes the gain or loss, then "qualifying 3189
investee" includes all persons in the qualifying controlled 3190
group on such last day. 3191

(ii) If the qualifying investee, or if the qualifying 3192
investee and any members of the qualifying controlled group of 3193
which the qualifying investee is a member on the last day of the 3194
qualifying investee's fiscal or calendar year ending immediately 3195
prior to the date on which the trust recognizes the gain or 3196
loss, separately or cumulatively own, directly or indirectly, on 3197
the last day of the qualifying investee's fiscal or calendar 3198
year ending immediately prior to the date on which the trust 3199
recognizes the qualifying trust amount, more than fifty per cent 3200
of the equity of a pass-through entity, then the qualifying 3201
investee and the other members are deemed to own the 3202
proportionate share of the pass-through entity's physical assets 3203

which the pass-through entity directly or indirectly owns on the 3204
last day of the pass-through entity's calendar or fiscal year 3205
ending within or with the last day of the qualifying investee's 3206
fiscal or calendar year ending immediately prior to the date on 3207
which the trust recognizes the qualifying trust amount. 3208

(iii) For the purposes of division (BB)(5)(a)(iii) of this 3209
section, "upper level pass-through entity" means a pass-through 3210
entity directly or indirectly owning any equity of another pass- 3211
through entity, and "lower level pass-through entity" means that 3212
other pass-through entity. 3213

An upper level pass-through entity, whether or not it is 3214
also a qualifying investee, is deemed to own, on the last day of 3215
the upper level pass-through entity's calendar or fiscal year, 3216
the proportionate share of the lower level pass-through entity's 3217
physical assets that the lower level pass-through entity 3218
directly or indirectly owns on the last day of the lower level 3219
pass-through entity's calendar or fiscal year ending within or 3220
with the last day of the upper level pass-through entity's 3221
fiscal or calendar year. If the upper level pass-through entity 3222
directly and indirectly owns less than fifty per cent of the 3223
equity of the lower level pass-through entity on each day of the 3224
upper level pass-through entity's calendar or fiscal year in 3225
which or with which ends the calendar or fiscal year of the 3226
lower level pass-through entity and if, based upon clear and 3227
convincing evidence, complete information about the location and 3228
cost of the physical assets of the lower pass-through entity is 3229
not available to the upper level pass-through entity, then 3230
solely for purposes of ascertaining if a gain or loss 3231
constitutes a qualifying trust amount, the upper level pass- 3232
through entity shall be deemed as owning no equity of the lower 3233
level pass-through entity for each day during the upper level 3234

pass-through entity's calendar or fiscal year in which or with 3235
which ends the lower level pass-through entity's calendar or 3236
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 3237
shall be construed to provide for any deduction or exclusion in 3238
computing any trust's Ohio taxable income. 3239

(b) With respect to a trust that is not a resident for the 3240
taxable year and with respect to a part of a trust that is not a 3241
resident for the taxable year, "qualifying investee" for that 3242
taxable year does not include a C corporation if both of the 3243
following apply: 3244

(i) During the taxable year the trust or part of the trust 3245
recognizes a gain or loss from the sale, exchange, or other 3246
disposition of equity or ownership interests in, or debt 3247
obligations of, the C corporation. 3248

(ii) Such gain or loss constitutes nonbusiness income. 3249

(6) "Available" means information is such that a person is 3250
able to learn of the information by the due date plus 3251
extensions, if any, for filing the return for the taxable year 3252
in which the trust recognizes the gain or loss. 3253

(CC) "Qualifying controlled group" has the same meaning as 3254
in section 5733.04 of the Revised Code. 3255

(DD) "Related member" has the same meaning as in section 3256
5733.042 of the Revised Code. 3257

(EE) (1) For the purposes of division (EE) of this section: 3258

(a) "Qualifying person" means any person other than a 3259
qualifying corporation. 3260

(b) "Qualifying corporation" means any person classified 3261
for federal income tax purposes as an association taxable as a 3262

corporation, except either of the following: 3263

(i) A corporation that has made an election under 3264
subchapter S, chapter one, subtitle A, of the Internal Revenue 3265
Code for its taxable year ending within, or on the last day of, 3266
the investor's taxable year; 3267

(ii) A subsidiary that is wholly owned by any corporation 3268
that has made an election under subchapter S, chapter one, 3269
subtitle A of the Internal Revenue Code for its taxable year 3270
ending within, or on the last day of, the investor's taxable 3271
year. 3272

(2) For the purposes of this chapter, unless expressly 3273
stated otherwise, no qualifying person indirectly owns any asset 3274
directly or indirectly owned by any qualifying corporation. 3275

(FF) For purposes of this chapter and Chapter 5751. of the 3276
Revised Code: 3277

(1) "Trust" does not include a qualified pre-income tax 3278
trust. 3279

(2) A "qualified pre-income tax trust" is any pre-income 3280
tax trust that makes a qualifying pre-income tax trust election 3281
as described in division (FF) (3) of this section. 3282

(3) A "qualifying pre-income tax trust election" is an 3283
election by a pre-income tax trust to subject to the tax imposed 3284
by section 5751.02 of the Revised Code the pre-income tax trust 3285
and all pass-through entities of which the trust owns or 3286
controls, directly, indirectly, or constructively through 3287
related interests, five per cent or more of the ownership or 3288
equity interests. The trustee shall notify the tax commissioner 3289
in writing of the election on or before April 15, 2006. The 3290
election, if timely made, shall be effective on and after 3291

January 1, 2006, and shall apply for all tax periods and tax 3292
years until revoked by the trustee of the trust. 3293

(4) A "pre-income tax trust" is a trust that satisfies all 3294
of the following requirements: 3295

(a) The document or instrument creating the trust was 3296
executed by the grantor before January 1, 1972; 3297

(b) The trust became irrevocable upon the creation of the 3298
trust; and 3299

(c) The grantor was domiciled in this state at the time 3300
the trust was created. 3301

(GG) "Uniformed services" has the same meaning as in 10 3302
U.S.C. 101. 3303

(HH) "Taxable business income" means the amount by which 3304
an individual's ~~eligible~~-business income that is included in 3305
federal adjusted gross income exceeds the amount of ~~eligible~~- 3306
business income the individual is authorized to deduct under 3307
division (A)(31) of this section for the taxable year. 3308

(II) "Employer" does not include a franchisor with respect 3309
to the franchisor's relationship with a franchisee or an 3310
employee of a franchisee, unless the franchisor agrees to assume 3311
that role in writing or a court of competent jurisdiction 3312
determines that the franchisor exercises a type or degree of 3313
control over the franchisee or the franchisee's employees that 3314
is not customarily exercised by a franchisor for the purpose of 3315
protecting the franchisor's trademark, brand, or both. For 3316
purposes of this division, "franchisor" and "franchisee" have 3317
the same meanings as in 16 C.F.R. 436.1. 3318

(JJ) "Modified adjusted gross income" means Ohio adjusted 3319

gross income plus any amount deducted under division (A) (31) of 3320
this section for the taxable year. 3321

(KK) "Qualifying Ohio educator" means an individual who, 3322
for a taxable year, qualifies as an eligible educator, as that 3323
term is defined in section 62 of the Internal Revenue Code, and 3324
who holds a certificate, license, or permit described in Chapter 3325
3319. or section 3301.071 of the Revised Code. 3326

Sec. 5747.08. An annual return with respect to the tax 3327
imposed by section 5747.02 of the Revised Code and each tax 3328
imposed under Chapter 5748. of the Revised Code shall be made by 3329
every taxpayer for any taxable year for which the taxpayer is 3330
liable for the tax imposed by that section or under that 3331
chapter, unless the total credits allowed under division (E) of 3332
section 5747.05 and divisions (F) and (G) of section 5747.055 of 3333
the Revised Code for the year are equal to or exceed the tax 3334
imposed by section 5747.02 of the Revised Code, in which case no 3335
return shall be required unless the taxpayer is liable for a tax 3336
imposed pursuant to Chapter 5748. of the Revised Code. 3337

(A) If an individual is deceased, any return or notice 3338
required of that individual under this chapter shall be made and 3339
filed by that decedent's executor, administrator, or other 3340
person charged with the property of that decedent. 3341

(B) If an individual is unable to make a return or notice 3342
required by this chapter, the return or notice required of that 3343
individual shall be made and filed by the individual's duly 3344
authorized agent, guardian, conservator, fiduciary, or other 3345
person charged with the care of the person or property of that 3346
individual. 3347

(C) Returns or notices required of an estate or a trust 3348

shall be made and filed by the fiduciary of the estate or trust. 3349

(D) (1) (a) Except as otherwise provided in division (D) (1) 3350
(b) of this section, any pass-through entity may file a single 3351
return on behalf of one or more of the entity's investors other 3352
than an investor that is a person subject to the tax imposed 3353
under section 5733.06 of the Revised Code. The single return 3354
shall set forth the name, address, and social security number or 3355
other identifying number of each of those pass-through entity 3356
investors and shall indicate the distributive share of each of 3357
those pass-through entity investor's income taxable in this 3358
state in accordance with sections 5747.20 to 5747.231 of the 3359
Revised Code. Such pass-through entity investors for whom the 3360
pass-through entity elects to file a single return are not 3361
entitled to the exemption or credit provided for by sections 3362
5747.02 and 5747.022 of the Revised Code; shall calculate the 3363
tax before business credits at the highest rate of tax set forth 3364
in section 5747.02 of the Revised Code for the taxable year for 3365
which the return is filed; and are entitled to only their 3366
distributive share of the business credits as defined in 3367
division (D) (2) of this section. A single check drawn by the 3368
pass-through entity shall accompany the return in full payment 3369
of the tax due, as shown on the single return, for such 3370
investors, other than investors who are persons subject to the 3371
tax imposed under section 5733.06 of the Revised Code. 3372

(b) (i) A pass-through entity shall not include in such a 3373
single return any investor that is a trust to the extent that 3374
any direct or indirect current, future, or contingent 3375
beneficiary of the trust is a person subject to the tax imposed 3376
under section 5733.06 of the Revised Code. 3377

(ii) A pass-through entity shall not include in such a 3378

single return any investor that is itself a pass-through entity 3379
to the extent that any direct or indirect investor in the second 3380
pass-through entity is a person subject to the tax imposed under 3381
section 5733.06 of the Revised Code. 3382

(c) Nothing in division (D) of this section precludes the 3383
tax commissioner from requiring such investors to file the 3384
return and make the payment of taxes and related interest, 3385
penalty, and interest penalty required by this section or 3386
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 3387
Nothing in division (D) of this section precludes such an 3388
investor from filing the annual return under this section, 3389
utilizing the refundable credit equal to the investor's 3390
proportionate share of the tax paid by the pass-through entity 3391
on behalf of the investor under division (I) of this section, 3392
and making the payment of taxes imposed under section 5747.02 of 3393
the Revised Code. Nothing in division (D) of this section shall 3394
be construed to provide to such an investor or pass-through 3395
entity any additional deduction or credit, other than the credit 3396
provided by division (I) of this section, solely on account of 3397
the entity's filing a return in accordance with this section. 3398
Such a pass-through entity also shall make the filing and 3399
payment of estimated taxes on behalf of the pass-through entity 3400
investors other than an investor that is a person subject to the 3401
tax imposed under section 5733.06 of the Revised Code. 3402

(2) For the purposes of this section, "business credits" 3403
means the credits listed in section 5747.98 of the Revised Code 3404
excluding the following credits: 3405

(a) The retirement income credit under division (B) of 3406
section 5747.055 of the Revised Code; 3407

(b) The senior citizen credit under division (F) of 3408

section 5747.055 of the Revised Code;	3409
(c) The lump sum distribution credit under division (G) of	3410
section 5747.055 of the Revised Code;	3411
(d) The dependent care credit under section 5747.054 of	3412
the Revised Code;	3413
(e) The lump sum retirement income credit under division	3414
(C) of section 5747.055 of the Revised Code;	3415
(f) The lump sum retirement income credit under division	3416
(D) of section 5747.055 of the Revised Code;	3417
(g) The lump sum retirement income credit under division	3418
(E) of section 5747.055 of the Revised Code;	3419
(h) The credit for displaced workers who pay for job	3420
training under section 5747.27 of the Revised Code;	3421
(i) The twenty-dollar personal exemption credit under	3422
section 5747.022 of the Revised Code;	3423
(j) The joint filing credit under division (E) of section	3424
5747.05 of the Revised Code;	3425
(k) The nonresident credit under division (A) of section	3426
5747.05 of the Revised Code;	3427
(l) The credit for a resident's out-of-state income under	3428
division (B) of section 5747.05 of the Revised Code;	3429
(m) The earned income tax credit under section 5747.71 of	3430
the Revised Code;	3431
(n) The lead abatement credit under section 5747.26 of the	3432
Revised Code.	3433
(3) The election provided for under division (D) of this	3434

section applies only to the taxable year for which the election 3435
is made by the pass-through entity. Unless the tax commissioner 3436
provides otherwise, this election, once made, is binding and 3437
irrevocable for the taxable year for which the election is made. 3438
Nothing in this division shall be construed to provide for any 3439
deduction or credit that would not be allowable if a nonresident 3440
pass-through entity investor were to file an annual return. 3441

(4) If a pass-through entity makes the election provided 3442
for under division (D) of this section, the pass-through entity 3443
shall be liable for any additional taxes, interest, interest 3444
penalty, or penalties imposed by this chapter if the tax 3445
commissioner finds that the single return does not reflect the 3446
correct tax due by the pass-through entity investors covered by 3447
that return. Nothing in this division shall be construed to 3448
limit or alter the liability, if any, imposed on pass-through 3449
entity investors for unpaid or underpaid taxes, interest, 3450
interest penalty, or penalties as a result of the pass-through 3451
entity's making the election provided for under division (D) of 3452
this section. For the purposes of division (D) of this section, 3453
"correct tax due" means the tax that would have been paid by the 3454
pass-through entity had the single return been filed in a manner 3455
reflecting the commissioner's findings. Nothing in division (D) 3456
of this section shall be construed to make or hold a pass- 3457
through entity liable for tax attributable to a pass-through 3458
entity investor's income from a source other than the pass- 3459
through entity electing to file the single return. 3460

(E) If a husband and wife file a joint federal income tax 3461
return for a taxable year, they shall file a joint return under 3462
this section for that taxable year, and their liabilities are 3463
joint and several, but, if the federal income tax liability of 3464
either spouse is determined on a separate federal income tax 3465

return, they shall file separate returns under this section. 3466

If either spouse is not required to file a federal income 3467
tax return and either or both are required to file a return 3468
pursuant to this chapter, they may elect to file separate or 3469
joint returns, and, pursuant to that election, their liabilities 3470
are separate or joint and several. If a husband and wife file 3471
separate returns pursuant to this chapter, each must claim the 3472
taxpayer's own exemption, but not both, as authorized under 3473
section 5747.02 of the Revised Code on the taxpayer's own 3474
return. 3475

(F) Each return or notice required to be filed under this 3476
section shall contain the signature of the taxpayer or the 3477
taxpayer's duly authorized agent and of the person who prepared 3478
the return for the taxpayer, and shall include the taxpayer's 3479
social security number. Each return shall be verified by a 3480
declaration under the penalties of perjury. The tax commissioner 3481
shall prescribe the form that the signature and declaration 3482
shall take. 3483

(G) Each return or notice required to be filed under this 3484
section shall be made and filed as required by section 5747.04 3485
of the Revised Code, on or before the fifteenth day of April of 3486
each year, on forms that the tax commissioner shall prescribe, 3487
together with remittance made payable to the treasurer of state 3488
in the combined amount of the state and all school district 3489
income taxes shown to be due on the form. 3490

Upon good cause shown, the commissioner may extend the 3491
period for filing any notice or return required to be filed 3492
under this section and may adopt rules relating to extensions. 3493
If the extension results in an extension of time for the payment 3494
of any state or school district income tax liability with 3495

respect to which the return is filed, the taxpayer shall pay at 3496
the time the tax liability is paid an amount of interest 3497
computed at the rate per annum prescribed by section 5703.47 of 3498
the Revised Code on that liability from the time that payment is 3499
due without extension to the time of actual payment. Except as 3500
provided in section 5747.132 of the Revised Code, in addition to 3501
all other interest charges and penalties, all taxes imposed 3502
under this chapter or Chapter 5748. of the Revised Code and 3503
remaining unpaid after they become due, except combined amounts 3504
due of one dollar or less, bear interest at the rate per annum 3505
prescribed by section 5703.47 of the Revised Code until paid or 3506
until the day an assessment is issued under section 5747.13 of 3507
the Revised Code, whichever occurs first. 3508

If the commissioner considers it necessary in order to 3509
ensure the payment of the tax imposed by section 5747.02 of the 3510
Revised Code or any tax imposed under Chapter 5748. of the 3511
Revised Code, the commissioner may require returns and payments 3512
to be made otherwise than as provided in this section. 3513

To the extent that any provision in this division 3514
conflicts with any provision in section 5747.026 of the Revised 3515
Code, the provision in that section prevails. 3516

(H) The amounts withheld by an employer pursuant to 3517
section 5747.06 of the Revised Code, a casino operator pursuant 3518
to section 5747.063 of the Revised Code, or a lottery sales 3519
agent pursuant to section 5747.064 of the Revised Code shall be 3520
allowed to the recipient of the compensation casino winnings, or 3521
lottery prize award as credits against payment of the 3522
appropriate taxes imposed on the recipient by section 5747.02 3523
and under Chapter 5748. of the Revised Code. 3524

(I) If a pass-through entity elects to file a single 3525

return under division (D) of this section and if any investor is 3526
required to file the annual return and make the payment of taxes 3527
required by this chapter on account of the investor's other 3528
income that is not included in a single return filed by a pass- 3529
through entity or any other investor elects to file the annual 3530
return, the investor is entitled to a refundable credit equal to 3531
the investor's proportionate share of the tax paid by the pass- 3532
through entity on behalf of the investor. The investor shall 3533
claim the credit for the investor's taxable year in which or 3534
with which ends the taxable year of the pass-through entity. 3535
Nothing in this chapter shall be construed to allow any credit 3536
provided in this chapter to be claimed more than once. For the 3537
purpose of computing any interest, penalty, or interest penalty, 3538
the investor shall be deemed to have paid the refundable credit 3539
provided by this division on the day that the pass-through 3540
entity paid the estimated tax or the tax giving rise to the 3541
credit. 3542

(J) The tax commissioner shall ensure that each return 3543
required to be filed under this section includes a box that the 3544
taxpayer may check to authorize a paid tax preparer who prepared 3545
the return to communicate with the department of taxation about 3546
matters pertaining to the return. The return or instructions 3547
accompanying the return shall indicate that by checking the box 3548
the taxpayer authorizes the department of taxation to contact 3549
the preparer concerning questions that arise during the 3550
processing of the return and authorizes the preparer only to 3551
provide the department with information that is missing from the 3552
return, to contact the department for information about the 3553
processing of the return or the status of the taxpayer's refund 3554
or payments, and to respond to notices about mathematical 3555
errors, offsets, or return preparation that the taxpayer has 3556

received from the department and has shown to the preparer. 3557

(K) The tax commissioner shall permit individual taxpayers 3558
to instruct the department of taxation to cause any refund of 3559
overpaid taxes to be deposited directly into a checking account, 3560
savings account, or an individual retirement account or 3561
individual retirement annuity, or preexisting college savings 3562
plan or program account offered by the Ohio tuition trust 3563
authority under Chapter 3334. of the Revised Code, as designated 3564
by the taxpayer, when the taxpayer files the annual return 3565
required by this section electronically. 3566

(L) A taxpayer claiming the deduction under division (A) 3567
(31) of section 5747.01 of the Revised Code for a taxable year 3568
shall indicate on the taxpayer's return the north American 3569
industry classification system code of each business or 3570
professional activity from which the taxpayer's business income 3571
was derived. The tax commissioner shall provide space on the 3572
return for this purpose and shall prescribe, by rule adopted in 3573
accordance with Chapter 119. of the Revised Code, the manner by 3574
which such a taxpayer shall determine the taxpayer's proper 3575
classification codes and business or professional activities 3576
from which the taxpayer derives business income. 3577

(M) The tax commissioner may adopt rules to administer 3578
this section. 3579

Section 2. That existing sections 5739.01, 5739.012, 3580
5739.02, 5739.03, 5747.01, and 5747.08 of the Revised Code are 3581
hereby repealed. 3582

Section 3. That section 101.61 of the Revised Code is 3583
hereby repealed. 3584

Section 4. That Sections 333.83 and 757.150 of H.B. 166 of 3585

the 133rd General Assembly be amended to read as follows: 3586

Sec. 333.83. FOOD FARMACY PILOT PROJECT 3587

The foregoing appropriation item 651533, Food Farmacy 3588
Pilot Project, shall be distributed to a hospital system in a 3589
county with a charter form of government and with a total 3590
population between 500,000 persons and 1,000,000 persons to 3591
provide comprehensive medical, nutrition, and lifestyle support 3592
for food-insecure patients with ~~type 2 diabetes~~ chronic diseases 3593
and their families. 3594

Sec. 757.150. (A) The amendment by ~~this act~~ H.B. 166 of 3595
the 133rd General Assembly of section 323.151 of the Revised 3596
Code applies to section 323.152 of the Revised Code for tax year 3597
2020 and every tax year thereafter and to section 4503.065 of 3598
the Revised Code for tax year 2021 and every tax year 3599
thereafter. 3600

(B) Except as provided in division (C) of this section, 3601
the amendment ~~or repeal by this act~~ H.B. 166 of the 133rd 3602
General Assembly of sections 5747.01, 5747.02, 5747.022, 3603
5747.025, 5747.05, 5747.054, 5747.055, 5747.06, ~~5747.29,~~ 3604
~~5747.65,~~ and 5748.01 of the Revised Code applies to taxable 3605
years beginning on or after January 1, 2019. 3606

(C) The amendment ~~or repeal by this act~~ H.B. 166 of the 3607
133rd General Assembly of sections 5747.29 and 5747.65 and of 3608
divisions (A) (31), (B), and (HH) of section 5747.01 of the 3609
Revised Code applies to taxable years beginning on or after 3610
January 1, 2020. 3611

Section 5. That existing Sections 333.83 and 757.150 of 3612
H.B. 166 of the 133rd General Assembly are hereby repealed. 3613

Section 6. (A) The amendment by this act of section 3614

5747.01 of the Revised Code applies to taxable years beginning 3615
on or after January 1, 2020. 3616

(B) For the purpose of making estimated tax payments 3617
required by section 5747.09 of the Revised Code for taxable 3618
years that begin in 2020, the tax liability for such a taxable 3619
year shall be computed on the basis of the amendment by this act 3620
of divisions (A) (31) and (B) of section 5747.01 of the Revised 3621
Code. 3622

(C) The amendment by this act of sections 5739.01, 3623
5739.012, 5739.02, and 5739.03 of the Revised Code applies on 3624
and after the first day of the first month that begins at least 3625
thirty days after the effective date of this act. 3626

Section 7. Section 5747.01 of the Revised Code is 3627
presented in this act as a composite of the section as amended 3628
by H.B. 166 of the 133rd General Assembly and H.B. 24 and S.B. 3629
22, both of the 132nd General Assembly. The General Assembly, 3630
applying the principle stated in division (B) of section 1.52 of 3631
the Revised Code that amendments are to be harmonized if 3632
reasonably capable of simultaneous operation, finds that the 3633
composite is the resulting version of the section in effect 3634
prior to the effective date of the section as presented in this 3635
act. 3636