## As Introduced

131st General Assembly Regular Session 2015-2016

H. B. No. 133

**Representatives Schaffer, Ashford** 

# A BILL

To amend sections 5739.02 and 5747.98 and to enact	1
sections 5739.40 and 5747.78 of the Revised Code	2
to authorize an income tax credit for	3
individuals that earn a nonprofit management	4
degree or certain professional designations and	5
to allow a sales tax exemption for out-of-state	6
nonprofit corporations that relocate jobs to	7
Ohio.	8

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

Section 1. That sections 5739.02 and 5747.98 be amended	9
and sections 5739.40 and 5747.78 of the Revised Code be enacted	10
to read as follows:	11
Sec. 5739.02. For the purpose of providing revenue with	12
which to meet the needs of the state, for the use of the general	13
revenue fund of the state, for the purpose of securing a	14
thorough and efficient system of common schools throughout the	15
state, for the purpose of affording revenues, in addition to	16
those from general property taxes, permitted under	17
constitutional limitations, and from other sources, for the	18
support of local governmental functions, and for the purpose of	19

reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

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

28 (2) In the case of the lease or rental, with a fixed term 29 of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed 30 by the manufacturer to carry a load of not more than one ton, 31 watercraft, outboard motor, or aircraft, or of any tangible 32 personal property, other than motor vehicles designed by the 33 manufacturer to carry a load of more than one ton, to be used by 34 the lessee or renter primarily for business purposes, the tax 35 shall be collected by the vendor at the time the lease or rental 36 is consummated and shall be calculated by the vendor on the 37 38 basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the 39 consideration for the lease or rental includes amounts that are 40 not calculated at the time the lease or rental is executed, the 41 tax shall be calculated and collected by the vendor at the time 42 such amounts are billed to the lessee or renter. In the case of 43 an open-end lease or rental, the tax shall be calculated by the 44 vendor on the basis of the total amount to be paid during the 45 initial fixed term of the lease or rental, and for each 46 subsequent renewal period as it comes due. As used in this 47 division, "motor vehicle" has the same meaning as in section 48 4501.01 of the Revised Code, and "watercraft" includes an 49 outdrive unit attached to the watercraft. 50

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A lease with a renewal clause and a termination penalty or 51 similar provision that applies if the renewal clause is not 52 exercised is presumed to be a sham transaction. In such a case, 53 the tax shall be calculated and paid on the basis of the entire 54 length of the lease period, including any renewal periods, until 55 the termination penalty or similar provision no longer applies. 56 The taxpayer shall bear the burden, by a preponderance of the 57 evidence, that the transaction or series of transactions is not 58 a sham transaction. 59

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

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

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

(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;
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(2) Sales of food for human consumption off the premises75where sold;76

(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;
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Page 3

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(4) Sales of newspapers and sales or transfers of80magazines distributed as controlled circulation publications;81

(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;

(6) Sales of motor fuel upon receipt, use, distribution, 86 87 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 88 motor fuel on which a refund of the tax is allowable under 89 division (A) of section 5735.14 of the Revised Code; and the tax 90 commissioner may deduct the amount of tax levied by this section 91 applicable to the price of motor fuel when granting a refund of 92 motor fuel tax pursuant to division (A) of section 5735.14 of 93 the Revised Code and shall cause the amount deducted to be paid 94 into the general revenue fund of this state; 95

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

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

Page 4

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#### H. B. No. 133 As Introduced

(9) (a) Sales of services or tangible personal property, 110 other than motor vehicles, mobile homes, and manufactured homes, 111 by churches, organizations exempt from taxation under section 112 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 113 organizations operated exclusively for charitable purposes as 114 defined in division (B) (12) of this section, provided that the 115 number of days on which such tangible personal property or 116 services, other than items never subject to the tax, are sold 117 does not exceed six in any calendar year, except as otherwise 118 provided in division (B)(9)(b) of this section. If the number of 119 days on which such sales are made exceeds six in any calendar 120 year, the church or organization shall be considered to be 121 engaged in business and all subsequent sales by it shall be 122 subject to the tax. In counting the number of days, all sales by 123 groups within a church or within an organization shall be 124 considered to be sales of that church or organization. 125

(b) The limitation on the number of days on which tax-126 exempt sales may be made by a church or organization under 127 division (B)(9)(a) of this section does not apply to sales made 128 by student clubs and other groups of students of a primary or 129 secondary school, or a parent-teacher association, booster 130 group, or similar organization that raises money to support or 131 fund curricular or extracurricular activities of a primary or 132 secondary school. 133

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

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

#### H. B. No. 133 As Introduced

(11) Except for transactions that are sales under division 140 (B)(3)(r) of section 5739.01 of the Revised Code, the 141 transportation of persons or property, unless the transportation 142 is by a private investigation and security service; 143 (12) Sales of tangible personal property or services to 144 churches, to organizations exempt from taxation under section 145 501(c)(3) of the Internal Revenue Code of 1986, and to any other 146 nonprofit organizations operated exclusively for charitable 147 purposes in this state, no part of the net income of which 148 inures to the benefit of any private shareholder or individual, 149 and no substantial part of the activities of which consists of 150 carrying on propaganda or otherwise attempting to influence 151 legislation; sales to offices administering one or more homes 152 for the aged or one or more hospital facilities exempt under 153 section 140.08 of the Revised Code; and sales to organizations 154 described in division (D) of section 5709.12 of the Revised 155 Code. 156 "Charitable purposes" means the relief of poverty; the 157

improvement of health through the alleviation of illness, 158 disease, or injury; the operation of an organization exclusively 1.59 for the provision of professional, laundry, printing, and 160 purchasing services to hospitals or charitable institutions; the 161 operation of a home for the aged, as defined in section 5701.13 162 of the Revised Code; the operation of a radio or television 163 broadcasting station that is licensed by the federal 164 communications commission as a noncommercial educational radio 165 or television station; the operation of a nonprofit animal 166 adoption service or a county humane society; the promotion of 167 education by an institution of learning that maintains a faculty 168 of qualified instructors, teaches regular continuous courses of 169 study, and confers a recognized diploma upon completion of a 170

specific curriculum; the operation of a parent-teacher 171 association, booster group, or similar organization primarily 172 engaged in the promotion and support of the curricular or 173 extracurricular activities of a primary or secondary school; the 174 operation of a community or area center in which presentations 175 in music, dramatics, the arts, and related fields are made in 176 order to foster public interest and education therein; the 177 production of performances in music, dramatics, and the arts; or 178 the promotion of education by an organization engaged in 179 carrying on research in, or the dissemination of, scientific and 180 technological knowledge and information primarily for the 181 public. 182

Nothing in this division shall be deemed to exempt sales183to any organization for use in the operation or carrying on of a184trade or business, or sales to a home for the aged for use in185the operation of independent living facilities as defined in186division (A) of section 5709.12 of the Revised Code.187

(13) Building and construction materials and services sold 188 to construction contractors for incorporation into a structure 189 190 or improvement to real property under a construction contract with this state or a political subdivision of this state, or 191 192 with the United States government or any of its agencies; building and construction materials and services sold to 193 construction contractors for incorporation into a structure or 194 improvement to real property that are accepted for ownership by 195 this state or any of its political subdivisions, or by the 196 United States government or any of its agencies at the time of 197 completion of the structures or improvements; building and 198 construction materials sold to construction contractors for 199 incorporation into a horticulture structure or livestock 200 structure for a person engaged in the business of horticulture 201

#### H. B. No. 133 As Introduced

or producing livestock; building materials and services sold to 202 a construction contractor for incorporation into a house of 203 public worship or religious education, or a building used 204 exclusively for charitable purposes under a construction 205 contract with an organization whose purpose is as described in 206 division (B)(12) of this section; building materials and 207 services sold to a construction contractor for incorporation 208 into a building under a construction contract with an 209 organization exempt from taxation under section 501(c)(3) of the 210 Internal Revenue Code of 1986 when the building is to be used 211 exclusively for the organization's exempt purposes; building and 212 construction materials sold for incorporation into the original 213 construction of a sports facility under section 307.696 of the 214 Revised Code; building and construction materials and services 215 sold to a construction contractor for incorporation into real 216 property outside this state if such materials and services, when 217 sold to a construction contractor in the state in which the real 218 property is located for incorporation into real property in that 219 state, would be exempt from a tax on sales levied by that state; 220 building and construction materials for incorporation into a 221 transportation facility pursuant to a public-private agreement 222 entered into under sections 5501.70 to 5501.83 of the Revised 223 Code; and, until one calendar year after the construction of a 224 convention center that qualifies for property tax exemption 225 under section 5709.084 of the Revised Code is completed, 226 building and construction materials and services sold to a 227 construction contractor for incorporation into the real property 228 comprising that convention center; 229

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

(15) Sales to persons primarily engaged in any of the 234 activities mentioned in division (B) (42) (a), (g), or (h) of this 235 section, to persons engaged in making retail sales, or to 236 persons who purchase for sale from a manufacturer tangible 237 personal property that was produced by the manufacturer in 238 accordance with specific designs provided by the purchaser, of 239 packages, including material, labels, and parts for packages, 240 and of machinery, equipment, and material for use primarily in 241 packaging tangible personal property produced for sale, 242 including any machinery, equipment, and supplies used to make 243 labels or packages, to prepare packages or products for 244 labeling, or to label packages or products, by or on the order 245 of the person doing the packaging, or sold at retail. "Packages" 246 includes bags, baskets, cartons, crates, boxes, cans, bottles, 247 bindings, wrappings, and other similar devices and containers, 248 but does not include motor vehicles or bulk tanks, trailers, or 249 similar devices attached to motor vehicles. "Packaging" means 250 placing in a package. Division (B) (15) of this section does not 251 apply to persons engaged in highway transportation for hire. 252

(16) Sales of food to persons using supplemental nutrition 253 assistance program benefits to purchase the food. As used in 254 this division, "food" has the same meaning as in 7 U.S.C. 2012 255 and federal regulations adopted pursuant to the Food and 256 Nutrition Act of 2008. 257

(17) Sales to persons engaged in farming, agriculture,
horticulture, or floriculture, of tangible personal property for
use or consumption primarily in the production by farming,
agriculture, horticulture, or floriculture of other tangible
personal property for use or consumption primarily in the
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Page 9

production of tangible personal property for sale by farming, 263 agriculture, horticulture, or floriculture; or material and 264 parts for incorporation into any such tangible personal property 265 for use or consumption in production; and of tangible personal 266 property for such use or consumption in the conditioning or 2.67 holding of products produced by and for such use, consumption, 268 or sale by persons engaged in farming, agriculture, 269 horticulture, or floriculture, except where such property is 270 incorporated into real property; 271

(18) Sales of drugs for a human being that may be 272 273 dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood 274 testing materials when used by diabetics or persons with 275 hypoglycemia to test for glucose or acetone; hypodermic syringes 276 and needles when used by diabetics for insulin injections; 277 epoetin alfa when purchased for use in the treatment of persons 278 with medical disease; hospital beds when purchased by hospitals, 279 nursing homes, or other medical facilities; and medical oxygen 280 and medical oxygen-dispensing equipment when purchased by 281 hospitals, nursing homes, or other medical facilities; 282

(19) Sales of prosthetic devices, durable medical 283
equipment for home use, or mobility enhancing equipment, when 284
made pursuant to a prescription and when such devices or 285
equipment are for use by a human being. 286

(20) Sales of emergency and fire protection vehicles and 287 equipment to nonprofit organizations for use solely in providing 288 fire protection and emergency services, including trauma care 289 and emergency medical services, for political subdivisions of 290 the state; 291

(21) Sales of tangible personal property manufactured in 292

this state, if sold by the manufacturer in this state to a 293 retailer for use in the retail business of the retailer outside 294 of this state and if possession is taken from the manufacturer 295 by the purchaser within this state for the sole purpose of 296 immediately removing the same from this state in a vehicle owned 297 by the purchaser; 298

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

(23) Sales of motor vehicles to nonresidents of this state
under the circumstances described in division (B) of section
5739.029 of the Revised Code;
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(24) Sales to persons engaged in the preparation of eggs 307 for sale of tangible personal property used or consumed directly 308 in such preparation, including such tangible personal property 309 used for cleaning, sanitizing, preserving, grading, sorting, and 310 classifying by size; packages, including material and parts for 311 packages, and machinery, equipment, and material for use in 312 packaging eggs for sale; and handling and transportation 313 equipment and parts therefor, except motor vehicles licensed to 314 operate on public highways, used in intraplant or interplant 315 transfers or shipment of eggs in the process of preparation for 316 sale, when the plant or plants within or between which such 317 transfers or shipments occur are operated by the same person. 318 "Packages" includes containers, cases, baskets, flats, fillers, 319 filler flats, cartons, closure materials, labels, and labeling 320 materials, and "packaging" means placing therein. 321

(25) (a) Sales of water to a consumer for residential use; 322

(b) Sales of water by a nonprofit corporation engaged 323 exclusively in the treatment, distribution, and sale of water to 324 consumers, if such water is delivered to consumers through pipes 325 326 or tubing. (26) Fees charged for inspection or reinspection of motor 327 vehicles under section 3704.14 of the Revised Code; 328 (27) Sales to persons licensed to conduct a food service 329 operation pursuant to section 3717.43 of the Revised Code, of 330 tangible personal property primarily used directly for the 331 332 following: 333 (a) To prepare food for human consumption for sale; (b) To preserve food that has been or will be prepared for 334 human consumption for sale by the food service operator, not 335 including tangible personal property used to display food for 336 selection by the consumer; 337 (c) To clean tangible personal property used to prepare or 338 serve food for human consumption for sale. 339 (28) Sales of animals by nonprofit animal adoption 340 services or county humane societies; 341 (29) Sales of services to a corporation described in 342 division (A) of section 5709.72 of the Revised Code, and sales 343 of tangible personal property that qualifies for exemption from 344 taxation under section 5709.72 of the Revised Code; 345 (30) Sales and installation of agricultural land tile, as 346 defined in division (B)(5)(a) of section 5739.01 of the Revised 347 Code; 348

(31) Sales and erection or installation of portable grainbins, as defined in division (B)(5)(b) of section 5739.01 of the350

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

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

(34) Sales to a telecommunications service vendor, mobile 363 telecommunications service vendor, or satellite broadcasting 364 service vendor of tangible personal property and services used 365 directly and primarily in transmitting, receiving, switching, or 366 recording any interactive, one- or two-way electromagnetic 367 communications, including voice, image, data, and information, 368 through the use of any medium, including, but not limited to, 369 poles, wires, cables, switching equipment, computers, and record 370 storage devices and media, and component parts for the tangible 371 personal property. The exemption provided in this division shall 372 be in lieu of all other exemptions under division (B)(42)(a) or 373 (n) of this section to which the vendor may otherwise be 374 entitled, based upon the use of the thing purchased in providing 375 the telecommunications, mobile telecommunications, or satellite 376 broadcasting service. 377

(35) (a) Sales where the purpose of the consumer is to use
or consume the things transferred in making retail sales and
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consisting of newspaper inserts, catalogues, coupons, flyers,
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or common carrier.

gift certificates, or other advertising material that prices and 381 describes tangible personal property offered for retail sale. 382 (b) Sales to direct marketing vendors of preliminary 383 materials such as photographs, artwork, and typesetting that 384 will be used in printing advertising material; and of printed 385 matter that offers free merchandise or chances to win sweepstake 386 prizes and that is mailed to potential customers with 387 advertising material described in division (B) (35) (a) of this 388 section; 389 (c) Sales of equipment such as telephones, computers, 390 facsimile machines, and similar tangible personal property 391 primarily used to accept orders for direct marketing retail 392 sales. 393 (d) Sales of automatic food vending machines that preserve 394 food with a shelf life of forty-five days or less by 395 refrigeration and dispense it to the consumer. 396 For purposes of division (B)(35) of this section, "direct 397 marketing" means the method of selling where consumers order 398 tangible personal property by United States mail, delivery 399 400 service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a 401 warehouse, catalogue distribution center, or similar fulfillment 402 facility by means of the United States mail, delivery service, 403

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

(37) Sales of personal computers, computer monitors, 409

Page 14

computer keyboards, modems, and other peripheral computer410equipment to an individual who is licensed or certified to teach411in an elementary or a secondary school in this state for use by412that individual in preparation for teaching elementary or413secondary school students;414

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated 419 in motor racing vehicles, including engines, chassis, and all 420 other components of the vehicles, and all spare, replacement, 421 and rebuilt parts or components of the vehicles; except not 422 including tires, consumable fluids, paint, and accessories 423 consisting of instrumentation sensors and related items added to 424 the vehicle to collect and transmit data by means of telemetry 425 and other forms of communication. 426

(39) Sales of used manufactured homes and used mobile
homes, as defined in section 5739.0210 of the Revised Code, made
on or after January 1, 2000;
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(40) Sales of tangible personal property and services to a 430 provider of electricity used or consumed directly and primarily 431 in generating, transmitting, or distributing electricity for use 432 by others, including property that is or is to be incorporated 433 into and will become a part of the consumer's production, 434 transmission, or distribution system and that retains its 435 classification as tangible personal property after 436 incorporation; fuel or power used in the production, 437 transmission, or distribution of electricity; energy conversion 438

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equipment as defined in section 5727.01 of the Revised Code; and 439 tangible personal property and services used in the repair and 440 maintenance of the production, transmission, or distribution 441 system, including only those motor vehicles as are specially 442 designed and equipped for such use. The exemption provided in 443 this division shall be in lieu of all other exemptions in 444 division (B)(42)(a) or (n) of this section to which a provider 445 of electricity may otherwise be entitled based on the use of the 446 tangible personal property or service purchased in generating, 447 transmitting, or distributing electricity. 448

(41) Sales to a person providing services under division
(B) (3) (r) of section 5739.01 of the Revised Code of tangible
personal property and services used directly and primarily in
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providing taxable services under that section.
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(42) Sales where the purpose of the purchaser is to do anydo f the following:

(a) To incorporate the thing transferred as a material or 455 a part into tangible personal property to be produced for sale 456 by manufacturing, assembling, processing, or refining; or to use 457 or consume the thing transferred directly in producing tangible 458 personal property for sale by mining, including, without 459 limitation, the extraction from the earth of all substances that 460 are classed geologically as minerals, production of crude oil 461 and natural gas, or directly in the rendition of a public 462 utility service, except that the sales tax levied by this 463 section shall be collected upon all meals, drinks, and food for 464 human consumption sold when transporting persons. Persons 465 engaged in rendering services in the exploration for, and 466 production of, crude oil and natural gas for others are deemed 467 engaged directly in the exploration for, and production of, 468

crude oil and natural gas. This paragraph does not exempt from469"retail sale" or "sales at retail" the sale of tangible personal470property that is to be incorporated into a structure or471improvement to real property.472

(b) To hold the thing transferred as security for the473performance of an obligation of the vendor;474

(c) To resell, hold, use, or consume the thing transferred475as evidence of a contract of insurance;476

(d) To use or consume the thing directly in commercial 477 fishing; 478

(e) To incorporate the thing transferred as a material or
a part into, or to use or consume the thing transferred directly
in the production of, magazines distributed as controlled
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circulation publications;
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(f) To use or consume the thing transferred in the
production and preparation in suitable condition for market and
sale of printed, imprinted, overprinted, lithographic,
multilithic, blueprinted, photostatic, or other productions or
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reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section
5739.011 of the Revised Code, primarily in a manufacturing
operation to produce tangible personal property for sale;
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(h) To use the benefit of a warranty, maintenance or
service contract, or similar agreement, as described in division
(B) (7) of section 5739.01 of the Revised Code, to repair or
(B) (7) of section property, if all of the property that
(A) the subject of the warranty, contract, or agreement would not
(B) the subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and 497 development equipment; 498 (j) To use or consume the thing transferred primarily in 499 storing, transporting, mailing, or otherwise handling purchased 500 sales inventory in a warehouse, distribution center, or similar 501 facility when the inventory is primarily distributed outside 502 this state to retail stores of the person who owns or controls 503 the warehouse, distribution center, or similar facility, to 504 retail stores of an affiliated group of which that person is a 505 506 member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public 507 highways. As used in this division, "affiliated group" has the 508 same meaning as in division (B)(3)(e) of section 5739.01 of the 509 Revised Code and "direct marketing" has the same meaning as in 510 division (B)(35) of this section. 511

(k) To use or consume the thing transferred to fulfill a 512 contractual obligation incurred by a warrantor pursuant to a 513 warranty provided as a part of the price of the tangible 514 personal property sold or by a vendor of a warranty, maintenance 515 or service contract, or similar agreement the provision of which 516 is defined as a sale under division (B) (7) of section 5739.01 of 517 the Revised Code; 518

(1) To use or consume the thing transferred in theproduction of a newspaper for distribution to the public;520

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

(n) To use or consume the thing transferred primarily in 526 producing tangible personal property for sale by farming, 527 agriculture, horticulture, or floriculture. Persons engaged in 528 rendering farming, agriculture, horticulture, or floriculture 529 services for others are deemed engaged primarily in farming, 530 agriculture, horticulture, or floriculture. This paragraph does 531 not exempt from "retail sale" or "sales at retail" the sale of 532 tangible personal property that is to be incorporated into a 533 structure or improvement to real property. 534

(o) To use or consume the thing transferred in acquiring,
formatting, editing, storing, and disseminating data or
formation by electronic publishing.

As used in division (B)(42) of this section, "thing" 538 includes all transactions included in divisions (B)(3)(a), (b), 539 and (e) of section 5739.01 of the Revised Code. 540

(43) Sales conducted through a coin operated device that 541 activates vacuum equipment or equipment that dispenses water, 542 whether or not in combination with soap or other cleaning agents 543 or wax, to the consumer for the consumer's use on the premises 544 in washing, cleaning, or waxing a motor vehicle, provided no 545 other personal property or personal service is provided as part 546 of the transaction. 547

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

(45) Sales of telecommunications service that is used

directly and primarily to perform the functions of a call 555 center. As used in this division, "call center" means any 556 physical location where telephone calls are placed or received 557 in high volume for the purpose of making sales, marketing, 558 customer service, technical support, or other specialized 559 business activity, and that employs at least fifty individuals 560 that engage in call center activities on a full-time basis, or 561 sufficient individuals to fill fifty full-time equivalent 562 563 positions.

(46) Sales by a telecommunications service vendor of 900
service to a subscriber. This division does not apply to
information services, as defined in division (FF) of section
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5739.01 of the Revised Code.
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(47) Sales of value-added non-voice data service. This
division does not apply to any similar service that is not
otherwise a telecommunications service.
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(48) (a) Sales of machinery, equipment, and software to a 571 qualified direct selling entity for use in a warehouse or 572 distribution center primarily for storing, transporting, or 573 otherwise handling inventory that is held for sale to 574 independent salespersons who operate as direct sellers and that 575 is held primarily for distribution outside this state; 576

(b) As used in division (B)(48)(a) of this section: 577

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

(ii) "Qualified direct selling entity" means an entity 583

selling to direct sellers at the time the entity enters into a 584 tax credit agreement with the tax credit authority pursuant to 585 section 122.17 of the Revised Code, provided that the agreement 586 was entered into on or after January 1, 2007. Neither 587 contingencies relevant to the granting of, nor later 588 developments with respect to, the tax credit shall impair the 589 status of the qualified direct selling entity under division (B) 590 (48) of this section after execution of the tax credit agreement 591 by the tax credit authority. 592

(c) Division (B) (48) of this section is limited to 593
machinery, equipment, and software first stored, used, or 594
consumed in this state within the period commencing June 24, 595
2008, and ending on the date that is five years after that date. 596

(49) Sales of materials, parts, equipment, or engines used 597 in the repair or maintenance of aircraft or avionics systems of 598 such aircraft, and sales of repair, remodeling, replacement, or 599 maintenance services in this state performed on aircraft or on 600 an aircraft's avionics, engine, or component materials or parts. 601 As used in division (B)(49) of this section, "aircraft" means 602 aircraft of more than six thousand pounds maximum certified 603 takeoff weight or used exclusively in general aviation. 604

(50) Sales of full flight simulators that are used for 605 pilot or flight-crew training, sales of repair or replacement 606 parts or components, and sales of repair or maintenance services 607 for such full flight simulators. "Full flight simulator" means a 608 replica of a specific type, or make, model, and series of 609 aircraft cockpit. It includes the assemblage of equipment and 610 computer programs necessary to represent aircraft operations in 611 ground and flight conditions, a visual system providing an out-612 of-the-cockpit view, and a system that provides cues at least 613 equivalent to those of a three-degree-of-freedom motion system,614and has the full range of capabilities of the systems installed615in the device as described in appendices A and B of part 60 of616chapter 1 of title 14 of the Code of Federal Regulations.617

(51) Any transfer or lease of tangible personal property
between the state and JobsOhio in accordance with section
4313.02 of the Revised Code.
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(52) (a) Sales to a qualifying corporation. 621

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

(i) "Qualifying corporation" means a nonprofit corporation 623 organized in this state that leases from an eligible county 624 land, buildings, structures, fixtures, and improvements to the 625 land that are part of or used in a public recreational facility 626 used by a major league professional athletic team or a class A 627 to class AAA minor league affiliate of a major league 628 professional athletic team for a significant portion of the 629 team's home schedule, provided the following apply: 630

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

(II) Upon dissolution and liquidation of the nonprofit
corporation, all of its net assets are distributable to the
board of commissioners of the eligible county from which the
corporation leases the facility.

(ii) "Eligible county" has the same meaning as in section307.695 of the Revised Code.642

(53) Sales to or by a cable service provider, video	643
service provider, or radio or television broadcast station	644
regulated by the federal government of cable service or	645
programming, video service or programming, audio service or	646
programming, or electronically transferred digital audiovisual	647
or audio work. As used in division (B)(53) of this section,	648
"cable service" and "cable service provider" have the same	649
meanings as in section 1332.01 of the Revised Code, and "video	650
service," "video service provider," and "video programming" have	651
the same meanings as in section 1332.21 of the Revised Code.	652

(54) Sales of tangible personal property or services to a653nonprofit corporation that holds a job relocation exemption654certificate issued under section 5739.40 of the Revised Code.655

(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 664 under this chapter is not part of the price, but is a tax 665 collection for the benefit of the state, and of counties levying 666 an additional sales tax pursuant to section 5739.021 or 5739.026 667 of the Revised Code and of transit authorities levying an 668 additional sales tax pursuant to section 5739.023 of the Revised 669 Code. Except for the discount authorized under section 5739.12 670 of the Revised Code and the effects of any rounding pursuant to 671 section 5703.055 of the Revised Code, no person other than the 672

state or such a county or transit authority shall derive any 673 benefit from the collection or payment of the tax levied by this 674 section or section 5739.021, 5739.023, or 5739.026 of the 675 Revised Code. 676 Sec. 5739.40. (A) As used in this section: 677 (1) "Nonprofit corporation" has the same meaning as in 678 section 1702.01 of the Revised Code. 679 (2) "Qualifying nonprofit corporation" means a nonprofit 680 corporation that relocates at least fifty full-time employment 681 positions from one or more other states to this state within one 682 year after the nonprofit corporation first establishes a 683 physical presence in this state. 684 (B) A qualifying nonprofit corporation may apply to the 685 tax commissioner for a job relocation exemption certificate. The 686 application shall be in the form prescribed by the commissioner. 687 Within thirty days of the receipt of an application, the tax 688 commissioner shall issue a job relocation exemption certificate 689 to the nonprofit corporation if the nonprofit corporation meets 690 the criteria described in division (A)(2) of this section. 691 692 Except as provided in division (C) of this section, the certificate shall be valid for three years from the date the tax 693 commissioner issues the certificate. The certificate shall\_ 694 otherwise comply with the requirements for exemption 695 certificates prescribed under section 5739.03 of the Revised 696 Code. 697 (C) If a qualifying nonprofit corporation that receives a 698 job relocation exemption certificate fails to maintain at least 699 fifty full-time employment positions in this state during the 700

three-year period for which the certificate is issued, the tax

commissioner shall immediately revoke the certificate. The	702
commissioner may require a qualifying nonprofit corporation that	703
receives a job relocation exemption certificate to periodically	704
report to the commissioner the number of full-time employees	705
that the qualifying nonprofit corporation employs in the state,	706
along with any other information the commissioner considers	707
necessary to administer this section.	708
Sec. 5747.78. (A) There is hereby allowed a nonrefundable	709
credit against the tax imposed under section 5747.02 of the	710
Revised Code for a taxpayer who pays tuition and fees during a	711
taxable year to an eligible institution at which the taxpayer,	712
the taxpayer's spouse, or a dependent of the taxpayer is	713
enrolled in or attending a program that culminates in a degree	714
in nonprofit management. The amount of the credit equals the	715
lesser of one thousand five hundred dollars or the amount of	716
tuition and fees paid to the eligible institution during the	717
taxable year.	718
(B) There is hereby allowed a nonrefundable credit against	719
the tax imposed under section 5747.02 of the Revised Code for a	720
taxpayer who incurs expenses during the taxable year to complete	721
the institute of organization management program sponsored by	722
the United States chamber of commerce, to complete the lobbying	723
certificate program sponsored by the American league of	724
lobbyists, to receive an accreditation in public relations, or	725
to become certified as a certified fund raising executive,	726
certified sports event executive, certified destination	727
marketing executive, or certified meeting planner. The amount of	728
the credit equals the lesser of five hundred dollars or fifty	729
per cent of the expenses incurred, provided that, if the	730
taxpayer receives reimbursement for the taxpayer's expenses from	731
any source, the amount of the credit equals the lesser of five	732

hundred dollars or fifty per cent of the expenses incurred after 733 subtracting the amount reimbursed to the taxpayer. 734 (C) A taxpayer shall claim a credit allowed under division 735 (A) or (B) of this section in the order required under section 736 5747.98 of the Revised Code. The taxpayer may carry forward a 737 credit to the extent that the credit exceeds the amount of tax 738 due after allowing for any other credits that precede the credit 739 in the order prescribed by section 5747.98 of the Revised Code. 740 Sec. 5747.98. (A) To provide a uniform procedure for 741 calculating the amount of tax due under section 5747.02 of the 742 Revised Code, a taxpayer shall claim any credits to which the 743 taxpayer is entitled in the following order: 744 (1) The retirement income credit under division (B) of 745 section 5747.055 of the Revised Code; 746 (2) The senior citizen credit under division (C) of 747 section 5747.05 of the Revised Code; 748 (3) The lump sum distribution credit under division (D) of 749 section 5747.05 of the Revised Code; 750 (4) The dependent care credit under section 5747.054 of 751 the Revised Code; 752 (5) The lump sum retirement income credit under division 753 (C) of section 5747.055 of the Revised Code; 754 755 (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code; 756 (7) The lump sum retirement income credit under division 757 (E) of section 5747.055 of the Revised Code; 758 (8) The low-income credit under section 5747.056 of the 759

Revised Code; 760 (9) The credit for displaced workers who pay for job 761 training under section 5747.27 of the Revised Code; 762 (10) The campaign contribution credit under section 763 5747.29 of the Revised Code; 764 (11) The twenty-dollar personal exemption credit under 765 section 5747.022 of the Revised Code; 766 (12) The joint filing credit under division (G) of section 767 5747.05 of the Revised Code; 768 (13) The nonresident credit under division (A) of section 769 5747.05 of the Revised Code; 770 (14) The credit for a resident's out-of-state income under 771 division (B) of section 5747.05 of the Revised Code; 772 (15) The earned income credit under section 5747.71 of the 773 Revised Code; 774 (16) The credit for employers that reimburse employee-775 child care expenses tuition and fees paid to earn a degree in 776 nonprofit management or for expenses incurred to complete a 777 professional certification program or obtain a professional 778 <u>designation</u> under section <del>5747.36</del><u>5747.78</u> of the Revised Code; 779 780 (17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code; 781 (18) The nonrefundable job retention credit under division 782 (B) of section 5747.058 of the Revised Code; 783 (19) The credit for selling alternative fuel under section 784

5747.77 of the Revised Code;

(20) The second credit for purchases of new manufacturing 786

Page 27

machinery and equipment and the credit for using Ohio coal under 787 section 5747.31 of the Revised Code; 788 (21) The job training credit under section 5747.39 of the 789 Revised Code: 790 (22) The enterprise zone credit under section 5709.66 of 791 the Revised Code; 792 (23) The credit for the eligible costs associated with a 793 voluntary action under section 5747.32 of the Revised Code; 794 795 (24) The credit for adoption of a minor child under section 5747.37 of the Revised Code; 796 (25) The credit for employers that establish on-site child 797 day-care centers under section 5747.35 of the Revised Code; 798 (26) The ethanol plant investment credit under section 799 5747.75 of the Revised Code; 800 (27) The credit for purchases of qualifying grape 801 production property under section 5747.28 of the Revised Code; 802 (28) The small business investment credit under section 803 5747.81 of the Revised Code; 804 (29) The enterprise zone credits under section 5709.65 of 805 the Revised Code; 806

(30) The research and development credit under section5747.331 of the Revised Code;808

(31) The credit for rehabilitating a historic building809under section 5747.76 of the Revised Code;810

(32) The refundable credit for rehabilitating a historic811building under section 5747.76 of the Revised Code;812

(33) The refundable jobs creation credit or job retention 813 credit under division (A) of section 5747.058 of the Revised 814 Code; 815 (34) The refundable credit for taxes paid by a qualifying 816 entity granted under section 5747.059 of the Revised Code; 817 (35) The refundable credits for taxes paid by a qualifying 818 pass-through entity granted under division (I) of section 819 5747.08 of the Revised Code; 820 (36) The refundable credit under section 5747.80 of the 821 Revised Code for losses on loans made to the Ohio venture 822 capital program under sections 150.01 to 150.10 of the Revised 823 Code; 824 (37) The refundable motion picture production credit under 825 section 5747.66 of the Revised Code; 826 (38) The refundable credit for financial institution taxes 827 paid by a pass-through entity granted under section 5747.65 of 828 the Revised Code. 829 (B) For any credit, except the refundable credits 830 enumerated in this section and the credit granted under division 831 (H) of section 5747.08 of the Revised Code, the amount of the 832 credit for a taxable year shall not exceed the tax due after 833 allowing for any other credit that precedes it in the order 834 required under this section. Any excess amount of a particular 835 credit may be carried forward if authorized under the section 836 creating that credit. Nothing in this chapter shall be construed 837 to allow a taxpayer to claim, directly or indirectly, a credit 838 more than once for a taxable year. 839

Section 2. That existing sections 5739.02 and 5747.98 of 840 the Revised Code are hereby repealed. 841