

As Passed by the Senate

133rd General Assembly

Regular Session

2019-2020

Am. Sub. H. B. No. 150

Representative Merrin

Cosponsors: Representatives Antani, Carruthers, Dean, DeVitis, Ginter, Hillyer, Hood, Jordan, Keller, Lanese, Lang, Manning, D., Patton, Perales, Richardson, Riedel, Roemer, Romanchuk, Seitz, Sheehy, Stein, Swearingen, Vitale, Wiggam, Zeltwanger

Senators Williams, Antonio, Blessing, Burke, Coley, Craig, Eklund, Hackett, Lehner, Roegner, Schaffer, Schuring, Sykes, Wilson

A BILL

To amend sections 5726.01, 5726.02, 5726.04,
5726.06, and 5751.01 of the Revised Code to
reduce the tax liability of newly formed banks
by up to one million dollars per year for their
first three years and to exclude the principal
balance of mortgage loans sold by a mortgage
lender from the lender's commercial activity tax
gross receipts.

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

Section 1. That sections 5726.01, 5726.02, 5726.04,
5726.06, and 5751.01 of the Revised Code be amended to read as
follows:

Sec. 5726.01. As used in this chapter:

(A) "Affiliated group" means a group of two or more
persons with fifty per cent or greater of the value of each
person's ownership interests owned or controlled directly,

indirectly, or constructively through related interests by 16
common owners during all or any portion of the taxable year, and 17
the common owners. "Affiliated group" includes, but is not 18
limited to, any person eligible to be included in a consolidated 19
elected taxpayer group under section 5751.011 of the Revised 20
Code or a combined taxpayer group under section 5751.012 of the 21
Revised Code. 22

(B) "Bank organization" means any of the following: 23

(1) A national bank organized and operating as a national 24
bank association pursuant to the "National Bank Act," 13 Stat. 25
100 (1864), 12 U.S.C. 21, et seq.; 26

(2) A federal savings association or federal savings bank 27
chartered under 12 U.S.C. 1464; 28

(3) A bank, banking association, trust company, savings 29
and loan association, savings bank, or other banking institution 30
that is organized or incorporated under the laws of the United 31
States, any state, or a foreign country; 32

(4) Any corporation organized and operating pursuant to 12 33
U.S.C. 611, et seq.; 34

(5) Any agency or branch of a foreign bank, as those terms 35
are defined in 12 U.S.C. 3101. 36

"Bank organization" does not include an institution 37
organized under the "Federal Farm Loan Act," 39 Stat. 360 38
(1916), or a successor of such an institution, a company 39
chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or 40
a successor of such a company, an association formed pursuant to 41
12 U.S.C. 2279c-1, an insurance company, or a credit union. 42

(C) "Call report" means the consolidated reports of 43

condition and income prescribed by the federal financial 44
institutions examination council that a person is required to 45
file with a federal regulatory agency pursuant to 12 U.S.C. 161, 46
12 U.S.C. 324, or 12 U.S.C. 1817. 47

(D) "Captive finance company" means a person that derived 48
at least seventy-five per cent of its gross income for the 49
current taxable year and the two taxable years preceding the 50
current taxable year from one or more of the following 51
transactions: 52

(1) Financing transactions with members of its affiliated 53
group; 54

(2) Financing transactions with or for customers of 55
products manufactured or sold by a member of its affiliated 56
group; 57

(3) Financing transactions with or for a distributor or 58
franchisee that sells, leases, or services a product 59
manufactured or sold by a member of the person's affiliated 60
group; 61

(4) Financing transactions with or for a supplier to a 62
member of the person's affiliated group in connection with the 63
member's manufacturing business; 64

(5) Issuing bonds or other publicly traded debt 65
instruments for the benefit of the affiliated group; 66

(6) Short-term or long-term investments whereby the person 67
invests the cash reserves of the affiliated group and the 68
affiliated group utilizes the proceeds from the investments. 69

For the purposes of division (D) of this section, 70
"financing transaction" means making or selling loans, extending 71

credit, leasing, earning or receiving subvention, including 72
interest supplements and other support costs related thereto, or 73
acquiring, selling, or servicing accounts receivable, notes, 74
loans, leases, debt, or installment obligations that arise from 75
the sale or lease of tangible personal property or the 76
performance of services, and "gross income" has the same meaning 77
as in section 61 of the Internal Revenue Code and includes 78
income from transactions between the captive finance company and 79
other members of its affiliated group. 80

A person that has not been in continuous existence for the 81
two taxable years preceding the current taxable year qualifies 82
as a "captive finance company" for purposes of division (D) of 83
this section if the person derived at least seventy-five per 84
cent of its gross income for the period of its existence from 85
one or more of the transactions described in divisions (D)(1) to 86
(6) of this section. 87

"Captive finance company" does not include a small dollar 88
lender. 89

(E) "Credit union" means a nonprofit cooperative financial 90
institution organized or chartered under the laws of this state, 91
any other state, or the United States. 92

(F) "Diversified savings and loan holding company" has the 93
same meaning as in 12 U.S.C. 1467a, as that section existed on 94
January 1, 2012. 95

(G) "Document of creation" means the articles of 96
incorporation of a corporation, articles of organization of a 97
limited liability company, registration of a foreign limited 98
liability company, certificate of limited partnership, 99
registration of a foreign limited partnership, registration of a 100

domestic or foreign limited liability partnership, or 101
registration of a trade name. 102

(H) "Financial institution" means a bank organization, a 103
holding company of a bank organization, or a nonbank financial 104
organization, except when one of the following applies: 105

(1) If two or more such entities are consolidated for the 106
purposes of filing an FR Y-9, "financial institution" means a 107
group consisting of all entities that are included in the FR Y- 108
9. 109

(2) If two or more such entities are consolidated for the 110
purposes of filing a call report, "financial institution" means 111
a group consisting of all entities that are included in the call 112
report and that are not included in a group described in 113
division (H) (1) of this section. 114

(3) If a bank organization is owned directly by a 115
grandfathered unitary savings and loan holding company or 116
directly or indirectly by an entity that was a grandfathered 117
unitary savings and loan holding company on January 1, 2012, 118
"financial institution" means a group consisting only of that 119
bank organization and the entities included in that bank 120
organization's call report, notwithstanding division (H) (1) or 121
(2) of this section. 122

"Financial institution" does not include a diversified 123
savings and loan holding company, a grandfathered unitary 124
savings and loan holding company, any entity that was a 125
grandfathered unitary savings and loan holding company on 126
January 1, 2012, or any entity that is not a bank organization 127
or owned by a bank organization and that is owned directly or 128
indirectly by an entity that was a grandfathered unitary savings 129

and loan holding company on January 1, 2012. 130

(I) "FR Y-9" means the consolidated or parent-only 131
financial statements that a holding company is required to file 132
with the federal reserve board pursuant to 12 U.S.C. 1844. In 133
the case of a holding company required to file both consolidated 134
and parent-only financial statements, "FR Y-9" means the 135
consolidated financial statements that the holding company is 136
required to file. 137

(J) "Grandfathered unitary savings and loan holding 138
company" means an entity described in 12 U.S.C. 1467a(c)(9)(C), 139
as that section existed on December 31, 1999. 140

(K) "Gross receipts" means all items of income, without 141
deduction for expenses. If the reporting person for a taxpayer 142
is a holding company, "gross receipts" includes all items of 143
income reported on the FR Y-9 filed by the holding company. If 144
the reporting person for a taxpayer is a bank organization, 145
"gross receipts" includes all items of income reported on the 146
call report filed by the bank organization. If the reporting 147
person for a taxpayer is a nonbank financial organization, 148
"gross receipts" includes all items of income reported in 149
accordance with generally accepted accounting principles. 150

(L) "Insurance company" means every corporation, 151
association, and society engaged in the business of insurance of 152
any character, or engaged in the business of entering into 153
contracts substantially amounting to insurance of any character, 154
or of indemnifying or guaranteeing against loss or damage, or 155
acting as surety on bonds or undertakings. "Insurance company" 156
also includes any health insuring corporation as defined in 157
section 1751.01 of the Revised Code. 158

(M) (1) "Nonbank financial organization" means every person 159
that is not a bank organization or a holding company of a bank 160
organization and that engages in business primarily as a small 161
dollar lender. "Nonbank financial organization" does not include 162
an institution organized under the "Federal Farm Loan Act," 39 163
Stat. 360 (1916), or a successor of such an institution, an 164
insurance company, a captive finance company, a credit union, an 165
institution organized and operated exclusively for charitable 166
purposes within the meaning of section 501(c) (3) of the Internal 167
Revenue Code, or a person that facilitates or services one or 168
more securitizations for a bank organization, a holding company 169
of a bank organization, a captive finance company, or any member 170
of the person's affiliated group. 171

(2) A person is engaged in business primarily as a small 172
dollar lender if the person has, for the taxable year, gross 173
income from the activities described in division (O) of this 174
section that exceeds the person's gross income from all other 175
activities. As used in division (M) of this section, "gross 176
income" has the same meaning as in section 61 of the Internal 177
Revenue Code, and income from transactions between the person 178
and the other members of the affiliated group shall be 179
eliminated, and any sales, exchanges, and other dispositions of 180
commercial paper to persons outside the affiliated group 181
produces gross income only to the extent the proceeds from such 182
transactions exceed the affiliated group's basis in such 183
commercial paper. 184

(N) "Reporting person" means one of the following: 185

(1) In the case of a financial institution described in 186
division (H) (1) of this section, the top-tier holding company 187
required to file an FR Y-9. 188

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| (2) In the case of a financial institution described in division (H) (2) or (3) of this section, the bank organization required to file the call report. | 189 190 191 |
| (3) In the case of a bank organization or nonbank financial organization that is not included in a group described in division (H) (1) or (2) of this section, the bank organization or nonbank financial organization. | 192 193 194 195 |
| (O) "Small dollar lender" means any person engaged primarily in the business of loaning money to individuals, provided that the loan amounts do not exceed five thousand dollars and the duration of the loans do not exceed twelve months. A "small dollar lender" does not include a bank organization, credit union, or captive finance company. | 196 197 198 199 200 201 |
| (P) "Tax year" means the calendar year for which the tax levied under section 5726.02 of the Revised Code is required to be paid. | 202 203 204 |
| (Q) "Taxable year" means the calendar year preceding the year in which an annual report is required to be filed under section 5726.03 of the Revised Code. | 205 206 207 |
| (R) "Taxpayer" means a financial institution subject to the tax levied under section 5726.02 of the Revised Code. | 208 209 |
| (S) "Total equity capital" means the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. "Total equity capital" shall not include any noncontrolling (minority) interests as reported on an FR Y-9 or call report, unless such | 210 211 212 213 214 215 216 217 |

interests are in a bank organization or a bank holding company. 218

(T) "Total Ohio equity capital" means the portion of the 219
total equity capital of a financial institution apportioned to 220
Ohio pursuant to section 5726.05 of the Revised Code. 221

(U) "Holding company" does not include a diversified 222
savings and loan holding company, a grandfathered unitary 223
savings and loan holding company, any entity that was a 224
grandfathered unitary savings and loan holding company on 225
January 1, 2012, or any entity that is not a bank organization 226
or owned by a bank organization and that is owned directly or 227
indirectly by an entity that was a grandfathered unitary savings 228
and loan holding company on January 1, 2012. 229

(V) "Securitization" means transferring one or more assets 230
to one or more persons and subsequently issuing securities 231
backed by the right to receive payment from the asset or assets 232
so transferred. 233

(W) "De novo bank organization" means a bank organization 234
that first began operations in the taxable year preceding the 235
current tax year or in either of the two immediately preceding 236
taxable years. For the purposes of this division, a bank 237
organization "first began operations" on the day the bank 238
organization was issued a charter, a certificate of authority to 239
commence business, or the equivalent document enabling the bank 240
organization to begin conducting business as a bank 241
organization. A "de novo bank organization" does not include a 242
bank organization formed by, acquired by, merged with, or 243
converted by a taxpayer that filed and paid the tax under this 244
chapter in any preceding calendar year. 245

Sec. 5726.02. (A) For the purpose of funding the needs of 246

this state and its local governments ~~beginning with the tax year~~ 247
~~that commences on January 1, 2014, and continuing for every tax~~ 248
~~year thereafter~~, there is hereby levied a tax on each financial 249
institution for the privilege of doing business in this state. A 250
financial institution is subject to the tax imposed under this 251
chapter for each calendar year that the financial institution 252
conducts business as a financial institution in this state or 253
otherwise has nexus in or with this state under the Constitution 254
of the United States on the first day of January of that 255
calendar year. 256

(B) The amount of tax a financial institution other than a 257
de novo bank organization is required to pay under this chapter 258
shall equal the greater of the minimum tax required under 259
division (A) (1) (a) of section 5726.04 of the Revised Code or the 260
amount by which the tax calculated under division ~~(A) (2)~~ (A) (1) 261
(b) of that section exceeds any credits allowed against the tax. 262
The amount of tax a de novo bank organization is required to pay 263
under this chapter shall equal the amount by which the tax 264
calculated under division (A) (2) of section 5726.04 of the 265
Revised Code exceeds any credits allowed against the tax. 266

Sec. 5726.04. (A) (1) The tax levied on a financial 267
institution other than a de novo bank organization under this 268
chapter shall be the greater of the following: 269

~~(1)~~ (a) A minimum tax equal to one thousand dollars; 270

~~(2)~~ (b) The product of the total Ohio equity capital of 271
the financial institution, as determined under this section, 272
multiplied by eight mills for each dollar of the first two 273
hundred million dollars of total Ohio equity capital, by four 274
mills for each dollar of total Ohio equity capital greater than 275
two hundred million and less than one billion three hundred 276

million dollars, and by two and one-half mills for each dollar 277
of total Ohio equity capital equal to or greater than one 278
billion three hundred million dollars. 279

(2) The tax levied on a de novo bank organization under 280
this chapter shall equal the difference obtained by subtracting 281
one million dollars from the amount of tax that would be 282
calculated for the de novo bank organization under division (A) 283
(1) (b) of this section, provided that if that difference is 284
equal to or less than zero, no tax shall be due for the taxable 285
year. 286

A de novo bank organization with no tax due for a taxable 287
year pursuant to this division shall be considered a financial 288
institution that "paid the tax imposed by section 5726.02 of the 289
Revised Code based on" that taxable year for the purposes of 290
division (E) (3) of section 5751.01 of the Revised Code. 291

(B) If the reporting person for a financial institution 292
files an FR Y-9 or call report, the total equity capital of the 293
financial institution shall equal the total equity capital shown 294
on the reporting person's FR Y-9 or call report as of the end of 295
the taxable year. The total equity capital of all other 296
financial institutions shall be reported as of the end of the 297
taxable year in accordance with generally accepted accounting 298
principles. 299

(C) For the purposes of this section: 300

(1) "Total Ohio equity capital" means the product of (a) 301
the total equity capital of a financial institution as of the 302
end of a taxable year to the extent that the total equity 303
capital does not exceed fourteen per cent of the financial 304
institution's total assets multiplied by (b) the Ohio 305

apportionment ratio calculated for the financial institution 306
under section 5726.05 of the Revised Code, except as provided in 307
section 5726.041 of the Revised Code. 308

(2) "Total assets" means: 309

(a) In the case of a financial institution described in 310
division (H) (1) of section 5726.01 of the Revised Code, the 311
total consolidated assets as shown on the reporting person's FR 312
Y-9 as of the end of the taxable year; 313

(b) In the case of a financial institution described in 314
division (H) (2) or (3) of section 5726.01 of the Revised Code, 315
the total consolidated assets as shown on the reporting person's 316
call report as of the end of the taxable year; 317

(c) In the case of all other financial institutions, the 318
total consolidated assets of the financial institution as of the 319
end of the taxable year in accordance with generally accepted 320
accounting principles. 321

The tax commissioner may audit a reporting person's total 322
assets to confirm the financial institution's actual total 323
consolidated assets and may make any adjustments necessary. 324

(D) All payments received from the tax levied under this 325
chapter shall be credited to the general revenue fund. 326

(E) The commissioner may adopt rules to provide additional 327
guidance for the application of this section. 328

Sec. 5726.06. (A) The reporting person for a taxpayer 329
shall file estimated tax reports and remit the amount of tax 330
estimated to be due for a tax year to the tax commissioner as 331
follows: 332

(1) ~~The minimum tax required under division (A) (1) of~~ 333

~~section 5726.04 of the Revised Code or one-third~~ One-third of 334
the estimated tax, ~~whichever is greater~~ or the minimum tax 335
required under division (A) (1) (a) of section 5726.04 of the 336
Revised Code, if applicable and greater than one-third of the 337
estimated tax, on or before the thirty-first day of January of 338
the tax year; 339

(2) One-half of the amount by which the estimated tax 340
exceeds the amount paid under division (A) (1) of this section on 341
or before the thirty-first day of March of the tax year; 342

(3) One-half of the amount by which the estimated tax 343
exceeds the amount paid under division (A) (1) of this section on 344
or before the thirty-first day of May of the tax year. 345

(B) (1) The reporting person for a taxpayer shall remit the 346
estimated tax electronically as provided in division (C) of 347
section 5726.03 of the Revised Code. Remittance shall be made 348
payable to the treasurer of state. 349

(2) The tax commissioner shall immediately forward to the 350
treasurer of state all amounts received under this section, and 351
the treasurer of state shall credit all payments of such 352
estimated tax as provided in division (D) of section 5726.04 of 353
the Revised Code. 354

(C) (1) If a taxpayer was not subject to the tax imposed by 355
section 5726.02 of the Revised Code for the preceding tax year, 356
"estimated tax" for purposes of division (A) (1) of this section 357
means ninety per cent of the qualifying net tax for the tax 358
year. If a taxpayer was subject to the tax for the preceding tax 359
year, "estimated tax" for purposes of division (A) (1) of this 360
section means the lesser of one hundred per cent of the 361
taxpayer's qualifying net tax for the preceding tax year or 362

ninety per cent of the qualifying net tax for the tax year. 363

(2) If the taxpayer did not file a report under section 364
5726.02 of the Revised Code for the tax year or failed to 365
prepare and file the report in good faith for the tax year, 366
"qualifying net tax" as used in division (C)(1) of this section 367
for that tax year means the amount described in division (C)(2) 368
(a) of this section. Otherwise, "qualifying net tax" as used in 369
division (C)(1) of this section for that tax year means the 370
lesser of the amount described in division (C)(2)(a) or (b) of 371
this section. 372

(a) The tax imposed by section 5726.02 of the Revised Code 373
for that tax year reduced by the credits listed in section 374
5726.98 of the Revised Code. If the credits exceed the total tax 375
and the financial institution is not a de novo bank 376
organization, the qualifying net tax is the minimum tax. 377

(b) The lesser of the tax shown on the report, prepared 378
and filed in good faith, reduced by the credits shown on that 379
report, or the tax shown on an amended report, prepared and 380
filed in good faith, reduced by the credits shown on that 381
amended report. If the credits shown exceed the total tax shown 382
and the financial institution is not a de novo bank 383
organization, the qualifying net tax is the minimum tax. 384

Sec. 5751.01. As used in this chapter: 385

(A) "Person" means, but is not limited to, individuals, 386
combinations of individuals of any form, receivers, assignees, 387
trustees in bankruptcy, firms, companies, joint-stock companies, 388
business trusts, estates, partnerships, limited liability 389
partnerships, limited liability companies, associations, joint 390
ventures, clubs, societies, for-profit corporations, S 391

corporations, qualified subchapter S subsidiaries, qualified 392
subchapter S trusts, trusts, entities that are disregarded for 393
federal income tax purposes, and any other entities. 394

(B) "Consolidated elected taxpayer" means a group of two 395
or more persons treated as a single taxpayer for purposes of 396
this chapter as the result of an election made under section 397
5751.011 of the Revised Code. 398

(C) "Combined taxpayer" means a group of two or more 399
persons treated as a single taxpayer for purposes of this 400
chapter under section 5751.012 of the Revised Code. 401

(D) "Taxpayer" means any person, or any group of persons 402
in the case of a consolidated elected taxpayer or combined 403
taxpayer treated as one taxpayer, required to register or pay 404
tax under this chapter. "Taxpayer" does not include excluded 405
persons. 406

(E) "Excluded person" means any of the following: 407

(1) Any person with not more than one hundred fifty 408
thousand dollars of taxable gross receipts during the calendar 409
year. Division (E)(1) of this section does not apply to a person 410
that is a member of a consolidated elected taxpayer; 411

(2) A public utility that paid the excise tax imposed by 412
section 5727.24 or 5727.30 of the Revised Code based on one or 413
more measurement periods that include the entire tax period 414
under this chapter, except that a public utility that is a 415
combined company is a taxpayer with regard to the following 416
gross receipts: 417

(a) Taxable gross receipts directly attributed to a public 418
utility activity, but not directly attributed to an activity 419
that is subject to the excise tax imposed by section 5727.24 or 420

5727.30 of the Revised Code; 421

(b) Taxable gross receipts that cannot be directly 422
attributed to any activity, multiplied by a fraction whose 423
numerator is the taxable gross receipts described in division 424
(E) (2) (a) of this section and whose denominator is the total 425
taxable gross receipts that can be directly attributed to any 426
activity; 427

(c) Except for any differences resulting from the use of 428
an accrual basis method of accounting for purposes of 429
determining gross receipts under this chapter and the use of the 430
cash basis method of accounting for purposes of determining 431
gross receipts under section 5727.24 of the Revised Code, the 432
gross receipts directly attributed to the activity of a natural 433
gas company shall be determined in a manner consistent with 434
division (D) of section 5727.03 of the Revised Code. 435

As used in division (E) (2) of this section, "combined 436
company" and "public utility" have the same meanings as in 437
section 5727.01 of the Revised Code. 438

(3) A financial institution, as defined in section 5726.01 439
of the Revised Code, that paid the tax imposed by section 440
5726.02 of the Revised Code based on one or more taxable years 441
that include the entire tax period under this chapter; 442

(4) A person directly or indirectly owned by one or more 443
financial institutions, as defined in section 5726.01 of the 444
Revised Code, that paid the tax imposed by section 5726.02 of 445
the Revised Code based on one or more taxable years that include 446
the entire tax period under this chapter. 447

For the purposes of division (E) (4) of this section, a 448
person owns another person under the following circumstances: 449

(a) In the case of corporations issuing capital stock, one 450
corporation owns another corporation if it owns fifty per cent 451
or more of the other corporation's capital stock with current 452
voting rights; 453

(b) In the case of a limited liability company, one person 454
owns the company if that person's membership interest, as 455
defined in section 1705.01 of the Revised Code, is fifty per 456
cent or more of the combined membership interests of all persons 457
owning such interests in the company; 458

(c) In the case of a partnership, trust, or other 459
unincorporated business organization other than a limited 460
liability company, one person owns the organization if, under 461
the articles of organization or other instrument governing the 462
affairs of the organization, that person has a beneficial 463
interest in the organization's profits, surpluses, losses, or 464
distributions of fifty per cent or more of the combined 465
beneficial interests of all persons having such an interest in 466
the organization. 467

(5) A domestic insurance company or foreign insurance 468
company, as defined in section 5725.01 of the Revised Code, that 469
paid the insurance company premiums tax imposed by section 470
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 471
insurance company whose gross premiums are subject to tax under 472
section 3905.36 of the Revised Code based on one or more 473
measurement periods that include the entire tax period under 474
this chapter; 475

(6) A person that solely facilitates or services one or 476
more securitizations of phase-in-recovery property pursuant to a 477
final financing order as those terms are defined in section 478
4928.23 of the Revised Code. For purposes of this division, 479

"securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

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

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

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

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

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| (b) Amounts realized from the taxpayer's performance of services for another; | 509 510 |
| (c) Amounts realized from another's use or possession of the taxpayer's property or capital; | 511 512 |
| (d) Any combination of the foregoing amounts. | 513 |
| (2) "Gross receipts" excludes the following amounts: | 514 |
| (a) Interest income except interest on credit sales; | 515 |
| (b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code; | 516 517 518 519 |
| (c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to | 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 |

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| another entity is not a hedging transaction. | 538 |
| (d) Proceeds received attributable to the repayment, | 539 |
| maturity, or redemption of the principal of a loan, bond, mutual | 540 |
| fund, certificate of deposit, or marketable instrument; | 541 |
| (e) The principal amount received under a repurchase | 542 |
| agreement or on account of any transaction properly | 543 |
| characterized as a loan to the person; | 544 |
| (f) Contributions received by a trust, plan, or other | 545 |
| arrangement, any of which is described in section 501(a) of the | 546 |
| Internal Revenue Code, or to which Title 26, Subtitle A, Chapter | 547 |
| 1, Subchapter (D) of the Internal Revenue Code applies; | 548 |
| (g) Compensation, whether current or deferred, and whether | 549 |
| in cash or in kind, received or to be received by an employee, | 550 |
| former employee, or the employee's legal successor for services | 551 |
| rendered to or for an employer, including reimbursements | 552 |
| received by or for an individual for medical or education | 553 |
| expenses, health insurance premiums, or employee expenses, or on | 554 |
| account of a dependent care spending account, legal services | 555 |
| plan, any cafeteria plan described in section 125 of the | 556 |
| Internal Revenue Code, or any similar employee reimbursement; | 557 |
| (h) Proceeds received from the issuance of the taxpayer's | 558 |
| own stock, options, warrants, puts, or calls, or from the sale | 559 |
| of the taxpayer's treasury stock; | 560 |
| (i) Proceeds received on the account of payments from | 561 |
| insurance policies, except those proceeds received for the loss | 562 |
| of business revenue; | 563 |
| (j) Gifts or charitable contributions received; membership | 564 |
| dues received by trade, professional, homeowners', or | 565 |
| condominium associations; and payments received for educational | 566 |

| | |
|--|-----|
| courses, meetings, meals, or similar payments to a trade, | 567 |
| professional, or other similar association; and fundraising | 568 |
| receipts received by any person when any excess receipts are | 569 |
| donated or used exclusively for charitable purposes; | 570 |
| (k) Damages received as the result of litigation in excess | 571 |
| of amounts that, if received without litigation, would be gross | 572 |
| receipts; | 573 |
| (l) Property, money, and other amounts received or | 574 |
| acquired by an agent on behalf of another in excess of the | 575 |
| agent's commission, fee, or other remuneration; | 576 |
| (m) Tax refunds, other tax benefit recoveries, and | 577 |
| reimbursements for the tax imposed under this chapter made by | 578 |
| entities that are part of the same combined taxpayer or | 579 |
| consolidated elected taxpayer group, and reimbursements made by | 580 |
| entities that are not members of a combined taxpayer or | 581 |
| consolidated elected taxpayer group that are required to be made | 582 |
| for economic parity among multiple owners of an entity whose tax | 583 |
| obligation under this chapter is required to be reported and | 584 |
| paid entirely by one owner, pursuant to the requirements of | 585 |
| sections 5751.011 and 5751.012 of the Revised Code; | 586 |
| (n) Pension reversions; | 587 |
| (o) Contributions to capital; | 588 |
| (p) Sales or use taxes collected as a vendor or an out-of- | 589 |
| state seller on behalf of the taxing jurisdiction from a | 590 |
| consumer or other taxes the taxpayer is required by law to | 591 |
| collect directly from a purchaser and remit to a local, state, | 592 |
| or federal tax authority; | 593 |
| (q) In the case of receipts from the sale of cigarettes, | 594 |
| tobacco products, or vapor products by a wholesale dealer, | 595 |

retail dealer, distributor, manufacturer, vapor distributor, or 596
seller, all as defined in section 5743.01 of the Revised Code, 597
an amount equal to the federal and state excise taxes paid by 598
any person on or for such cigarettes, tobacco products, or vapor 599
products under subtitle E of the Internal Revenue Code or 600
Chapter 5743. of the Revised Code; 601

(r) In the case of receipts from the sale, transfer, 602
exchange, or other disposition of motor fuel as "motor fuel" is 603
defined in section 5736.01 of the Revised Code, an amount equal 604
to the value of the motor fuel, including federal and state 605
motor fuel excise taxes and receipts from billing or invoicing 606
the tax imposed under section 5736.02 of the Revised Code to 607
another person; 608

(s) In the case of receipts from the sale of beer or 609
intoxicating liquor, as defined in section 4301.01 of the 610
Revised Code, by a person holding a permit issued under Chapter 611
4301. or 4303. of the Revised Code, an amount equal to federal 612
and state excise taxes paid by any person on or for such beer or 613
intoxicating liquor under subtitle E of the Internal Revenue 614
Code or Chapter 4301. or 4305. of the Revised Code; 615

(t) Receipts realized by a new motor vehicle dealer or 616
used motor vehicle dealer, as defined in section 4517.01 of the 617
Revised Code, from the sale or other transfer of a motor 618
vehicle, as defined in that section, to another motor vehicle 619
dealer for the purpose of resale by the transferee motor vehicle 620
dealer, but only if the sale or other transfer was based upon 621
the transferee's need to meet a specific customer's preference 622
for a motor vehicle; 623

(u) Receipts from a financial institution described in 624
division (E) (3) of this section for services provided to the 625

financial institution in connection with the issuance, 626
processing, servicing, and management of loans or credit 627
accounts, if such financial institution and the recipient of 628
such receipts have at least fifty per cent of their ownership 629
interests owned or controlled, directly or constructively 630
through related interests, by common owners; 631

(v) Receipts realized from administering anti-neoplastic 632
drugs and other cancer chemotherapy, biologicals, therapeutic 633
agents, and supportive drugs in a physician's office to patients 634
with cancer; 635

(w) Funds received or used by a mortgage broker that is 636
not a dealer in intangibles, other than fees or other 637
consideration, pursuant to a table-funding mortgage loan or 638
warehouse-lending mortgage loan. Terms used in division (F) (2) 639
(w) of this section have the same meanings as in section 1322.01 640
of the Revised Code, except "mortgage broker" means a person 641
assisting a buyer in obtaining a mortgage loan for a fee or 642
other consideration paid by the buyer or a lender, or a person 643
engaged in table-funding or warehouse-lending mortgage loans 644
that are first lien mortgage loans. 645

(x) Property, money, and other amounts received by a 646
professional employer organization, as defined in section 647
4125.01 of the Revised Code, from a client employer, as defined 648
in that section, in excess of the administrative fee charged by 649
the professional employer organization to the client employer; 650

(y) In the case of amounts retained as commissions by a 651
permit holder under Chapter 3769. of the Revised Code, an amount 652
equal to the amounts specified under that chapter that must be 653
paid to or collected by the tax commissioner as a tax and the 654
amounts specified under that chapter to be used as purse money; 655

(z) Qualifying distribution center receipts. 656

(i) For purposes of division (F) (2) (z) of this section: 657

(I) "Qualifying distribution center receipts" means 658
receipts of a supplier from qualified property that is delivered 659
to a qualified distribution center, multiplied by a quantity 660
that equals one minus the Ohio delivery percentage. If the 661
qualified distribution center is a refining facility, "supplier" 662
includes all dealers, brokers, processors, sellers, vendors, 663
cosigners, and distributors of qualified property. 664

(II) "Qualified property" means tangible personal property 665
delivered to a qualified distribution center that is shipped to 666
that qualified distribution center solely for further shipping 667
by the qualified distribution center to another location in this 668
state or elsewhere or, in the case of gold, silver, platinum, or 669
palladium delivered to a refining facility solely for refining 670
to a grade and fineness acceptable for delivery to a registered 671
commodities exchange. "Further shipping" includes storing and 672
repackaging property into smaller or larger bundles, so long as 673
the property is not subject to further manufacturing or 674
processing. "Refining" is limited to extracting impurities from 675
gold, silver, platinum, or palladium through smelting or some 676
other process at a refining facility. 677

(III) "Qualified distribution center" means a warehouse, a 678
facility similar to a warehouse, or a refining facility in this 679
state that, for the qualifying year, is operated by a person 680
that is not part of a combined taxpayer group and that has a 681
qualifying certificate. All warehouses or facilities similar to 682
warehouses that are operated by persons in the same taxpayer 683
group and that are located within one mile of each other shall 684
be treated as one qualified distribution center. All refining 685

facilities that are operated by persons in the same taxpayer 686
group and that are located in the same or adjacent counties may 687
be treated as one qualified distribution center. 688

(IV) "Qualifying year" means the calendar year to which 689
the qualifying certificate applies. 690

(V) "Qualifying period" means the period of the first day 691
of July of the second year preceding the qualifying year through 692
the thirtieth day of June of the year preceding the qualifying 693
year. 694

(VI) "Qualifying certificate" means the certificate issued 695
by the tax commissioner after the operator of a distribution 696
center files an annual application with the commissioner. The 697
application and annual fee shall be filed and paid for each 698
qualified distribution center on or before the first day of 699
September before the qualifying year or within forty-five days 700
after the distribution center opens, whichever is later. 701

The applicant must substantiate to the commissioner's 702
satisfaction that, for the qualifying period, all persons 703
operating the distribution center have more than fifty per cent 704
of the cost of the qualified property shipped to a location such 705
that it would be situated outside this state under the provisions 706
of division (E) of section 5751.033 of the Revised Code. The 707
applicant must also substantiate that the distribution center 708
cumulatively had costs from its suppliers equal to or exceeding 709
five hundred million dollars during the qualifying period. (For 710
purposes of division (F) (2) (z) (i) (VI) of this section, 711
"supplier" excludes any person that is part of the consolidated 712
elected taxpayer group, if applicable, of the operator of the 713
qualified distribution center.) The commissioner may require the 714
applicant to have an independent certified public accountant 715

certify that the calculation of the minimum thresholds required 716
for a qualified distribution center by the operator of a 717
distribution center has been made in accordance with generally 718
accepted accounting principles. The commissioner shall issue or 719
deny the issuance of a certificate within sixty days after the 720
receipt of the application. A denial is subject to appeal under 721
section 5717.02 of the Revised Code. If the operator files a 722
timely appeal under section 5717.02 of the Revised Code, the 723
operator shall be granted a qualifying certificate effective for 724
the remainder of the qualifying year or until the appeal is 725
finalized, whichever is earlier. If the operator does not 726
prevail in the appeal, the operator shall pay the ineligible 727
operator's supplier tax liability. 728

(VII) "Ohio delivery percentage" means the proportion of 729
the total property delivered to a destination inside Ohio from 730
the qualified distribution center during the qualifying period 731
compared with total deliveries from such distribution center 732
everywhere during the qualifying period. 733

(VIII) "Refining facility" means one or more buildings 734
located in a county in the Appalachian region of this state as 735
defined by section 107.21 of the Revised Code and utilized for 736
refining or smelting gold, silver, platinum, or palladium to a 737
grade and fineness acceptable for delivery to a registered 738
commodities exchange. 739

(IX) "Registered commodities exchange" means a board of 740
trade, such as New York mercantile exchange, inc. or commodity 741
exchange, inc., designated as a contract market by the commodity 742
futures trading commission under the "Commodity Exchange Act," 7
U.S.C. 1 et seq., as amended. 743
744

(X) "Ineligible operator's supplier tax liability" means 745

an amount equal to the tax liability of all suppliers of a 746
distribution center had the distribution center not been issued 747
a qualifying certificate for the qualifying year. Ineligible 748
operator's supplier tax liability shall not include interest or 749
penalties. The tax commissioner shall determine an ineligible 750
operator's supplier tax liability based on information that the 751
commissioner may request from the operator of the distribution 752
center. An operator shall provide a list of all suppliers of the 753
distribution center and the corresponding costs of qualified 754
property for the qualifying year at issue within sixty days of a 755
request by the commissioner under this division. 756

(ii) (I) If the distribution center is new and was not open 757
for the entire qualifying period, the operator of the 758
distribution center may request that the commissioner grant a 759
qualifying certificate. If the certificate is granted and it is 760
later determined that more than fifty per cent of the qualified 761
property during that year was not shipped to a location such 762
that it would be situated outside of this state under the 763
provisions of division (E) of section 5751.033 of the Revised 764
Code or if it is later determined that the person that operates 765
the distribution center had average monthly costs from its 766
suppliers of less than forty million dollars during that year, 767
then the operator of the distribution center shall pay the 768
ineligible operator's supplier tax liability. (For purposes of 769
division (F) (2) (z) (ii) of this section, "supplier" excludes any 770
person that is part of the consolidated elected taxpayer group, 771
if applicable, of the operator of the qualified distribution 772
center.) 773

(II) The commissioner may grant a qualifying certificate 774
to a distribution center that does not qualify as a qualified 775
distribution center for an entire qualifying period if the 776

operator of the distribution center demonstrates that the 777
business operations of the distribution center have changed or 778
will change such that the distribution center will qualify as a 779
qualified distribution center within thirty-six months after the 780
date the operator first applies for a certificate. If, at the 781
end of that thirty-six-month period, the business operations of 782
the distribution center have not changed such that the 783
distribution center qualifies as a qualified distribution 784
center, the operator of the distribution center shall pay the 785
ineligible operator's supplier tax liability for each year that 786
the distribution center received a certificate but did not 787
qualify as a qualified distribution center. For each year the 788
distribution center receives a certificate under division (F) (2) 789
(z) (ii) (II) of this section, the distribution center shall pay 790
all applicable fees required under division (F) (2) (z) of this 791
section and shall submit an updated business plan showing the 792
progress the distribution center made toward qualifying as a 793
qualified distribution center during the preceding year. 794

(III) An operator may appeal a determination under 795
division (F) (2) (z) (ii) (I) or (II) of this section that the 796
ineligible operator is liable for the operator's supplier tax 797
liability as a result of not qualifying as a qualified 798
distribution center, as provided in section 5717.02 of the 799
Revised Code. 800

(iii) When filing an application for a qualifying 801
certificate under division (F) (2) (z) (i) (VI) of this section, the 802
operator of a qualified distribution center also shall provide 803
documentation, as the commissioner requires, for the 804
commissioner to ascertain the Ohio delivery percentage. The 805
commissioner, upon issuing the qualifying certificate, also 806
shall certify the Ohio delivery percentage. The operator of the 807

qualified distribution center may appeal the commissioner's 808
certification of the Ohio delivery percentage in the same manner 809
as an appeal is taken from the denial of a qualifying 810
certificate under division (F) (2) (z) (i) (VI) of this section. 811

(iv) (I) In the case where the distribution center is new 812
and not open for the entire qualifying period, the operator 813
shall make a good faith estimate of an Ohio delivery percentage 814
for use by suppliers in their reports of taxable gross receipts 815
for the remainder of the qualifying period. The operator of the 816
facility shall disclose to the suppliers that such Ohio delivery 817
percentage is an estimate and is subject to recalculation. By 818
the due date of the next application for a qualifying 819
certificate, the operator shall determine the actual Ohio 820
delivery percentage for the estimated qualifying period and 821
proceed as provided in division (F) (2) (z) (iii) of this section 822
with respect to the calculation and recalculation of the Ohio 823
delivery percentage. The supplier is required to file, within 824
sixty days after receiving notice from the operator of the 825
qualified distribution center, amended reports for the impacted 826
calendar quarter or quarters or calendar year, whichever the 827
case may be. Any additional tax liability or tax overpayment 828
shall be subject to interest but shall not be subject to the 829
imposition of any penalty so long as the amended returns are 830
timely filed. 831

(II) The operator of a distribution center that receives a 832
qualifying certificate under division (F) (2) (z) (ii) (II) of this 833
section shall make a good faith estimate of the Ohio delivery 834
percentage that the operator estimates will apply to the 835
distribution center at the end of the thirty-six-month period 836
after the operator first applied for a qualifying certificate 837
under that division. The result of the estimate shall be 838

multiplied by a factor of one and seventy-five one-hundredths. 839
The product of that calculation shall be the Ohio delivery 840
percentage used by suppliers in their reports of taxable gross 841
receipts for each qualifying year that the distribution center 842
receives a qualifying certificate under division (F) (2) (z) (ii) 843
(II) of this section, except that, if the product is less than 844
five per cent, the Ohio delivery percentage used shall be five 845
per cent and that, if the product exceeds forty-nine per cent, 846
the Ohio delivery percentage used shall be forty-nine per cent. 847

(v) Qualifying certificates and Ohio delivery percentages 848
issued by the commissioner shall be open to public inspection 849
and shall be timely published by the commissioner. A supplier 850
relying in good faith on a certificate issued under this 851
division shall not be subject to tax on the qualifying 852
distribution center receipts under division (F) (2) (z) of this 853
section. An operator receiving a qualifying certificate is 854
liable for the ineligible operator's supplier tax liability for 855
each year the operator received a certificate but did not 856
qualify as a qualified distribution center. 857

(vi) The annual fee for a qualifying certificate shall be 858
one hundred thousand dollars for each qualified distribution 859
center. If a qualifying certificate is not issued, the annual 860
fee is subject to refund after the exhaustion of all appeals 861
provided for in division (F) (2) (z) (i) (VI) of this section. The 862
first one hundred thousand dollars of the annual application 863
fees collected each calendar year shall be credited to the 864
revenue enhancement fund. The remainder of the annual 865
application fees collected shall be distributed in the same 866
manner required under section 5751.20 of the Revised Code. 867

(vii) The tax commissioner may require that adequate 868

security be posted by the operator of the distribution center on 869
appeal when the commissioner disagrees that the applicant has 870
met the minimum thresholds for a qualified distribution center 871
as set forth in division (F)(2)(z) of this section. 872

(aa) Receipts of an employer from payroll deductions 873
relating to the reimbursement of the employer for advancing 874
moneys to an unrelated third party on an employee's behalf; 875

(bb) Cash discounts allowed and taken; 876

(cc) Returns and allowances; 877

(dd) Bad debts from receipts on the basis of which the tax 878
imposed by this chapter was paid in a prior quarterly tax 879
payment period. For the purpose of this division, "bad debts" 880
means any debts that have become worthless or uncollectible 881
between the preceding and current quarterly tax payment periods, 882
have been uncollected for at least six months, and that may be 883
claimed as a deduction under section 166 of the Internal Revenue 884
Code and the regulations adopted under that section, or that 885
could be claimed as such if the taxpayer kept its accounts on 886
the accrual basis. "Bad debts" does not include repossessed 887
property, uncollectible amounts on property that remains in the 888
possession of the taxpayer until the full purchase price is 889
paid, or expenses in attempting to collect any account 890
receivable or for any portion of the debt recovered; 891

(ee) Any amount realized from the sale of an account 892
receivable to the extent the receipts from the underlying 893
transaction giving rise to the account receivable were included 894
in the gross receipts of the taxpayer; 895

(ff) Any receipts directly attributed to a transfer 896
agreement or to the enterprise transferred under that agreement 897

under section 4313.02 of the Revised Code. 898

(gg) (i) As used in this division: 899

(I) "Qualified uranium receipts" means receipts from the 900
sale, exchange, lease, loan, production, processing, or other 901
disposition of uranium within a uranium enrichment zone 902
certified by the tax commissioner under division (F) (2) (gg) (ii) 903
of this section. "Qualified uranium receipts" does not include 904
any receipts with a situs in this state outside a uranium 905
enrichment zone certified by the tax commissioner under division 906
(F) (2) (gg) (ii) of this section. 907

(II) "Uranium enrichment zone" means all real property 908
that is part of a uranium enrichment facility licensed by the 909
United States nuclear regulatory commission and that was or is 910
owned or controlled by the United States department of energy or 911
its successor. 912

(ii) Any person that owns, leases, or operates real or 913
tangible personal property constituting or located within a 914
uranium enrichment zone may apply to the tax commissioner to 915
have the uranium enrichment zone certified for the purpose of 916
excluding qualified uranium receipts under division (F) (2) (gg) 917
of this section. The application shall include such information 918
that the tax commissioner prescribes. Within sixty days after 919
receiving the application, the tax commissioner shall certify 920
the zone for that purpose if the commissioner determines that 921
the property qualifies as a uranium enrichment zone as defined 922
in division (F) (2) (gg) of this section, or, if the tax 923
commissioner determines that the property does not qualify, the 924
commissioner shall deny the application or request additional 925
information from the applicant. If the tax commissioner denies 926
an application, the commissioner shall state the reasons for the 927

denial. The applicant may appeal the denial of an application to 928
the board of tax appeals pursuant to section 5717.02 of the 929
Revised Code. If the applicant files a timely appeal, the tax 930
commissioner shall conditionally certify the applicant's 931
property. The conditional certification shall expire when all of 932
the applicant's appeals are exhausted. Until final resolution of 933
the appeal, the applicant shall retain the applicant's records 934
in accordance with section 5751.12 of the Revised Code, 935
notwithstanding any time limit on the preservation of records 936
under that section. 937

(hh) In the case of amounts collected by a licensed casino 938
operator from casino gaming, amounts in excess of the casino 939
operator's gross casino revenue. In this division, "casino 940
operator" and "casino gaming" have the meanings defined in 941
section 3772.01 of the Revised Code, and "gross casino revenue" 942
has the meaning defined in section 5753.01 of the Revised Code. 943

(ii) Receipts realized from the sale of agricultural 944
commodities by an agricultural commodity handler, both as 945
defined in section 926.01 of the Revised Code, that is licensed 946
by the director of agriculture to handle agricultural 947
commodities in this state. 948

(jj) Qualifying integrated supply chain receipts. 949

As used in division (F) (2) (jj) of this section: 950

(i) "Qualifying integrated supply chain receipts" means 951
receipts of a qualified integrated supply chain vendor from the 952
sale of qualified property delivered to, or integrated supply 953
chain services provided to, another qualified integrated supply 954
chain vendor or to a retailer that is a member of the integrated 955
supply chain. "Qualifying integrated supply chain receipts" does 956

not include receipts of a person that is not a qualified 957
integrated supply chain vendor from the sale of raw materials to 958
a member of an integrated supply chain, or receipts of a member 959
of an integrated supply chain from the sale of qualified 960
property or integrated supply chain services to a person that is 961
not a member of the integrated supply chain. 962

(ii) "Qualified property" means any of the following: 963

(I) Component parts used to hold, contain, package, or 964
dispense qualified products, excluding equipment; 965

(II) Work-in-process inventory that will become, comprise, 966
or form a component part of a qualified product capable of being 967
sold at retail, excluding equipment, machinery, furniture, and 968
fixtures; 969

(III) Finished goods inventory that is a qualified product 970
capable of being sold at retail in the inventory's present form. 971

(iii) "Qualified integrated supply chain vendor" means a 972
person that is a member of an integrated supply chain and that 973
provides integrated supply chain services within a qualified 974
integrated supply chain district to a retailer that is a member 975
of the integrated supply chain or to another qualified 976
integrated supply chain vendor that is located within the same 977
such district as the person but does not share a common owner 978
with that person. 979

(iv) "Qualified product" means a personal care, health, or 980
beauty product or an aromatic product, including a candle. 981
"Qualified product" does not include a drug that may be 982
dispensed only pursuant to a prescription, durable medical 983
equipment, mobility enhancing equipment, or a prosthetic device, 984
as those terms are defined in section 5739.01 of the Revised 985

Code. 986

(v) "Integrated supply chain" means two or more qualified 987
integrated supply chain vendors certified on the most recent 988
list certified to the tax commissioner under this division that 989
systematically collaborate and coordinate business operations 990
with a retailer on the flow of tangible personal property from 991
material sourcing through manufacturing, assembly, packaging, 992
and delivery to the retailer to improve long-term financial 993
performance of each vendor and the supply chain that includes 994
the retailer. 995

For the purpose of the certification required under this 996
division, the reporting person for each retailer, on or before 997
the first day of October of each year, shall certify to the tax 998
commissioner a list of the qualified integrated supply chain 999
vendors providing or receiving integrated supply chain services 1000
within a qualified integrated supply chain district for the 1001
ensuing calendar year. On or before the following first day of 1002
November, the commissioner shall issue a certificate to the 1003
retailer and to each vendor certified to the commissioner on 1004
that list. The certificate shall include the names of the 1005
retailer and of the qualified integrated supply chain vendors. 1006

The retailer shall notify the commissioner of any changes 1007
to the list, including additions to or subtractions from the 1008
list or changes in the name or legal entity of vendors certified 1009
on the list, within sixty days after the date the retailer 1010
becomes aware of the change. Within thirty days after receiving 1011
that notification, the commissioner shall issue a revised 1012
certificate to the retailer and to each vendor certified on the 1013
list. The revised certificate shall include the effective date 1014
of the change. 1015

Each recipient of a certificate issued pursuant to this 1016
division shall maintain a copy of the certificate for four years 1017
from the date the certificate was received. 1018

(vi) "Integrated supply chain services" means procuring 1019
raw materials or manufacturing, processing, refining, 1020
assembling, packaging, or repackaging tangible personal property 1021
that will become finished goods inventory capable of being sold 1022
at retail by a retailer that is a member of an integrated supply 1023
chain. 1024

(vii) "Retailer" means a person primarily engaged in 1025
making retail sales and any member of that person's consolidated 1026
elected taxpayer group or combined taxpayer group, whether or 1027
not that member is primarily engaged in making retail sales. 1028

(viii) "Qualified integrated supply chain district" means 1029
the parcel or parcels of land from which a retailer's integrated 1030
supply chain that existed on September 29, 2015, provides or 1031
receives integrated supply chain services, and to which all of 1032
the following apply: 1033

(I) The parcel or parcels are located wholly in a county 1034
having a population of greater than one hundred sixty-five 1035
thousand but less than one hundred seventy thousand based on the 1036
2010 federal decennial census. 1037

(II) The parcel or parcels are located wholly in the 1038
corporate limits of a municipal corporation with a population 1039
greater than seven thousand five hundred and less than eight 1040
thousand based on the 2010 federal decennial census that is 1041
partly located in the county described in division (F) (2) (jj) 1042

(viii) (I) of this section, as those corporate limits existed on 1043
September 29, 2015. 1044

(III) The aggregate acreage of the parcel or parcels 1045
equals or exceeds one hundred acres. 1046

(kk) In the case of a railroad company described in 1047
division (D) (9) of section 5727.01 of the Revised Code that 1048
purchases dyed diesel fuel directly from a supplier as defined 1049
by section 5736.01 of the Revised Code, an amount equal to the 1050
product of the number of gallons of dyed diesel fuel purchased 1051
directly from such a supplier multiplied by the average 1052
wholesale price for a gallon of diesel fuel as determined under 1053
section 5736.02 of the Revised Code for the period during which 1054
the fuel was purchased multiplied by a fraction, the numerator 1055
of which equals the rate of tax levied by section 5736.02 of the 1056
Revised Code less the rate of tax computed in section 5751.03 of the 1057
Revised Code, and the denominator of which equals the rate 1058
of tax computed in section 5751.03 of the Revised Code. 1059

(ll) Receipts realized by an out-of-state disaster 1060
business from disaster work conducted in this state during a 1061
disaster response period pursuant to a qualifying solicitation 1062
received by the business. Terms used in division (F) (2) (ll) of 1063
this section have the same meanings as in section 5703.94 of the 1064
Revised Code. 1065

(mm) In the case of receipts from the sale or transfer of 1066
a mortgage-backed security or a mortgage loan by a mortgage 1067
lender holding a valid certificate of registration issued under 1068
Chapter 1322. of the Revised Code or by a person that is a 1069
member of the mortgage lender's consolidated elected taxpayer 1070
group, an amount equal to the principal balance of the mortgage 1071
loan. 1072

(nn) Any receipts for which the tax imposed by this 1073
chapter is prohibited by the constitution or laws of the United 1074

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| States or the constitution of this state. | 1075 |
| (3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. | 1076 1077 1078 1079 1080 1081 1082 1083 1084 |
| (4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. | 1085 1086 1087 1088 1089 1090 1091 |
| (G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code. | 1092 1093 |
| (H) A person has "substantial nexus with this state" if any of the following applies. The person: | 1094 1095 |
| (1) Owns or uses a part or all of its capital in this state; | 1096 1097 |
| (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state; | 1098 1099 |
| (3) Has bright-line presence in this state; | 1100 |
| (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this | 1101 1102 |

chapter under the Constitution of the United States. 1103

(I) A person has "bright-line presence" in this state for 1104
a reporting period and for the remaining portion of the calendar 1105
year if any of the following applies. The person: 1106

(1) Has at any time during the calendar year property in 1107
this state with an aggregate value of at least fifty thousand 1108
dollars. For the purpose of division (I)(1) of this section, 1109
owned property is valued at original cost and rented property is 1110
valued at eight times the net annual rental charge. 1111

(2) Has during the calendar year payroll in this state of 1112
at least fifty thousand dollars. Payroll in this state includes 1113
all of the following: 1114

(a) Any amount subject to withholding by the person under 1115
section 5747.06 of the Revised Code; 1116

(b) Any other amount the person pays as compensation to an 1117
individual under the supervision or control of the person for 1118
work done in this state; and 1119

(c) Any amount the person pays for services performed in 1120
this state on its behalf by another. 1121

(3) Has during the calendar year taxable gross receipts of 1122
at least five hundred thousand dollars. 1123

(4) Has at any time during the calendar year within this 1124
state at least twenty-five per cent of the person's total 1125
property, total payroll, or total gross receipts. 1126

(5) Is domiciled in this state as an individual or for 1127
corporate, commercial, or other business purposes. 1128

(J) "Tangible personal property" has the same meaning as 1129

in section 5739.01 of the Revised Code. 1130

(K) "Internal Revenue Code" means the Internal Revenue 1131
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 1132
used in this chapter that is not otherwise defined has the same 1133
meaning as when used in a comparable context in the laws of the 1134
United States relating to federal income taxes unless a 1135
different meaning is clearly required. Any reference in this 1136
chapter to the Internal Revenue Code includes other laws of the 1137
United States relating to federal income taxes. 1138

(L) "Calendar quarter" means a three-month period ending 1139
on the thirty-first day of March, the thirtieth day of June, the 1140
thirtieth day of September, or the thirty-first day of December. 1141

(M) "Tax period" means the calendar quarter or calendar 1142
year on the basis of which a taxpayer is required to pay the tax 1143
imposed under this chapter. 1144

(N) "Calendar year taxpayer" means a taxpayer for which 1145
the tax period is a calendar year. 1146

(O) "Calendar quarter taxpayer" means a taxpayer for which 1147
the tax period is a calendar quarter. 1148

(P) "Agent" means a person authorized by another person to 1149
act on its behalf to undertake a transaction for the other, 1150
including any of the following: 1151

(1) A person receiving a fee to sell financial 1152
instruments; 1153

(2) A person retaining only a commission from a 1154
transaction with the other proceeds from the transaction being 1155
remitted to another person; 1156

(3) A person issuing licenses and permits under section 1157

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| 1533.13 of the Revised Code; | 1158 |
| (4) A lottery sales agent holding a valid license issued | 1159 |
| under section 3770.05 of the Revised Code; | 1160 |
| (5) A person acting as an agent of the division of liquor | 1161 |
| control under section 4301.17 of the Revised Code. | 1162 |
| (Q) "Received" includes amounts accrued under the accrual | 1163 |
| method of accounting. | 1164 |
| (R) "Reporting person" means a person in a consolidated | 1165 |
| elected taxpayer or combined taxpayer group that is designated | 1166 |
| by that group to legally bind the group for all filings and tax | 1167 |
| liabilities and to receive all legal notices with respect to | 1168 |
| matters under this chapter, or, for the purposes of section | 1169 |
| 5751.04 of the Revised Code, a separate taxpayer that is not a | 1170 |
| member of such a group. | 1171 |
| Section 2. That existing sections 5726.01, 5726.02, | 1172 |
| 5726.04, 5726.06, and 5751.01 of the Revised Code are hereby | 1173 |
| repealed. | 1174 |
| Section 3. The amendment by this act of sections 5726.01, | 1175 |
| 5726.02, 5726.04, and 5726.06 of the Revised Code applies only | 1176 |
| to bank organizations that first begin operations in the taxable | 1177 |
| year in which this act takes effect or in any ensuing taxable | 1178 |
| year. | 1179 |
| The amendment by this act of section 5751.01 of the | 1180 |
| Revised Code applies to tax periods beginning on or after the | 1181 |
| effective date of this section. | 1182 |