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Sub. S. B. No. 235

Senator Roegner

Cosponsors: Senators Antani, Antonio, Brenner, Cirino, Dolan, Gavarone, Hackett, Hottinger, Huffman, S., Johnson, Kunze, Manning, McColley, Reineke, Romanchuk, Schaffer, Schuring, Sykes, Thomas, Wilson, Yuko Representatives Merrin, Riedel, Roemer

A BILL

To amend sections 128.47, 323.08, 718.05, 718.27, 1
718.85, 718.89, 718.91, 3734.905, 4307.05, 2
5725.222, 5726.30, 5727.28, 5727.91, 5728.061, 3
5729.102, 5735.11, 5735.122, 5736.08, 5739.01, 4
5739.02, 5739.03, 5739.07, 5739.104, 5741.02, 5
5741.10, 5743.53, 5745.11, 5747.11, 5747.98, 6
5749.08, 5751.08, and 5753.06 and to enact 7
sections 122.91 and 5747.82 of the Revised Code 8
to authorize tax incentives and to revise the 9
law governing state and local taxation. 10

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

Section 1. That sections 128.47, 323.08, 718.05, 718.27, 11
718.85, 718.89, 718.91, 3734.905, 4307.05, 5725.222, 5726.30, 12
5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 5735.122, 13
5736.08, 5739.01, 5739.02, 5739.03, 5739.07, 5739.104, 5741.02, 14
5741.10, 5743.53, 5745.11, 5747.11, 5747.98, 5749.08, 5751.08, 15
and 5753.06 be amended and sections 122.91 and 5747.82 of the 16
Revised Code be enacted to read as follows: 17

Sec. 122.91. (A) As used in this section: 18

(1) "Qualifying individual" means an individual who holds 19
a valid commercial driver's license or who is eligible to obtain 20
such a license. 21

(2) "Commercial driver's license" and "commercial motor 22
vehicle" have the same meanings as in section 4506.01 of the 23
Revised Code. 24

(3) "Training expense" means any cost customarily incurred 25
by an employer to train an employee who is a qualifying 26
individual to obtain a commercial driver's license or to operate 27
a commercial motor vehicle. "Training expense" shall not include 28
such an employee's wages. 29

(4) "Tax credit-eligible training expense" means any 30
training expense certified under division (B) of this section. 31

(5) "Director" means the director of development. 32

(B)(1) For calendar years 2023 through 2026, an employer 33
may apply to the director, on or before the first day of 34
December of each year and on a form prescribed by the director, 35
to certify training expenses that an employer estimates the 36
employer will incur during the following calendar year as tax 37
credit-eligible training expenses. Within thirty days after 38
receiving such an application, the director shall certify to 39
each applicant the amount of the applicant's submitted expenses 40
the director finds to be tax credit-eligible training expenses. 41
The director shall not certify more than fifty thousand dollars 42
of training expenses per year as tax credit-eligible training 43
expenses for any employer. 44

(2) The director shall not certify more than three million 45
dollars in tax credit-eligible training expenses for each 46

calendar year, increased by the sum of tax credit-eligible 47
expenses the director was authorized to certify within the limit 48
described in division (B) (2) of this section for preceding years 49
that were not the basis of a tax credit certificate issued under 50
division (C) (2) of this section in the current year or any 51
preceding year. 52

(C) (1) An employer that incurs tax credit-eligible 53
training expenses in a calendar year that were certified for 54
that year under division (B) of this section may apply to the 55
director for a nonrefundable credit against the tax imposed by 56
section 5747.02 of the Revised Code. The credit shall equal one- 57
half of the tax credit-eligible training expenses actually 58
incurred by the employer in, and certified for, the preceding 59
calendar year. The application may be submitted after the first 60
day and before the twenty-first day of January of the year 61
following the year for which the director certified the 62
expenses. The application shall be submitted on a form 63
prescribed by the director and shall, at a minimum, include an 64
itemized list of tax credit-eligible training expenses incurred 65
by the employer for each employee and the identities of those 66
employees. 67

(2) If the director approves an application described in 68
division (C) (1) of this section, the director, within sixty days 69
after receipt of the application, shall issue a tax credit 70
certificate to the applicant. The director in consultation with 71
the tax commissioner shall prescribe the form and manner of 72
issuing certificates. The director shall assign a unique 73
identifying number to each tax credit certificate and shall 74
record the certificate in a register devised and maintained by 75
the director for that purpose. The certificate shall state the 76
amount of the tax credit-eligible training expenses on which the 77

credit is based, the amount of the credit, and the date the 78
certificate is issued. Upon issuance of a certificate, the 79
director shall certify to the tax commissioner the name of the 80
applicant, the amount of tax credit-eligible training expenses 81
stated on the certificate, and any other information required by 82
the rules adopted under this section. 83

(D) (1) An employer that has been issued a tax credit 84
certificate under division (C) (2) of this section during the 85
preceding calendar year shall file a form with the director 86
identifying all employees, the training of which is the basis of 87
that tax credit, whose employment with the employer was 88
terminated during the preceding calendar year, the amount of the 89
tax credit that is attributable to those employees, and any 90
other information requested by the director. The form shall be 91
prescribed by the director, and shall be filed on or before the 92
twenty-first day of January of the year following the issuance 93
year stated on the certificate. 94

(2) The director shall annually submit to the general 95
assembly a report in accordance with division (B) of section 96
101.68 of the Revised Code that includes the total number of 97
employees described in division (D) (1) of this section and 98
reported to the director for the preceding calendar year, the 99
total amount of tax credits attributable to those employees, and 100
any other information the director finds pertinent. 101

(E) The director in consultation with the tax commissioner 102
shall adopt rules under Chapter 119. of the Revised Code for the 103
administration of this section. Such rules shall set forth any 104
applicable fees, any penalties for noncompliance with the 105
reporting requirements prescribed in division (D) of this 106
section, and the types of expenses that qualify as training 107

expenses for purposes of this section. 108

Sec. 128.47. Beginning January 1, 2014: 109

(A) A wireless service provider, reseller, seller, 110
wireless service subscriber, or consumer of a prepaid wireless 111
calling service may apply to the tax commissioner for a refund 112
of wireless 9-1-1 charges described in division (B) of this 113
section and of any penalties assessed with respect to such 114
charges. The application shall be made on the form prescribed by 115
the tax commissioner. The application shall be made not later 116
than four years after the date of the illegal or erroneous 117
payment ~~of the wireless 9-1-1 charge~~ by the subscriber or 118
consumer, unless the wireless service provider, reseller, or 119
seller waives the time limitation under division (A) (3) of 120
section 128.462 of the Revised Code. If the time limitation is 121
waived, the refund application period shall be extended for the 122
same period as the waiver. 123

(B) (1) If a wireless service provider, reseller, or seller 124
refunds to a subscriber or consumer the full amount of wireless 125
9-1-1 charges that the subscriber or consumer paid illegally or 126
erroneously, and if the provider, reseller, or seller remitted 127
that amount under section 128.46 of the Revised Code, the tax 128
commissioner shall refund that amount to the provider, reseller, 129
or seller. 130

(2) If a wireless service provider, reseller, or seller 131
has illegally or erroneously billed a subscriber or charged a 132
consumer for a wireless 9-1-1 charge, and if the provider, 133
reseller, or seller has not collected the charge but has 134
remitted that amount under section 128.46 of the Revised Code, 135
the tax commissioner shall refund that amount to the provider, 136
reseller, or seller. 137

(C) (1) The tax commissioner may refund to a subscriber or consumer wireless 9-1-1 charges paid illegally or erroneously to a provider, reseller, or seller only if both of the following apply:

(a) The tax commissioner has not refunded the wireless 9-1-1 charges to the provider, reseller, or seller.

(b) The provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer.

(2) The tax commissioner may require the subscriber or consumer to obtain from the provider, reseller, or seller a written statement confirming that the provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer and that the provider, reseller, or seller has not filed an application for a refund under this section. The tax commissioner may also require the provider, reseller, or seller to provide this statement.

(D) On the filing of an application for a refund under this section, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the determined amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(E) Refunds granted under this section shall include interest as provided by section 5739.132 of the Revised Code.

Sec. 323.08. After certifying the tax list and duplicate pursuant to section 319.28 of the Revised Code, the county

auditor shall deliver a list of the tax rates, ~~tax reduction~~ 167
~~factors,~~ expressed in mills for each one dollar of taxable 168
value, and effective tax rates, expressed both in mills for each 169
one dollar of taxable value and as a percentage of true value, 170
assessed and applied against each of the two classes of property 171
of the county to the county treasurer, who shall immediately 172
cause a schedule of all such ~~tax rates and effective rates~~ to be 173
published in a newspaper of general circulation in the county 174
or, in lieu of such publication, the county treasurer may insert 175
a copy of such schedule with each tax bill mailed. Such schedule 176
shall specify particularly the rates and effective rates of 177
taxation levied for all purposes on the tax list and duplicate 178
for the support of the various taxing units within the county, 179
expressed in dollars and cents for each one thousand dollars of 180
valuation. ~~The effective tax rates shall be printed in boldface~~ 181
~~type.~~ The schedule may also include, in the county auditor's 182
discretion, the tax reduction factors for each of the two 183
classes of property of the county, or it may exclude that 184
information if the county auditor prefers the schedule to be 185
more concise and more user-friendly. 186

The county treasurer shall publish notice of the date of 187
the last date for payment of each installment of taxes once a 188
week for two successive weeks prior to such date in a newspaper 189
of general circulation within the county or as provided in 190
section 7.16 of the Revised Code. The notice shall be inserted 191
in a conspicuous place in the newspaper and shall also contain 192
notice that any taxes paid after such date will accrue a penalty 193
and interest and that failure to receive a tax bill will not 194
avoid such penalty and interest. The notice shall contain a 195
telephone number that may be called by taxpayers who have not 196
received tax bills. 197

As used in this section and section 323.131 of the Revised Code, "effective tax rate" means the effective rate after making the reduction required by section 319.301, but before making the reduction required by section 319.302 of the Revised Code.

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

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

(C) If an individual is unable to complete and file a return or notice required by a municipal corporation in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

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

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

(F) (1) Each return required to be filed under this section 227
shall contain the signature of the taxpayer or the taxpayer's 228
duly authorized agent and of the person who prepared the return 229
for the taxpayer, and shall include the taxpayer's social 230
security number or taxpayer identification number. Each return 231
shall be verified by a declaration under penalty of perjury. 232

(2) A tax administrator may require a taxpayer who is an 233
individual to include, with each annual return, amended return, 234
or request for refund required under this section, copies of 235
only the following documents: all of the taxpayer's Internal 236
Revenue Service form W-2, "Wage and Tax Statements," including 237
all information reported on the taxpayer's federal W-2, as well 238
as taxable wages reported or withheld for any municipal 239
corporation; the taxpayer's Internal Revenue Service form 1040 240
or, in the case of a return or request required by a qualified 241
municipal corporation, Ohio form IT-1040; and, with respect to 242
an amended tax return or refund request, any other documentation 243
necessary to support the refund request or the adjustments made 244
in the amended return. An individual taxpayer who files the 245
annual return required by this section electronically is not 246
required to provide paper copies of any of the foregoing to the 247
tax administrator unless the tax administrator requests such 248
copies after the return has been filed. 249

(3) A tax administrator may require a taxpayer that is not 250
an individual to include, with each annual net profit return, 251
amended net profit return, or request for refund required under 252
this section, copies of only the following documents: the 253
taxpayer's Internal Revenue Service form 1041, form 1065, form 254
1120, form 1120-REIT, form 1120F, or form 1120S, and, with 255
respect to an amended tax return or refund request, any other 256
documentation necessary to support the refund request or the 257

adjustments made in the amended return. 258

A taxpayer that is not an individual and that files an 259
annual net profit return electronically through the Ohio 260
business gateway or in some other manner shall either mail the 261
documents required under this division to the tax administrator 262
at the time of filing or, if electronic submission is available, 263
submit the documents electronically through the Ohio business 264
gateway. The department of taxation shall publish a method of 265
electronically submitting the documents required under this 266
division through the Ohio business gateway on or before January 267
1, 2016. The department shall transmit all documents submitted 268
electronically under this division to the appropriate tax 269
administrator. 270

(4) After a taxpayer files a tax return, the tax 271
administrator may request, and the taxpayer shall provide, any 272
information, statements, or documents required by the municipal 273
corporation to determine and verify the taxpayer's municipal 274
income tax liability. The requirements imposed under division 275
(F) of this section apply regardless of whether the taxpayer 276
files on a generic form or on a form prescribed by the tax 277
administrator. 278

(G) (1) (a) Except as otherwise provided in this chapter, 279
each individual income tax return required to be filed under 280
this section shall be completed and filed as required by the tax 281
administrator on or before the date prescribed for the filing of 282
state individual income tax returns under division (G) of 283
section 5747.08 of the Revised Code. The taxpayer shall complete 284
and file the return or notice on forms prescribed by the tax 285
administrator or on generic forms, together with remittance made 286
payable to the municipal corporation or tax administrator. No 287

remittance is required if the amount shown to be due is ten 288
dollars or less. A municipal corporation shall not require a 289
qualifying employee whose income consists exclusively of exempt 290
income described in division (C) (20) (b) or (c) of section 718.01 291
of the Revised Code to file a return under this section. 292

(b) Except as otherwise provided in this chapter, each 293
annual net profit return required to be filed under this section 294
by a taxpayer that is not an individual shall be completed and 295
filed as required by the tax administrator on or before the 296
fifteenth day of the fourth month following the end of the 297
taxpayer's taxable year. The taxpayer shall complete and file 298
the return or notice on forms prescribed by the tax 299
administrator or on generic forms, together with remittance made 300
payable to the municipal corporation or tax administrator. No 301
remittance is required if the amount shown to be due is ten 302
dollars or less. 303

(2) (a) Any taxpayer that has duly requested an automatic 304
six-month extension for filing the taxpayer's federal income tax 305
return shall automatically receive an extension for the filing 306
of a municipal income tax return. The extended due date of the 307
municipal income tax return shall be the fifteenth day of the 308
tenth month after the last day of the taxable year to which the 309
return relates. 310

(b) A taxpayer that has not requested or received a six- 311
month extension for filing the taxpayer's federal income tax 312
return may request that the tax administrator grant the taxpayer 313
a six-month extension of the date for filing the taxpayer's 314
municipal income tax return. If the request is received by the 315
tax administrator on or before the date the municipal income tax 316
return is due, the tax administrator shall grant the taxpayer's 317

requested extension. 318

(c) An extension of time to file under division (G) (2) of 319
this section is not an extension of the time to pay any tax due 320
unless the tax administrator grants an extension of that date. 321

(3) If the tax commissioner extends for all taxpayers the 322
date for filing state income tax returns under division (G) of 323
section 5747.08 of the Revised Code, a taxpayer shall 324
automatically receive an extension for the filing of a municipal 325
income tax return. The extended due date of the municipal income 326
tax return shall be the same as the extended due date of the 327
state income tax return. 328

(4) If the tax administrator considers it necessary in 329
order to ensure the payment of the tax imposed by the municipal 330
corporation in accordance with this chapter, the tax 331
administrator may require taxpayers to file returns and make 332
payments otherwise than as provided in this section, including 333
taxpayers not otherwise required to file annual returns. 334

(5) If a taxpayer receives an extension for the filing of 335
a municipal income tax return under division (G) (2), (3), or (4) 336
of this section, the tax administrator shall not make any 337
inquiry or send any notice to the taxpayer with regard to the 338
return on or before the date the taxpayer files the return or on 339
or before the extended due date to file the return, whichever 340
occurs first. 341

If a tax administrator violates division (G) (5) of this 342
section, the municipal corporation shall reimburse the taxpayer 343
for any reasonable costs incurred to respond to such inquiry or 344
notice. 345

Division (G) (5) of this section does not apply if the tax 346

administrator has actual knowledge that the taxpayer failed to 347
file for a federal extension as required to receive the 348
extension under division (G) (2) (a) of this section or failed to 349
file for an extension under division (G) (2) (b) of this section. 350

(6) To the extent that any provision in this division 351
conflicts with any provision in section 718.052 of the Revised 352
Code, the provision in that section prevails. 353

(H) (1) For taxable years beginning after 2015, a municipal 354
corporation shall not require a taxpayer to remit tax with 355
respect to net profits if the amount due is less than ten 356
dollars. 357

(2) Except as provided in division (H) (3) of this section, 358
any taxpayer not required to remit tax to a municipal 359
corporation for a taxable year pursuant to division (H) (1) of 360
this section shall file with the municipal corporation an annual 361
net profit return under division (F) (3) of this section. 362

(3) A municipal corporation shall not require a person to 363
file a net profit return under this section if the person's 364
income consists exclusively of exempt income described in 365
division (C) (20) (a) of section 718.01 of the Revised Code. 366

(I) (1) If any report, claim, statement, or other document 367
required to be filed, or any payment required to be made, within 368
a prescribed period or on or before a prescribed date under this 369
chapter is delivered after that period or that date by United 370
States mail to the tax administrator or other municipal official 371
with which the report, claim, statement, or other document is 372
required to be filed, or to which the payment is required to be 373
made, the date of the postmark stamped on the cover in which the 374
report, claim, statement, or other document, or payment is 375

mailed shall be deemed to be the date of delivery or the date of 376
payment. "The date of postmark" means, in the event there is 377
more than one date on the cover, the earliest date imprinted on 378
the cover by the postal service. 379

(2) If a payment under this chapter is made by electronic 380
funds transfer, the payment shall be considered to be made on 381
the date of the timestamp assigned by the first electronic 382
system receiving that payment. 383

(J) The amounts withheld by an employer, the agent of an 384
employer, or an other payer as described in section 718.03 of 385
the Revised Code shall be allowed to the recipient of the 386
compensation as credits against payment of the tax imposed on 387
the recipient by the municipal corporation, unless the amounts 388
withheld were not remitted to the municipal corporation and the 389
recipient colluded with the employer, agent, or other payer in 390
connection with the failure to remit the amounts withheld. 391

(K) Each return required by a municipal corporation to be 392
filed in accordance with this section shall include a box that 393
the taxpayer may check to authorize another person, including a 394
tax return preparer who prepared the return, to communicate with 395
the tax administrator about matters pertaining to the return. 396
The return or instructions accompanying the return shall 397
indicate that by checking the box the taxpayer authorizes the 398
tax administrator to contact the preparer or other person 399
concerning questions that arise during the examination or other 400
review of the return and authorizes the preparer or other person 401
only to provide the tax administrator with information that is 402
missing from the return, to contact the tax administrator for 403
information about the examination or other review of the return 404
or the status of the taxpayer's refund or payments, and to 405

respond to notices about mathematical errors, offsets, or return 406
preparation that the taxpayer has received from the tax 407
administrator and has shown to the preparer or other person. 408

(L) The tax administrator of a municipal corporation shall 409
accept for filing a generic form of any income tax return, 410
report, or document required by the municipal corporation in 411
accordance with this chapter, provided that the generic form, 412
once completed and filed, contains all of the information 413
required by ordinance, resolution, or rules adopted by the 414
municipal corporation or tax administrator, and provided that 415
the taxpayer or tax return preparer filing the generic form 416
otherwise complies with the provisions of this chapter and of 417
the municipal corporation ordinance or resolution governing the 418
filing of returns, reports, or documents. 419

(M) When income tax returns, reports, or other documents 420
require the signature of a tax return preparer, the tax 421
administrator shall accept a facsimile of such a signature in 422
lieu of a manual signature. 423

(N) (1) As used in this division, "worksite location" has 424
the same meaning as in section 718.011 of the Revised Code. 425

(2) A person may notify a tax administrator that the 426
person does not expect to be a taxpayer with respect to the 427
municipal corporation for a taxable year if both of the 428
following conditions apply: 429

(a) The person was required to file a tax return with the 430
municipal corporation for the immediately preceding taxable year 431
because the person performed services at a worksite location 432
within that municipal corporation. 433

(b) The person no longer provides services in the 434

municipal corporation and does not expect to be subject to the 435
municipal corporation's income tax for the taxable year. 436

The person shall provide the notice in a signed affidavit 437
that briefly explains the person's circumstances, including the 438
location of the previous worksite location and the last date on 439
which the person performed services or made any sales within the 440
municipal corporation. The affidavit also shall include the 441
following statement: "The affiant has no plans to perform any 442
services within the municipal corporation, make any sales in the 443
municipal corporation, or otherwise become subject to the tax 444
levied by the municipal corporation during the taxable year. If 445
the affiant does become subject to the tax levied by the 446
municipal corporation for the taxable year, the affiant agrees 447
to be considered a taxpayer and to properly register as a 448
taxpayer with the municipal corporation if such a registration 449
is required by the municipal corporation's resolutions, 450
ordinances, or rules." The person shall sign the affidavit under 451
penalty of perjury. 452

(c) If a person submits an affidavit described in division 453
(N) (2) of this section, the tax administrator shall not require 454
the person to file any tax return for the taxable year unless 455
the tax administrator possesses information that conflicts with 456
the affidavit or if the circumstances described in the affidavit 457
change. Nothing in division (N) of this section prohibits the 458
tax administrator from performing an audit of the person. 459

Sec. 718.27. (A) As used in this section: 460

(1) "Applicable law" means this chapter, the resolutions, 461
ordinances, codes, directives, instructions, and rules adopted 462
by a municipal corporation provided such resolutions, 463
ordinances, codes, directives, instructions, and rules impose or 464

directly or indirectly address the levy, payment, remittance, or 465
filing requirements of a municipal income tax. 466

(2) "Income tax," "estimated income tax," and "withholding 467
tax" means any income tax, estimated income tax, and withholding 468
tax imposed by a municipal corporation pursuant to applicable 469
law, including at any time before January 1, 2016. 470

(3) A "return" includes any tax return, report, 471
reconciliation, schedule, and other document required to be 472
filed with a tax administrator or municipal corporation by a 473
taxpayer, employer, any agent of the employer, or any other 474
payer pursuant to applicable law, including at any time before 475
January 1, 2016. 476

(4) "Federal short-term rate" means the rate of the 477
average market yield on outstanding marketable obligations of 478
the United States with remaining periods to maturity of three 479
years or less, as determined under section 1274 of the Internal 480
Revenue Code, for July of the current year. 481

(5) "Interest rate as described in division (A) of this 482
section" means the federal short-term rate, rounded to the 483
nearest whole number per cent, plus five per cent. The rate 484
shall apply for the calendar year next following the July of the 485
year in which the federal short-term rate is determined in 486
accordance with division (A) (4) of this section. 487

(6) "Unpaid estimated income tax" means estimated income 488
tax due but not paid by the date the tax is required to be paid 489
under applicable law. 490

(7) "Unpaid income tax" means income tax due but not paid 491
by the date the income tax is required to be paid under 492
applicable law. 493

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B)(1) This section applies to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the municipal corporation on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted before January 1, 2016, of the municipal corporation to which the return is to be filed or the payment is to be made.

(C) Each municipal corporation levying a tax on income may impose on a taxpayer, employer, any agent of the employer, and any other payer, and must attempt to collect, the interest amounts and penalties prescribed under division (C) of this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipal corporation timely and full payment or

remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipal corporation any return required to be filed. 523
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(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. 526
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(2) (a) With respect to unpaid income tax and unpaid estimated income tax, a municipal corporation may impose a penalty equal to fifteen per cent of the amount not timely paid. 529
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(b) With respect to any unpaid withholding tax, a municipal corporation may impose a penalty not exceeding fifty per cent of the amount not timely paid. 532
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(3) With respect to returns other than estimated income tax returns, a municipal corporation may impose a penalty ~~of not exceeding~~ twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon ~~for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed one hundred fifty dollars for each failure,~~ except that a municipal corporation shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return. 535
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(D) (1) With respect to the income taxes, estimated income taxes, withholding taxes, and returns, no municipal corporation shall impose, seek to collect, or collect any penalty, amount of interest, charges, or additional fees not described in this section. 545
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547
548
549

(2) With respect to the income taxes, estimated income taxes, withholding taxes, and returns not described in division 550
551

(A) of this section, nothing in this section requires a 552
municipal corporation to refund or credit any penalty, amount of 553
interest, charges, or additional fees that the municipal 554
corporation has properly imposed or collected before January 1, 555
2016. 556

(E) Nothing in this section limits the authority of a 557
municipal corporation to abate or partially abate penalties or 558
interest imposed under this section when the tax administrator 559
determines, in the tax administrator's sole discretion, that 560
such abatement is appropriate. 561

(F) By the thirty-first day of October of each year the 562
municipal corporation shall publish the rate described in 563
division (A) of this section applicable to the next succeeding 564
calendar year. 565

(G) The municipal corporation may impose on the taxpayer, 566
employer, any agent of the employer, or any other payer the 567
municipal corporation's post-judgment collection costs and fees, 568
including attorney's fees. 569

Sec. 718.85. (A) (1) For each taxable year, every taxpayer 570
shall file an annual return. Such return, along with the amount 571
of tax shown to be due on the return less the amount paid for 572
the taxable year under section 718.88 of the Revised Code, shall 573
be submitted to the tax commissioner, on a form and in the 574
manner prescribed by the commissioner, on or before the 575
fifteenth day of the fourth month following the end of the 576
taxpayer's taxable year. 577

(2) The remittance shall be made payable to the treasurer 578
of state and in the form prescribed by the tax commissioner. If 579
the amount payable with the tax return is ten dollars or less, 580

no remittance is required. 581

(B) The tax commissioner shall immediately forward to the 582
treasurer of state all amounts the commissioner receives 583
pursuant to sections 718.80 to 718.95 of the Revised Code. The 584
treasurer shall credit such amounts to the municipal net profit 585
tax fund which is hereby created in the state treasury. 586

(C) (1) Each return required to be filed under this section 587
shall contain the signature of the taxpayer or the taxpayer's 588
duly authorized agent and of the person who prepared the return 589
for the taxpayer, and shall include the taxpayer's 590
identification number. Each return shall be verified by a 591
declaration under penalty of perjury. 592

(2) (a) The tax commissioner may require a taxpayer to 593
include, with each annual tax return, amended return, or request 594
for refund filed with the commissioner under sections 718.80 to 595
718.95 of the Revised Code, copies of any relevant documents or 596
other information. 597

(b) A taxpayer that files an annual tax return 598
electronically through the Ohio business gateway or in another 599
manner as prescribed by the tax commissioner shall either submit 600
the documents required under this division electronically as 601
prescribed at the time of filing or, if electronic submission is 602
not available, mail the documents to the tax commissioner. The 603
department of taxation shall publish a method of electronically 604
submitting the documents required under this division on or 605
before January 1, 2019. 606

(3) After a taxpayer files a tax return, the tax 607
commissioner may request, and the taxpayer shall provide, any 608
information, statements, or documents required to determine and 609

verify the taxpayer's municipal income tax. 610

(D) (1) (a) Any taxpayer that has duly requested an 611
automatic extension for filing the taxpayer's federal income tax 612
return shall automatically receive an extension for the filing 613
of a tax return with the commissioner under this section. The 614
extended due date of the return shall be the fifteenth day of 615
the tenth month after the last day of the taxable year to which 616
the return relates. 617

(b) A taxpayer that has not requested or received a six- 618
month extension for filing the taxpayer's federal income tax 619
return may request that the commissioner grant the taxpayer a 620
six-month extension of the date for filing the taxpayer's 621
~~municipal income~~ tax return. If the commissioner receives the 622
request on or before the date the ~~municipal income~~ tax return is 623
due, the commissioner shall grant the taxpayer's extension 624
request. 625

(c) An extension of time to file under division (D) (1) of 626
this section is not an extension of the time to pay any tax due 627
unless the tax commissioner grants an extension of that date. 628

(2) If the commissioner considers it necessary in order to 629
ensure payment of a tax imposed in accordance with section 630
718.04 of the Revised Code, the commissioner may require 631
taxpayers to file returns and make payments otherwise than as 632
provided in this section, including taxpayers not otherwise 633
required to file annual returns. 634

(3) If a taxpayer receives an extension for the filing of 635
a tax return under division (D) (1) or (2) of this section, the 636
commissioner shall not make any inquiry or send any notice to 637
the taxpayer with regard to the return on or before the date the 638

taxpayer files the return or on or before the extended due date 639
to file the return, whichever occurs first. 640

If the commissioner violates division (D)(3) of this 641
section, the commissioner shall reimburse the taxpayer for any 642
reasonable costs incurred to respond to such inquiry or notice. 643
Such reimbursement shall be paid from the general revenue fund. 644

Division (D)(3) of this section does not apply if the 645
commissioner has actual knowledge that the taxpayer failed to 646
file for a federal extension as required to receive the 647
extension under division (D)(1)(a) of this section or failed to 648
file for an extension under division (D)(1)(b) of this section. 649

(E) Each return required to be filed in accordance with 650
this section shall include a box that the taxpayer may check to 651
authorize another person, including a tax return preparer who 652
prepared the return, to communicate with the tax commissioner 653
about matters pertaining to the return. The return or 654
instructions accompanying the return shall indicate that by 655
checking the box the taxpayer authorizes the commissioner to 656
contact the preparer or other person concerning questions that 657
arise during the examination or other review of the return and 658
authorizes the preparer or other person only to provide the 659
commissioner with information that is missing from the return, 660
to contact the commissioner for information about the 661
examination or other review of the return or the status of the 662
taxpayer's refund or payments, and to respond to notices about 663
mathematical errors, offsets, or return preparation that the 664
taxpayer has received from the commissioner and has shown to the 665
preparer or other person. 666

(F) When income tax returns or other documents require the 667
signature of a tax return preparer, the tax commissioner shall 668

accept a facsimile or electronic version of such a signature in 669
lieu of a manual signature. 670

Sec. 718.89. (A) In addition to any other penalty imposed 671
by sections 718.80 to 718.95 or Chapter 5703. of the Revised 672
Code, the following penalties shall apply: 673

(1) If a taxpayer required to file a tax return under 674
sections 718.80 to 718.95 of the Revised Code fails to make and 675
file the return within the time prescribed, including any 676
extensions of time granted by the tax commissioner, the 677
commissioner may impose a penalty not exceeding twenty-five 678
dollars ~~per month or fraction of a month, for each month or~~ 679
~~fraction of a month elapsing between the due date, including~~ 680
~~extensions of the due date, and the date on which the return is~~ 681
~~filed. The aggregate penalty, per instance, under this division~~ 682
~~shall not exceed one hundred fifty dollars, except that the~~ 683
commissioner shall abate or refund the penalty assessed on a 684
taxpayer's first failure to timely file a return after the 685
taxpayer files that return. 686

(2) If a person required to file a tax return 687
electronically under sections 718.80 to 718.95 of the Revised 688
Code fails to do so, the commissioner may impose a penalty not 689
to exceed the following: 690

(a) For each of the first two failures, five per cent of 691
the amount required to be reported on the return; 692

(b) For the third and any subsequent failure, ten per cent 693
of the amount required to be reported on the return. 694

(3) If a taxpayer that has made the election allowed under 695
section 718.80 of the Revised Code fails to timely pay an amount 696
of tax required to be paid under this chapter, the commissioner 697

may impose a penalty equal to fifteen per cent of the amount not 698
timely paid. 699

(4) If a taxpayer files what purports to be a tax return 700
required by sections 718.80 to 718.95 of the Revised Code that 701
does not contain information upon which the substantial 702
correctness of the return may be judged or contains information 703
that on its face indicates that the return is substantially 704
incorrect, and the filing of the return in that manner is due to 705
a position that is frivolous or a desire that is apparent from 706
the return to delay or impede the administration of sections 707
718.80 to 718.95 of the Revised Code, a penalty of up to five 708
hundred dollars may be imposed. 709

(5) If a taxpayer makes a fraudulent attempt to evade the 710
reporting or payment of the tax required to be shown on any 711
return required under sections 718.80 to 718.95 of the Revised 712
Code, a penalty may be imposed not exceeding the greater of one 713
thousand dollars or one hundred per cent of the tax required to 714
be shown on the return. 715

(6) If any person makes a false or fraudulent claim for a 716
refund under section 718.91 of the Revised Code, a penalty may 717
be imposed not exceeding the greater of one thousand dollars or 718
one hundred per cent of the claim. Any penalty imposed under 719
this division, any refund issued on the claim, and interest on 720
any refund from the date of the refund, may be assessed under 721
section 718.90 of the Revised Code without regard to any time 722
limitation for the assessment imposed by division (A) of that 723
section. 724

(B) For purposes of this section, the tax required to be 725
shown on a tax return shall be reduced by the amount of any part 726
of the tax paid on or before the date, including any extensions 727

of the date, prescribed for filing the return. 728

(C) Each penalty imposed under this section shall be in 729
addition to any other penalty imposed under this section. All or 730
part of any penalty imposed under this section may be abated by 731
the tax commissioner. The commissioner may adopt rules governing 732
the imposition and abatement of such penalties. 733

(D) All amounts collected under this section shall be 734
considered as taxes collected under sections 718.80 to 718.95 of 735
the Revised Code and shall be credited and distributed to 736
municipal corporations in the same proportion as the underlying 737
tax liability is required to be distributed to such municipal 738
corporations under section 718.83 of the Revised Code. 739

Sec. 718.91. (A) An application to refund to a taxpayer 740
~~the amount of taxes paid on any illegal, erroneous, or excessive~~ 741
~~payment of tax under sections 718.80 to 718.95 of the Revised~~ 742
~~Code, including assessments, amounts that were overpaid, paid~~ 743
~~illegally or erroneously, or paid on an illegal or erroneous~~ 744
~~assessment pursuant to sections 718.80 to 718.95 of the Revised~~ 745
Code shall be filed with the tax commissioner within three years 746
after the date of the illegal, erroneous, or excessive payment 747
~~of the tax~~, or within any additional period allowed by division 748
(A) of section 718.90 of the Revised Code. The application shall 749
be filed in the form prescribed by the tax commissioner. 750

(B) (1) On the filing of a refund application, the tax 751
commissioner shall determine the amount of refund to which the 752
applicant is entitled. The amount determined shall be based on 753
the amount overpaid per return or assessment. If the amount is 754
greater than ten dollars and not less than that claimed, the 755
commissioner shall certify that amount to the director of budget 756
and management and the treasurer of state for payment from the 757

tax refund fund created in section 5703.052 of the Revised Code. 758
If the amount is greater than ten dollars but less than that 759
claimed, the commissioner shall proceed in accordance with 760
section 5703.70 of the Revised Code. 761

(2) Upon issuance of a refund under this section, the 762
commissioner shall notify each municipal corporation of the 763
amount refunded to the taxpayer attributable to that municipal 764
corporation, which shall be deducted from the municipal 765
corporation's next distribution under section 718.83 of the 766
Revised Code. 767

(C) Any portion of a refund determined under division (B) 768
of this section that is not issued within ninety days after such 769
determination shall bear interest at the rate per annum 770
prescribed by section 5703.47 of the Revised Code from the 771
ninety-first day after such determination until the day the 772
refund is paid or credited. On an illegal or erroneous 773
assessment, interest shall be paid at that rate from the date of 774
payment on the illegal or erroneous assessment until the day the 775
refund is paid or credited. 776

Sec. 3734.905. (A) The treasurer of state shall refund the 777
fee imposed by section 3734.901 of the Revised Code paid 778
illegally or erroneously, or paid on an illegal or erroneous 779
assessment, or any penalty assessed with respect to such a fee. 780
Applications for refund shall be filed with the tax commissioner 781
on a form prescribed by the commissioner, within four years of 782
the illegal or erroneous payment ~~of the fee.~~ 783

On the filing of the application, the commissioner shall 784
determine the amount of refund to which the applicant is 785
entitled. If the amount is not less than that claimed, the 786
commissioner shall certify the amount to the director of budget 787

and management and treasurer of state for payment from the tax 788
refund fund created by section 5703.052 of the Revised Code. If 789
the amount is less than that claimed, the commissioner shall 790
proceed in accordance with section 5703.70 of the Revised Code. 791

The certified amount shall include interest calculated at 792
the rate per annum prescribed by section 5703.47 of the Revised 793
Code from the date of overpayment to the date of the 794
commissioner's certification. 795

(B) When the fee imposed pursuant to section 3734.901 of 796
the Revised Code has been paid on tires that are sold by a 797
retail dealer or wholesale distributor to a motor vehicle 798
manufacturer, or to a wholesale distributor or retail dealer for 799
the purpose of resale outside this state, the seller in this 800
state is entitled to a refund of the amount of the fee actually 801
paid on the tires. To obtain a refund under this division, the 802
seller shall apply to the tax commissioner, shall furnish 803
documentary evidence satisfactory to the commissioner that the 804
price paid by the purchaser did not include the fee, and shall 805
provide the name and address of the purchaser to the 806
commissioner. The seller shall apply on the form prescribed by 807
the commissioner, within four years after the date of the sale. 808
Upon receipt of an application, the commissioner shall determine 809
the amount of any refund due and shall certify that amount to 810
the director of budget and management and the treasurer of state 811
for payment from the tax refund fund created in section 5703.052 812
of the Revised Code. The certified amount shall include interest 813
calculated at the rate per annum prescribed by section 5703.47 814
of the Revised Code from the date of overpayment to the date of 815
the commissioner's certification. 816

(C) If any person entitled to a refund ~~of fees~~ under this 817

section, or section 5703.70 of the Revised Code, is indebted to 818
the state for any tax administered by the tax commissioner, or 819
any charge, penalties, or interest arising from such tax, the 820
amount allowable on the application for refund first shall be 821
applied in satisfaction of the debt. 822

Sec. 4307.05. (A) The tax commissioner shall refund to 823
persons required to pay the tax levied under section 4301.42, 824
4301.421, 4301.424, 4301.43, 4301.432, 4303.33, or 4305.01 of 825
the Revised Code ~~the amount of tax amounts~~ paid illegally or 826
erroneously or paid on an illegal or erroneous assessment. 827
Applications for refund shall be filed with the commissioner, on 828
the form prescribed by the commissioner, within three years from 829
the date of the illegal or erroneous payment ~~of the tax or~~ 830
~~assessment.~~ 831

On the filing of the application, the commissioner shall 832
determine the amount of the refund to which the applicant is 833
entitled. If the amount is not less than that claimed, the 834
commissioner shall certify the amount to the director of budget 835
and management and treasurer of state for payment from the tax 836
refund fund created by section 5703.052 of the Revised Code. If 837
the amount is less than that claimed, the commissioner shall 838
proceed in accordance with section 5703.70 of the Revised Code. 839

(B) The holder of a B-3 permit is entitled to a refund of 840
the actual amount of tax paid on wine sold for sacramental 841
purposes, upon the conditions that the permit holder make 842
affidavit that the wine was so sold, that the tax had been paid 843
on the wine, and that the permit holder furnish both of the 844
following: 845

(1) A written acknowledgment from the purchaser that the 846
purchaser has received the wine and that the price paid did not 847

include the tax; 848

(2) The name and address of the purchaser. 849

Application for a refund shall be made as an application 850
for refund of ~~tax~~amounts erroneously paid and shall be subject 851
to the requirements and procedures of division (A) of this 852
section. On the filing of the application, the commissioner 853
shall determine the amount of refund due and certify that amount 854
to the director of budget and management and treasurer of state 855
for payment from the tax refund fund. When a refund is granted 856
for payment of an illegal or erroneous assessment issued by the 857
commissioner, the refund shall include interest on the amount of 858
the refund from the date of the overpayment. The interest shall 859
be computed at the rate per annum prescribed by section 5703.47 860
of the Revised Code. 861

Sec. 5725.222. (A) An application to refund to a domestic 862
insurance company any taxes imposed by section 3737.71 of the 863
Revised Code or amounts imposed under this chapter that are 864
overpaid, paid illegally or erroneously, or paid on any illegal, 865
erroneous, or excessive assessment, with interest thereon as 866
provided by section 5725.221 of the Revised Code, shall be filed 867
with the superintendent of insurance, on the form prescribed by 868
the superintendent, within three years after the date of the 869
illegal, erroneous, or excessive payment ~~of the tax~~. No refund 870
shall be allowed unless an application has been filed in 871
accordance with this section. The time limit imposed under this 872
division may be extended if both the domestic insurance company 873
and the superintendent of insurance agree in writing to the 874
extension. 875

(B) Except as otherwise provided in this division, the 876
superintendent may make an assessment against a domestic 877

insurance company for any deficiency for the period for which a 878
report, tax return, or tax payment is due for any taxes imposed 879
by section 3737.71 of the Revised Code or this chapter, based on 880
any information in the superintendent's possession. No 881
assessment shall be made against a domestic insurance company 882
more than three years after the later of the final date the 883
report, tax return, or tax payment subject to the assessment was 884
required to be filed or paid, or the date the report or tax 885
return was filed, provided that there shall be no bar if the 886
domestic insurance company failed to file the required report or 887
tax return or if the deficiency results from fraud or any 888
felonious act. The time limit may be extended if both the 889
domestic insurance company and the superintendent agree in 890
writing to the extension. For the purposes of this division, an 891
assessment is made on the date the notification of the 892
assessment is sent by the department of insurance or the date of 893
an invoice for the assessment from the treasurer of state, 894
whichever is earlier. 895

Sec. 5726.30. (A) The tax commissioner shall refund ~~the~~ 896
~~amount of taxes~~ amounts imposed under this chapter that a person 897
overpaid, paid illegally or erroneously, or paid on an illegal 898
or erroneous assessment. The person shall file an application 899
for refund with the tax commissioner, on the form prescribed by 900
the commissioner, within four years after the date of the 901
illegal or erroneous payment ~~of the tax~~, or within any 902
additional period allowed under division (B) of section 5726.20 903
of the Revised Code. The applicant shall provide the amount of 904
the requested refund along with the claimed reasons for, and 905
documentation to support, the issuance of a refund. 906

For purposes of this division, a payment that an applicant 907
made before the due date for filing the report to which the 908

payment relates shall be deemed to have been made on the due 909
date of the report. 910

(B) Upon the filing of a refund application, the tax 911
commissioner shall determine the amount of refund to which the 912
applicant is entitled. If the amount is not less than that 913
claimed, the commissioner shall certify the amount to the 914
director of budget and management and treasurer of state for 915
payment from the tax refund fund created under section 5703.052 916
of the Revised Code. If the amount is less than that claimed, 917
the commissioner shall proceed in accordance with section 918
5703.70 of the Revised Code. 919

(C) (1) Except as provided in division (C) (2) of this 920
section, interest on a refund applied for under this section, 921
computed at the rate provided for in section 5703.47 of the 922
Revised Code, shall be allowed from the later of the date the 923
~~tax amount~~ was paid or the date the ~~tax~~ payment was due until 924
the refund is paid. 925

(2) No interest shall be allowed under this section on an 926
amount refunded to a person to the extent that the refund 927
results from the allowance of a refundable credit against the 928
tax imposed by section 5726.02 of the Revised Code. 929

Sec. 5727.28. (A) The tax commissioner shall refund to a 930
natural gas company or combined company subject to the tax 931
imposed by section 5727.24 of the Revised Code, ~~the amount of~~ 932
~~tax amounts~~ paid illegally or erroneously, or paid on an 933
illegal or erroneous assessment. Applications for a refund shall 934
be filed with the tax commissioner, on a form prescribed by the 935
commissioner, within four years of the illegal or erroneous 936
payment ~~of the tax~~. 937

On the filing of the application, the commissioner shall 938
determine the amount of refund to which the applicant is 939
entitled. If the amount is not less than that claimed, the 940
commissioner shall notify the director of budget and management 941
and issue the refund from the tax refund fund under section 942
5703.052 of the Revised Code. If the amount is less than that 943
claimed, the commissioner shall proceed in accordance with 944
section 5703.70 of the Revised Code. 945

If the application for refund is for ~~taxes paid on payment~~ 946
of an illegal or erroneous assessment, the commissioner shall 947
include in the certified amount interest calculated at the rate 948
per annum prescribed by section 5703.47 of the Revised Code from 949
the date of overpayment to the date of the commissioner's 950
certification. 951

(B) If a natural gas company or combined company entitled 952
to a refund ~~of taxes~~ under this section, or section 5703.70 of 953
the Revised Code, is indebted to the state for any tax or fee 954
administered by the tax commissioner that is paid to the state, 955
or any charge, penalty, or interest arising from such a tax or 956
fee, the amount refundable may be applied in satisfaction of 957
that debt. If the amount refundable is less than the amount of 958
the debt, it may be applied in partial satisfaction of the debt. 959
If the amount refundable is greater than the amount of the debt, 960
the amount remaining after satisfaction of the debt shall be 961
refunded. 962

(C) In lieu of granting a refund under division (A) or (B) 963
of this section, the tax commissioner may allow a natural gas 964
company or combined company to claim a credit of the amount of 965
the tax refund on the return for the period during which the tax 966
became refundable. The commissioner may require the company to 967

submit information to support a claim for a credit under this 968
division, and the commissioner may disallow the credit if the 969
information is not provided. 970

Sec. 5727.91. (A) The treasurer of state shall refund the 971
amount of tax paid under section 5727.81 or 5727.811 of the 972
Revised Code that was paid illegally or erroneously, or paid on 973
an illegal or erroneous assessment, or any penalty assessed with 974
respect to such taxes. A natural gas distribution company, an 975
electric distribution company, or a self-assessing purchaser 976
shall file an application for a refund with the tax commissioner 977
on a form prescribed by the commissioner, within four years of 978
the illegal or erroneous payment ~~of the tax.~~ 979

On the filing of the application, the commissioner shall 980
determine the amount of refund to which the applicant is 981
entitled. If the amount is not less than that claimed, the 982
commissioner shall certify that amount to the director of budget 983
and management and the treasurer of state for payment from the 984
tax refund fund under section 5703.052 of the Revised Code. If 985
the amount is less than that claimed, the commissioner shall 986
proceed in accordance with section 5703.70 of the Revised Code. 987

The commissioner shall include in the certified amount 988
interest calculated at the rate per annum prescribed by section 989
5703.47 of the Revised Code from the date of overpayment to the 990
date of the commissioner's certification. 991

(B) If a natural gas distribution company or an electric 992
distribution company entitled to a refund ~~of taxes~~ under this 993
section, or section 5703.70 of the Revised Code, is indebted to 994
the state for any tax or fee administered by the tax 995
commissioner that is paid to the state, or any charge, penalty, 996
or interest arising from such a tax or fee, the amount 997

refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the natural gas distribution company or electric distribution company has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

(C) (1) Any electric distribution company that can substantiate to the tax commissioner that the tax imposed by section 5727.81 of the Revised Code was paid on electricity distributed via wires and consumed at a location outside of this state may claim a refund in the manner and within the time period prescribed in division (A) of this section.

(2) Any natural gas distribution company that can substantiate to the tax commissioner that the tax imposed by section 5727.811 of the Revised Code was paid on natural gas distributed via its facilities and consumed at a location outside of this state may claim a refund in the manner and within the time period prescribed in division (A) of this section.

(3) If the commissioner certifies a refund based on an application filed under division (C) (1) or (2) of this section, the commissioner shall include in the certified amount interest calculated at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.

(D) Before a refund is issued under this section or

section 5703.70 of the Revised Code, a natural gas company or an 1028
electric distribution company shall certify, as prescribed by 1029
the tax commissioner, that it either did not include the tax 1030
imposed by section 5727.81 of the Revised Code in the case of an 1031
electric distribution company, or the tax imposed by section 1032
5727.811 of the Revised Code in the case of a natural gas 1033
distribution company, in its distribution charge to its customer 1034
upon which a refund of the tax is claimed, or it has refunded or 1035
credited to the customer the excess distribution charge related 1036
to the tax that was erroneously included in the customer's 1037
distribution charge. 1038

Sec. 5728.061. The treasurer of state shall refund the 1039
amount of fuel use taxes overpaid, paid illegally or 1040
erroneously, or paid on any illegal or erroneous assessment, or 1041
any penalty assessed with respect to such taxes. Applications 1042
for refund shall be filed with the tax commissioner, on the form 1043
prescribed by the commissioner, within four years from the date 1044
of the overpayment, the illegal or erroneous payment ~~of the tax,~~ 1045
or the payment of the illegal or erroneous assessment. An 1046
application shall be filed by the person who made the payment of 1047
~~the tax~~ for which the refund is claimed. When a refund is 1048
granted for payment of an illegal or erroneous assessment issued 1049
by the commissioner, the refund shall include interest on the 1050
amount of the refund from the date of the payment. The interest 1051
shall be computed at the rate per annum prescribed by section 1052
5703.47 of the Revised Code. 1053

On the filing of the application, the commissioner shall 1054
determine the amount of refund to which the applicant is 1055
entitled. If the amount is not less than that claimed, the 1056
commissioner shall certify the amount to the director of budget 1057
and management and treasurer of state for payment from the tax 1058

refund fund created by section 5703.052 of the Revised Code. If 1059
the amount is less than that claimed, the commissioner shall 1060
proceed in accordance with section 5703.70 of the Revised Code. 1061

Sec. 5729.102. (A) An application to refund to a foreign 1062
insurance company any taxes imposed by section 3737.71 of the 1063
Revised Code or amounts imposed under this chapter that are 1064
overpaid, paid illegally or erroneously, or paid on any illegal, 1065
erroneous, or excessive assessment, with interest thereon as 1066
provided by section 5729.101 of the Revised Code, shall be filed 1067
with the superintendent of insurance, on the form prescribed by 1068
the superintendent, within three years after the date of the 1069
illegal, erroneous, or excessive payment ~~of the tax~~. No refund 1070
shall be allowed unless an application has been filed in 1071
accordance with this section. The time limit imposed under this 1072
division may be extended if both the foreign insurance company 1073
and the superintendent of insurance agree in writing to the 1074
extension. 1075

(B) Except as otherwise provided in this division, the 1076
superintendent may make an assessment against a foreign 1077
insurance company for any deficiency for the period for which a 1078
report, tax return, or tax payment is due for any taxes imposed 1079
by section 3737.71 of the Revised Code or this chapter, based on 1080
any information in the superintendent's possession. No 1081
assessment shall be made against a foreign insurance company 1082
more than three years after the later of the final date the 1083
report, tax return, or tax payment subject to the assessment was 1084
required to be filed or paid, or the date the report or tax 1085
return was filed, provided that there shall be no bar if the 1086
foreign insurance company failed to file the required report or 1087
tax return or if the deficiency results from fraud or any 1088
felonious act. The time limit may be extended if both the 1089

foreign insurance company and the superintendent agree in 1090
writing to the extension. For the purposes of this division, an 1091
assessment is made on the date the notification of the 1092
assessment is sent by the department of insurance or the date of 1093
an invoice for the assessment from the treasurer of state, 1094
whichever is earlier. 1095

Sec. 5735.11. (A) If the tax or any portion of the tax 1096
imposed by this chapter, whether determined by the tax 1097
commissioner or the motor fuel dealer, is not paid on or before 1098
the date prescribed in section 5735.06 of the Revised Code, 1099
interest shall be collected and paid in the same manner as the 1100
tax upon the unpaid amount, computed at the rate per annum 1101
prescribed by section 5703.47 of the Revised Code, from the date 1102
prescribed for payment of the tax to the date of payment or to 1103
the date an assessment is issued under section 5735.12 or 1104
5735.121 of the Revised Code, whichever occurs first. Interest 1105
may be collected by assessment in the manner provided in section 1106
5735.12 or 5735.121 of the Revised Code. All interest shall be 1107
paid in the same manner as the tax and shall be considered as 1108
revenue arising from the portion of the tax described in 1109
division (A) of section 5735.05 of the Revised Code. 1110

(B) Interest shall be allowed and paid upon any refund 1111
granted in respect to the payment of an illegal or erroneous 1112
assessment ~~for any tax~~ imposed under this chapter from the date 1113
of the overpayment. The interest shall be computed at the rate 1114
per annum prescribed by section 5703.47 of the Revised Code. 1115

Sec. 5735.122. The tax commissioner shall refund to 1116
dealers or to any person assessed motor fuel tax ~~the amount of~~ 1117
~~taxes amounts~~ paid illegally or erroneously or paid on an 1118
illegal or erroneous assessment. Applications for refund shall 1119

be filed with the tax commissioner, on the form prescribed by 1120
the commissioner, within four years from the date of the illegal 1121
or erroneous payment. No person shall file a claim for the tax 1122
on fewer than one hundred gallons of motor fuel. 1123

On the filing of the application, the commissioner shall 1124
determine the amount of refund to which the applicant is 1125
entitled. If the amount is not less than that claimed, the 1126
commissioner shall certify the amount to the director of budget 1127
and management and treasurer of state for payment from the tax 1128
refund fund created by section 5703.052 of the Revised Code, 1129
except that no refund shall be authorized or paid on a claim for 1130
the tax on fewer than one hundred gallons of motor fuel. If the 1131
amount is less than that claimed, the commissioner shall proceed 1132
in accordance with section 5703.70 of the Revised Code. 1133

The refund authorized by this section or section 5703.70 1134
of the Revised Code shall be reduced by the cents per gallon 1135
amount of any qualified fuel credit received under section 1136
5735.145 of the Revised Code, as determined by the commissioner, 1137
for each gallon of qualified fuel included in the total 1138
gallage of motor fuel upon which the refund is computed. 1139

Sec. 5736.08. (A) An application for refund to the 1140
taxpayer of ~~the amount of taxes~~ amounts imposed under this 1141
chapter that are overpaid, paid illegally or erroneously, or 1142
paid on any illegal or erroneous assessment shall be filed by 1143
the taxpayer with the tax commissioner, on the form prescribed 1144
by the commissioner, within four years after the date of the 1145
illegal or erroneous payment ~~of the tax~~, or within any 1146
additional period allowed under division (F) of section 5736.09 1147
of the Revised Code. The applicant shall provide the amount of 1148
the requested refund along with the claimed reasons for, and 1149

documentation to support, the issuance of a refund. 1150

(B) On the filing of the refund application, the 1151
commissioner shall determine the amount of refund to which the 1152
applicant is entitled. If the amount is not less than that 1153
claimed, the commissioner shall certify the amount to the 1154
director of budget and management and treasurer of state for 1155
payment from the tax refund fund created under section 5703.052 1156
of the Revised Code. If the amount is less than that claimed, 1157
the commissioner shall proceed in accordance with section 1158
5703.70 of the Revised Code. 1159

(C) Interest on a refund applied for under this section, 1160
computed at the rate provided for in section 5703.47 of the 1161
Revised Code, shall be allowed from the later of the date the 1162
~~tax amount~~ was paid or when the ~~tax~~ payment was due. 1163

(D) Except as provided in section 5736.081 of the Revised 1164
Code, the commissioner may provide for the crediting against tax 1165
due for a tax period the amount of any refund due the taxpayer 1166
under this chapter for a preceding tax period. 1167

Sec. 5739.01. As used in this chapter: 1168

(A) "Person" includes individuals, receivers, assignees, 1169
trustees in bankruptcy, estates, firms, partnerships, 1170
associations, joint-stock companies, joint ventures, clubs, 1171
societies, corporations, the state and its political 1172
subdivisions, and combinations of individuals of any form. 1173

(B) "Sale" and "selling" include all of the following 1174
transactions for a consideration in any manner, whether 1175
absolutely or conditionally, whether for a price or rental, in 1176
money or by exchange, and by any means whatsoever: 1177

(1) All transactions by which title or possession, or 1178

both, of tangible personal property, is or is to be transferred, 1179
or a license to use or consume tangible personal property is or 1180
is to be granted; 1181

(2) All transactions by which lodging by a hotel is or is 1182
to be furnished to transient guests; 1183

(3) All transactions by which: 1184

(a) An item of tangible personal property is or is to be 1185
repaired, except property, the purchase of which would not be 1186
subject to the tax imposed by section 5739.02 of the Revised 1187
Code; 1188

(b) An item of tangible personal property is or is to be 1189
installed, except property, the purchase of which would not be 1190
subject to the tax imposed by section 5739.02 of the Revised 1191
Code or property that is or is to be incorporated into and will 1192
become a part of a production, transmission, transportation, or 1193
distribution system for the delivery of a public utility 1194
service; 1195

(c) The service of washing, cleaning, waxing, polishing, 1196
or painting a motor vehicle is or is to be furnished; 1197

(d) Laundry and dry cleaning services are or are to be 1198
provided; 1199

(e) Automatic data processing, computer services, or 1200
electronic information services are or are to be provided for 1201
use in business when the true object of the transaction is the 1202
receipt by the consumer of automatic data processing, computer 1203
services, or electronic information services rather than the 1204
receipt of personal or professional services to which automatic 1205
data processing, computer services, or electronic information 1206
services are incidental or supplemental. Notwithstanding any 1207

other provision of this chapter, such transactions that occur 1208
between members of an affiliated group are not sales. An 1209
"affiliated group" means two or more persons related in such a 1210
way that one person owns or controls the business operation of 1211
another member of the group. In the case of corporations with 1212
stock, one corporation owns or controls another if it owns more 1213
than fifty per cent of the other corporation's common stock with 1214
voting rights. 1215

(f) Telecommunications service, including prepaid calling 1216
service, prepaid wireless calling service, or ancillary service, 1217
is or is to be provided, but not including coin-operated 1218
telephone service; 1219

(g) Landscaping and lawn care service is or is to be 1220
provided; 1221

(h) Private investigation and security service is or is to 1222
be provided; 1223

(i) Information services or tangible personal property is 1224
provided or ordered by means of a nine hundred telephone call; 1225

(j) Building maintenance and janitorial service is or is 1226
to be provided; 1227

(k) Exterminating service is or is to be provided; 1228

(l) Physical fitness facility service is or is to be 1229
provided, unless such service is or is to be provided by an 1230
organization described under section 501(c)(3) of the Internal 1231
Revenue Code and exempt from federal income taxation under 1232
section 501(a) of the Internal Revenue Code; 1233

(m) Recreation and sports club service is or is to be 1234
provided, unless such service is or is to be provided by an 1235

organization described under section 501(c)(3) of the Internal 1236
Revenue Code and exempt from federal income taxation under 1237
section 501(a) of the Internal Revenue Code; 1238

(n) Satellite broadcasting service is or is to be 1239
provided; 1240

(o) Personal care service is or is to be provided to an 1241
individual. As used in this division, "personal care service" 1242
includes skin care, the application of cosmetics, manicuring, 1243
pedicuring, hair removal, tattooing, body piercing, tanning, 1244
massage, and other similar services. "Personal care service" 1245
does not include a service provided by or on the order of a 1246
licensed physician or licensed chiropractor, or the cutting, 1247
coloring, or styling of an individual's hair. 1248

(p) The transportation of persons by motor vehicle or 1249
aircraft is or is to be provided, when the transportation is 1250
entirely within this state, except for transportation provided 1251
by an ambulance service, by a transit bus, as defined in section 1252
5735.01 of the Revised Code, and transportation provided by a 1253
citizen of the United States holding a certificate of public 1254
convenience and necessity issued under 49 U.S.C. 41102; 1255

(q) Motor vehicle towing service is or is to be provided. 1256
As used in this division, "motor vehicle towing service" means 1257
the towing or conveyance of a wrecked, disabled, or illegally 1258
parked motor vehicle. 1259

(r) Snow removal service is or is to be provided. As used 1260
in this division, "snow removal service" means the removal of 1261
snow by any mechanized means, but does not include the providing 1262
of such service by a person that has less than five thousand 1263
dollars in sales of such service during the calendar year. 1264

(s) Electronic publishing service is or is to be provided 1265
to a consumer for use in business, except that such transactions 1266
occurring between members of an affiliated group, as defined in 1267
division (B) (3) (e) of this section, are not sales. 1268

(4) All transactions by which printed, imprinted, 1269
overprinted, lithographic, multilithic, blueprinted, 1270
photostatic, or other productions or reproductions of written or 1271
graphic matter are or are to be furnished or transferred; 1272

(5) The production or fabrication of tangible personal 1273
property for a consideration for consumers who furnish either 1274
directly or indirectly the materials used in the production of 1275
fabrication work; and include the furnishing, preparing, or 1276
serving for a consideration of any tangible personal property 1277
consumed on the premises of the person furnishing, preparing, or 1278
serving such tangible personal property. Except as provided in 1279
section 5739.03 of the Revised Code, a construction contract 1280
pursuant to which tangible personal property is or is to be 1281
incorporated into a structure or improvement on and becoming a 1282
part of real property is not a sale of such tangible personal 1283
property. The construction contractor is the consumer of such 1284
tangible personal property, provided that the sale and 1285
installation of carpeting, the sale and installation of 1286
agricultural land tile, the sale and erection or installation of 1287
portable grain bins, or the provision of landscaping and lawn 1288
care service and the transfer of property as part of such 1289
service is never a construction contract. 1290

As used in division (B) (5) of this section: 1291

(a) "Agricultural land tile" means fired clay or concrete 1292
tile, or flexible or rigid perforated plastic pipe or tubing, 1293
incorporated or to be incorporated into a subsurface drainage 1294

system appurtenant to land used or to be used primarily in 1295
production by farming, agriculture, horticulture, or 1296
floriculture. The term does not include such materials when they 1297
are or are to be incorporated into a drainage system appurtenant 1298
to a building or structure even if the building or structure is 1299
used or to be used in such production. 1300

(b) "Portable grain bin" means a structure that is used or 1301
to be used by a person engaged in farming or agriculture to 1302
shelter the person's grain and that is designed to be 1303
disassembled without significant damage to its component parts. 1304

(6) All transactions in which all of the shares of stock 1305
of a closely held corporation are transferred, or an ownership 1306
interest in a pass-through entity, as defined in section 5733.04 1307
of the Revised Code, is transferred, if the corporation or pass- 1308
through entity is not engaging in business and its entire assets 1309
consist of boats, planes, motor vehicles, or other tangible 1310
personal property operated primarily for the use and enjoyment 1311
of the shareholders or owners; 1312

(7) All transactions in which a warranty, maintenance or 1313
service contract, or similar agreement by which the vendor of 1314
the warranty, contract, or agreement agrees to repair or 1315
maintain the tangible personal property of the consumer is or is 1316
to be provided; 1317

(8) The transfer of copyrighted motion picture films used 1318
solely for advertising purposes, except that the transfer of 1319
such films for exhibition purposes is not a sale; 1320

(9) All transactions by which tangible personal property 1321
is or is to be stored, except such property that the consumer of 1322
the storage holds for sale in the regular course of business; 1323

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

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

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

(12) All transactions by which a specified digital product

is provided for permanent use or less than permanent use, 1354
regardless of whether continued payment is required. 1355

Except as provided in this section, "sale" and "selling" 1356
do not include transfers of interest in leased property where 1357
the original lessee and the terms of the original lease 1358
agreement remain unchanged, or professional, insurance, or 1359
personal service transactions that involve the transfer of 1360
tangible personal property as an inconsequential element, for 1361
which no separate charges are made. 1362

(C) "Vendor" means the person providing the service or by 1363
whom the transfer effected or license given by a sale is or is 1364
to be made or given and, for sales described in division (B) (3) 1365
(i) of this section, the telecommunications service vendor that 1366
provides the nine hundred telephone service; if two or more 1367
persons are engaged in business at the same place of business 1368
under a single trade name in which all collections on account of 1369
sales by each are made, such persons shall constitute a single 1370
vendor. 1371

Physicians, dentists, hospitals, and veterinarians who are 1372
engaged in selling tangible personal property as received from 1373
others, such as eyeglasses, mouthwashes, dentifrices, or similar 1374
articles, are vendors. Veterinarians who are engaged in 1375
transferring to others for a consideration drugs, the dispensing 1376
of which does not require an order of a licensed veterinarian or 1377
physician under federal law, are vendors. 1378

The operator of any peer-to-peer car sharing program shall 1379
be considered to be the vendor. 1380

(D) (1) "Consumer" means the person for whom the service is 1381
provided, to whom the transfer effected or license given by a 1382

sale is or is to be made or given, to whom the service described 1383
in division (B) (3) (f) or (i) of this section is charged, or to 1384
whom the admission is granted. 1385

(2) Physicians, dentists, hospitals, and blood banks 1386
operated by nonprofit institutions and persons licensed to 1387
practice veterinary medicine, surgery, and dentistry are 1388
consumers of all tangible personal property and services 1389
purchased by them in connection with the practice of medicine, 1390
dentistry, the rendition of hospital or blood bank service, or 1391
the practice of veterinary medicine, surgery, and dentistry. In 1392
addition to being consumers of drugs administered by them or by 1393
their assistants according to their direction, veterinarians 1394
also are consumers of drugs that under federal law may be 1395
dispensed only by or upon the order of a licensed veterinarian 1396
or physician, when transferred by them to others for a 1397
consideration to provide treatment to animals as directed by the 1398
veterinarian. 1399

(3) A person who performs a facility management, or 1400
similar service contract for a contractee is a consumer of all 1401
tangible personal property and services purchased for use in 1402
connection with the performance of such contract, regardless of 1403
whether title to any such property vests in the contractee. The 1404
purchase of such property and services is not subject to the 1405
exception for resale under division (E) of this section. 1406

(4) (a) In the case of a person who purchases printed 1407
matter for the purpose of distributing it or having it 1408
distributed to the public or to a designated segment of the 1409
public, free of charge, that person is the consumer of that 1410
printed matter, and the purchase of that printed matter for that 1411
purpose is a sale. 1412

(b) In the case of a person who produces, rather than 1413
purchases, printed matter for the purpose of distributing it or 1414
having it distributed to the public or to a designated segment 1415
of the public, free of charge, that person is the consumer of 1416
all tangible personal property and services purchased for use or 1417
consumption in the production of that printed matter. That 1418
person is not entitled to claim exemption under division (B) (42) 1419
(f) of section 5739.02 of the Revised Code for any material 1420
incorporated into the printed matter or any equipment, supplies, 1421
or services primarily used to produce the printed matter. 1422

(c) The distribution of printed matter to the public or to 1423
a designated segment of the public, free of charge, is not a 1424
sale to the members of the public to whom the printed matter is 1425
distributed or to any persons who purchase space in the printed 1426
matter for advertising or other purposes. 1427

(5) A person who makes sales of any of the services listed 1428
in division (B) (3) of this section is the consumer of any 1429
tangible personal property used in performing the service. The 1430
purchase of that property is not subject to the resale exception 1431
under division (E) of this section. 1432

(6) A person who engages in highway transportation for 1433
hire is the consumer of all packaging materials purchased by 1434
that person and used in performing the service, except for 1435
packaging materials sold by such person in a transaction 1436
separate from the service. 1437

(7) In the case of a transaction for health care services 1438
under division (B) (11) of this section, a medicaid health 1439
insuring corporation is the consumer of such services. The 1440
purchase of such services by a medicaid health insuring 1441
corporation is not subject to the exception for resale under 1442

division (E) of this section or to the exemptions provided under 1443
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 1444
the Revised Code. 1445

(E) "Retail sale" and "sales at retail" include all sales, 1446
except those in which the purpose of the consumer is to resell 1447
the thing transferred or benefit of the service provided, by a 1448
person engaging in business, in the form in which the same is, 1449
or is to be, received by the person. 1450

(F) "Business" includes any activity engaged in by any 1451
person with the object of gain, benefit, or advantage, either 1452
direct or indirect. "Business" does not include the activity of 1453
a person in managing and investing the person's own funds. 1454

(G) "Engaging in business" means commencing, conducting, 1455
or continuing in business, and liquidating a business when the 1456
liquidator thereof holds itself out to the public as conducting 1457
such business. Making a casual sale is not engaging in business. 1458

(H) (1) (a) "Price," except as provided in divisions (H) (2), 1459
(3), and (4) of this section, means the total amount of 1460
consideration, including cash, credit, property, and services, 1461
for which tangible personal property or services are sold, 1462
leased, or rented, valued in money, whether received in money or 1463
otherwise, without any deduction for any of the following: 1464

(i) The vendor's cost of the property sold; 1465

(ii) The cost of materials used, labor or service costs, 1466
interest, losses, all costs of transportation to the vendor, all 1467
taxes imposed on the vendor, including the tax imposed under 1468
Chapter 5751. of the Revised Code, and any other expense of the 1469
vendor; 1470

(iii) Charges by the vendor for any services necessary to 1471

complete the sale;	1472
(iv) Delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.	1473 1474 1475 1476 1477
(v) Installation charges;	1478
(vi) Credit for any trade-in.	1479
(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:	1480 1481 1482 1483 1484 1485 1486 1487 1488
(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;	1489 1490 1491 1492 1493 1494
(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.	1495 1496 1497 1498 1499
(iii) The price reduction or discount is identified as a	1500

third party price reduction or discount on the invoice received 1501
by the consumer, or on a coupon, certificate, or other document 1502
presented by the consumer. 1503

(c) "Price" does not include any of the following: 1504

(i) Discounts, including cash, term, or coupons that are 1505
not reimbursed by a third party that are allowed by a vendor and 1506
taken by a consumer on a sale; 1507

(ii) Interest, financing, and carrying charges from credit 1508
extended on the sale of tangible personal property or services, 1509
if the amount is separately stated on the invoice, bill of sale, 1510
or similar document given to the purchaser; 1511

(iii) Any taxes legally imposed directly on the consumer 1512
that are separately stated on the invoice, bill of sale, or 1513
similar document given to the consumer. For the purpose of this 1514
division, the tax imposed under Chapter 5751. of the Revised 1515
Code is not a tax directly on the consumer, even if the tax or a 1516
portion thereof is separately stated. 1517

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 1518
this section, any discount allowed by an automobile manufacturer 1519
to its employee, or to the employee of a supplier, on the 1520
purchase of a new motor vehicle from a new motor vehicle dealer 1521
in this state. 1522

(v) The dollar value of a gift card that is not sold by a 1523
vendor or purchased by a consumer and that is redeemed by the 1524
consumer in purchasing tangible personal property or services if 1525
the vendor is not reimbursed and does not receive compensation 1526
from a third party to cover all or part of the gift card value. 1527
For the purposes of this division, a gift card is not sold by a 1528
vendor or purchased by a consumer if it is distributed pursuant 1529

to an awards, loyalty, or promotional program. Past and present 1530
purchases of tangible personal property or services by the 1531
consumer shall not be treated as consideration exchanged for a 1532
gift card. 1533

(2) In the case of a sale of any new motor vehicle by a 1534
new motor vehicle dealer, as defined in section 4517.01 of the 1535
Revised Code, in which another motor vehicle is accepted by the 1536
dealer as part of the consideration received, "price" has the 1537
same meaning as in division (H)(1) of this section, reduced by 1538
the credit afforded the consumer by the dealer for the motor 1539
vehicle received in trade. 1540

(3) In the case of a sale of any watercraft or outboard 1541
motor by a watercraft dealer licensed in accordance with section 1542
1547.543 of the Revised Code, in which another watercraft, 1543
watercraft and trailer, or outboard motor is accepted by the 1544
dealer as part of the consideration received, "price" has the 1545
same meaning as in division (H)(1) of this section, reduced by 1546
the credit afforded the consumer by the dealer for the 1547
watercraft, watercraft and trailer, or outboard motor received 1548
in trade. As used in this division, "watercraft" includes an 1549
outdrive unit attached to the watercraft. 1550

(4) In the case of transactions for health care services 1551
under division (B)(11) of this section, "price" means the amount 1552
of managed care premiums received each month by a medicaid 1553
health insuring corporation. 1554

(I) "Receipts" means the total amount of the prices of the 1555
sales of vendors, provided that the dollar value of gift cards 1556
distributed pursuant to an awards, loyalty, or promotional 1557
program, and cash discounts allowed and taken on sales at the 1558
time they are consummated are not included, minus any amount 1559

deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

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

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

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in section 5739.091 of the Revised

Code. 1590

(N) "Transient guests" means persons occupying a room or 1591
rooms for sleeping accommodations for less than thirty 1592
consecutive days. 1593

(O) "Making retail sales" means the effecting of 1594
transactions wherein one party is obligated to pay the price and 1595
the other party is obligated to provide a service or to transfer 1596
title to or possession of the item sold. "Making retail sales" 1597
does not include the preliminary acts of promoting or soliciting 1598
the retail sales, other than the distribution of printed matter 1599
which displays or describes and prices the item offered for 1600
sale, nor does it include delivery of a predetermined quantity 1601
of tangible personal property or transportation of property or 1602
personnel to or from a place where a service is performed. 1603

(P) "Used directly in the rendition of a public utility 1604
service" means that property that is to be incorporated into and 1605
will become a part of the consumer's production, transmission, 1606
transportation, or distribution system and that retains its 1607
classification as tangible personal property after such 1608
incorporation; fuel or power used in the production, 1609
transmission, transportation, or distribution system; and 1610
tangible personal property used in the repair and maintenance of 1611
the production, transmission, transportation, or distribution 1612
system, including only such motor vehicles as are specially 1613
designed and equipped for such use. Tangible personal property 1614
and services used primarily in providing highway transportation 1615
for hire are not used directly in the rendition of a public 1616
utility service. In this definition, "public utility" includes a 1617
citizen of the United States holding, and required to hold, a 1618
certificate of public convenience and necessity issued under 49 1619

U.S.C. 41102.	1620
(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.	1621 1622 1623
(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.	1624 1625 1626
(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.	1627 1628 1629 1630 1631 1632 1633
(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.	1634 1635 1636 1637 1638 1639 1640
(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit	1641 1642 1643 1644 1645 1646 1647 1648

authority. County population shall be measured by the most 1649
recent census taken by the United States census bureau. 1650

(V) "Legislative authority" means, with respect to a 1651
regional transit authority, the board of trustees thereof, and 1652
with respect to a county that is a transit authority, the board 1653
of county commissioners. 1654

(W) "Territory of the transit authority" means all of the 1655
area included within the territorial boundaries of a transit 1656
authority as they from time to time exist. Such territorial 1657
boundaries must at all times include all the area of a single 1658
county or all the area of the most populous county that is a 1659
part of such transit authority. County population shall be 1660
measured by the most recent census taken by the United States 1661
census bureau. 1662

(X) "Providing a service" means providing or furnishing 1663
anything described in division (B) (3) of this section for 1664
consideration. 1665

(Y) (1) (a) "Automatic data processing" means processing of 1666
others' data, including keypunching or similar data entry 1667
services together with verification thereof, or providing access 1668
to computer equipment for the purpose of processing data. 1669

(b) "Computer services" means providing services 1670
consisting of specifying computer hardware configurations and 1671
evaluating technical processing characteristics, computer 1672
programming, and training of computer programmers and operators, 1673
provided in conjunction with and to support the sale, lease, or 1674
operation of taxable computer equipment or systems. 1675

(c) "Electronic information services" means providing 1676
access to computer equipment by means of telecommunications 1677

equipment for the purpose of either of the following: 1678

(i) Examining or acquiring data stored in or accessible to 1679
the computer equipment; 1680

(ii) Placing data into the computer equipment to be 1681
retrieved by designated recipients with access to the computer 1682
equipment. 1683

"Electronic information services" does not include 1684
electronic publishing. 1685

(d) "Automatic data processing, computer services, or 1686
electronic information services" shall not include personal or 1687
professional services. 1688

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 1689
section, "personal and professional services" means all services 1690
other than automatic data processing, computer services, or 1691
electronic information services, including but not limited to: 1692

(a) Accounting and legal services such as advice on tax 1693
matters, asset management, budgetary matters, quality control, 1694
information security, and auditing and any other situation where 1695
the service provider receives data or information and studies, 1696
alters, analyzes, interprets, or adjusts such material; 1697

(b) Analyzing business policies and procedures; 1698

(c) Identifying management information needs; 1699

(d) Feasibility studies, including economic and technical 1700
analysis of existing or potential computer hardware or software 1701
needs and alternatives; 1702

(e) Designing policies, procedures, and custom software 1703
for collecting business information, and determining how data 1704

should be summarized, sequenced, formatted, processed, 1705
controlled, and reported so that it will be meaningful to 1706
management; 1707

(f) Developing policies and procedures that document how 1708
business events and transactions are to be authorized, executed, 1709
and controlled; 1710

(g) Testing of business procedures; 1711

(h) Training personnel in business procedure applications; 1712

(i) Providing credit information to users of such 1713
information by a consumer reporting agency, as defined in the 1714
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 1715
U.S.C. 1681a(f), or as hereafter amended, including but not 1716
limited to gathering, organizing, analyzing, recording, and 1717
furnishing such information by any oral, written, graphic, or 1718
electronic medium; 1719

(j) Providing debt collection services by any oral, 1720
written, graphic, or electronic means; 1721

(k) Providing digital advertising services; 1722

(l) Providing services to electronically file any federal, 1723
state, or local individual income tax return, report, or other 1724
related document or schedule with a federal, state, or local 1725
government entity or to electronically remit a payment of any 1726
such individual income tax to such an entity. For the purpose of 1727
this division, "individual income tax" does not include federal, 1728
state, or local taxes withheld by an employer from an employee's 1729
compensation. 1730

The services listed in divisions (Y) (2) (a) to ~~(k)~~ (l) of 1731
this section are not automatic data processing or computer 1732

services. 1733

(Z) "Highway transportation for hire" means the 1734
transportation of personal property belonging to others for 1735
consideration by any of the following: 1736

(1) The holder of a permit or certificate issued by this 1737
state or the United States authorizing the holder to engage in 1738
transportation of personal property belonging to others for 1739
consideration over or on highways, roadways, streets, or any 1740
similar public thoroughfare; 1741

(2) A person who engages in the transportation of personal 1742
property belonging to others for consideration over or on 1743
highways, roadways, streets, or any similar public thoroughfare 1744
but who could not have engaged in such transportation on 1745
December 11, 1985, unless the person was the holder of a permit 1746
or certificate of the types described in division (Z) (1) of this 1747
section; 1748

(3) A person who leases a motor vehicle to and operates it 1749
for a person described by division (Z) (1) or (2) of this 1750
section. 1751

(AA) (1) "Telecommunications service" means the electronic 1752
transmission, conveyance, or routing of voice, data, audio, 1753
video, or any other information or signals to a point, or 1754
between or among points. "Telecommunications service" includes 1755
such transmission, conveyance, or routing in which computer 1756
processing applications are used to act on the form, code, or 1757
protocol of the content for purposes of transmission, 1758
conveyance, or routing without regard to whether the service is 1759
referred to as voice-over internet protocol service or is 1760
classified by the federal communications commission as enhanced 1761

or value-added. "Telecommunications service" does not include 1762
any of the following: 1763

(a) Data processing and information services that allow 1764
data to be generated, acquired, stored, processed, or retrieved 1765
and delivered by an electronic transmission to a consumer where 1766
the consumer's primary purpose for the underlying transaction is 1767
the processed data or information; 1768

(b) Installation or maintenance of wiring or equipment on 1769
a customer's premises; 1770

(c) Tangible personal property; 1771

(d) Advertising, including directory advertising; 1772

(e) Billing and collection services provided to third 1773
parties; 1774

(f) Internet access service; 1775

(g) Radio and television audio and video programming 1776
services, regardless of the medium, including the furnishing of 1777
transmission, conveyance, and routing of such services by the 1778
programming service provider. Radio and television audio and 1779
video programming services include, but are not limited to, 1780
cable service, as defined in 47 U.S.C. 522(6), and audio and 1781
video programming services delivered by commercial mobile radio 1782
service providers, as defined in 47 C.F.R. 20.3; 1783

(h) Ancillary service; 1784

(i) Digital products delivered electronically, including 1785
software, music, video, reading materials, or ring tones. 1786

(2) "Ancillary service" means a service that is associated 1787
with or incidental to the provision of telecommunications 1788

service, including conference bridging service, detailed 1789
telecommunications billing service, directory assistance, 1790
vertical service, and voice mail service. As used in this 1791
division: 1792

(a) "Conference bridging service" means an ancillary 1793
service that links two or more participants of an audio or video 1794
conference call, including providing a telephone number. 1795
"Conference bridging service" does not include 1796
telecommunications services used to reach the conference bridge. 1797

(b) "Detailed telecommunications billing service" means an 1798
ancillary service of separately stating information pertaining 1799
to individual calls on a customer's billing statement. 1800

(c) "Directory assistance" means an ancillary service of 1801
providing telephone number or address information. 1802

(d) "Vertical service" means an ancillary service that is 1803
offered in connection with one or more telecommunications 1804
services, which offers advanced calling features that allow 1805
customers to identify callers and manage multiple calls and call 1806
connections, including conference bridging service. 1807

(e) "Voice mail service" means an ancillary service that 1808
enables the customer to store, send, or receive recorded 1809
messages. "Voice mail service" does not include any vertical 1810
services that the customer may be required to have in order to 1811
utilize the voice mail service. 1812

(3) "900 service" means an inbound toll telecommunications 1813
service purchased by a subscriber that allows the subscriber's 1814
customers to call in to the subscriber's prerecorded 1815
announcement or live service, and which is typically marketed 1816
under the name "900 service" and any subsequent numbers 1817

designated by the federal communications commission. "900 1818
service" does not include the charge for collection services 1819
provided by the seller of the telecommunications service to the 1820
subscriber, or services or products sold by the subscriber to 1821
the subscriber's customer. 1822

(4) "Prepaid calling service" means the right to access 1823
exclusively telecommunications services, which must be paid for 1824
in advance and which enables the origination of calls using an 1825
access number or authorization code, whether manually or 1826
electronically dialed, and that is sold in predetermined units 1827
or dollars of which the number declines with use in a known 1828
amount. 1829

(5) "Prepaid wireless calling service" means a 1830
telecommunications service that provides the right to utilize 1831
mobile telecommunications service as well as other non- 1832
telecommunications services, including the download of digital 1833
products delivered electronically, and content and ancillary 1834
services, that must be paid for in advance and that is sold in 1835
predetermined units or dollars of which the number declines with 1836
use in a known amount. 1837

(6) "Value-added non-voice data service" means a 1838
telecommunications service in which computer processing 1839
applications are used to act on the form, content, code, or 1840
protocol of the information or data primarily for a purpose 1841
other than transmission, conveyance, or routing. 1842

(7) "Coin-operated telephone service" means a 1843
telecommunications service paid for by inserting money into a 1844
telephone accepting direct deposits of money to operate. 1845

(8) "Customer" has the same meaning as in section 5739.034 1846

of the Revised Code. 1847

(BB) "Laundry and dry cleaning services" means removing 1848
soil or dirt from towels, linens, articles of clothing, or other 1849
fabric items that belong to others and supplying towels, linens, 1850
articles of clothing, or other fabric items. "Laundry and dry 1851
cleaning services" does not include the provision of self- 1852
service facilities for use by consumers to remove soil or dirt 1853
from towels, linens, articles of clothing, or other fabric 1854
items. 1855

(CC) "Magazines distributed as controlled circulation 1856
publications" means magazines containing at least twenty-four 1857
pages, at least twenty-five per cent editorial content, issued 1858
at regular intervals four or more times a year, and circulated 1859
without charge to the recipient, provided that such magazines 1860
are not owned or controlled by individuals or business concerns 1861
which conduct such publications as an auxiliary to, and 1862
essentially for the advancement of the main business or calling 1863
of, those who own or control them. 1864

(DD) "Landscaping and lawn care service" means the 1865
services of planting, seeding, sodding, removing, cutting, 1866
trimming, pruning, mulching, aerating, applying chemicals, 1867
watering, fertilizing, and providing similar services to 1868
establish, promote, or control the growth of trees, shrubs, 1869
flowers, grass, ground cover, and other flora, or otherwise 1870
maintaining a lawn or landscape grown or maintained by the owner 1871
for ornamentation or other nonagricultural purpose. However, 1872
"landscaping and lawn care service" does not include the 1873
providing of such services by a person who has less than five 1874
thousand dollars in sales of such services during the calendar 1875
year. 1876

(EE) "Private investigation and security service" means 1877
the performance of any activity for which the provider of such 1878
service is required to be licensed pursuant to Chapter 4749. of 1879
the Revised Code, or would be required to be so licensed in 1880
performing such services in this state, and also includes the 1881
services of conducting polygraph examinations and of monitoring 1882
or overseeing the activities on or in, or the condition of, the 1883
consumer's home, business, or other facility by means of 1884
electronic or similar monitoring devices. "Private investigation 1885
and security service" does not include special duty services 1886
provided by off-duty police officers, deputy sheriffs, and other 1887
peace officers regularly employed by the state or a political 1888
subdivision. 1889

(FF) "Information services" means providing conversation, 1890
giving consultation or advice, playing or making a voice or 1891
other recording, making or keeping a record of the number of 1892
callers, and any other service provided to a consumer by means 1893
of a nine hundred telephone call, except when the nine hundred 1894
telephone call is the means by which the consumer makes a 1895
contribution to a recognized charity. 1896

(GG) "Research and development" means designing, creating, 1897
or formulating new or enhanced products, equipment, or 1898
manufacturing processes, and also means conducting scientific or 1899
technological inquiry and experimentation in the physical 1900
sciences with the goal of increasing scientific knowledge which 1901
may reveal the bases for new or enhanced products, equipment, or 1902
manufacturing processes. 1903

(HH) "Qualified research and development equipment" means 1904
capitalized tangible personal property, and leased personal 1905
property that would be capitalized if purchased, used by a 1906

person primarily to perform research and development. Tangible 1907
personal property primarily used in testing, as defined in 1908
division (A) (4) of section 5739.011 of the Revised Code, or used 1909
for recording or storing test results, is not qualified research 1910
and development equipment unless such property is primarily used 1911
by the consumer in testing the product, equipment, or 1912
manufacturing process being created, designed, or formulated by 1913
the consumer in the research and development activity or in 1914
recording or storing such test results. 1915

(II) "Building maintenance and janitorial service" means 1916
cleaning the interior or exterior of a building and any tangible 1917
personal property located therein or thereon, including any 1918
services incidental to such cleaning for which no separate 1919
charge is made. However, "building maintenance and janitorial 1920
service" does not include the providing of such service by a 1921
person who has less than five thousand dollars in sales of such 1922
service during the calendar year. As used in this division, 1923
"cleaning" does not include sanitation services necessary for an 1924
establishment described in 21 U.S.C. 608 to comply with rules 1925
and regulations adopted pursuant to that section. 1926

(JJ) "Exterminating service" means eradicating or 1927
attempting to eradicate vermin infestations from a building or 1928
structure, or the area surrounding a building or structure, and 1929
includes activities to inspect, detect, or prevent vermin 1930
infestation of a building or structure. 1931

(KK) "Physical fitness facility service" means all 1932
transactions by which a membership is granted, maintained, or 1933
renewed, including initiation fees, membership dues, renewal 1934
fees, monthly minimum fees, and other similar fees and dues, by 1935
a physical fitness facility such as an athletic club, health 1936

spa, or gymnasium, which entitles the member to use the facility 1937
for physical exercise. 1938

(LL) "Recreation and sports club service" means all 1939
transactions by which a membership is granted, maintained, or 1940
renewed, including initiation fees, membership dues, renewal 1941
fees, monthly minimum fees, and other similar fees and dues, by 1942
a recreation and sports club, which entitles the member to use 1943
the facilities of the organization. "Recreation and sports club" 1944
means an organization that has ownership of, or controls or 1945
leases on a continuing, long-term basis, the facilities used by 1946
its members and includes an aviation club, gun or shooting club, 1947
yacht club, card club, swimming club, tennis club, golf club, 1948
country club, riding club, amateur sports club, or similar 1949
organization. 1950

(MM) "Livestock" means farm animals commonly raised for 1951
food, food production, or other agricultural purposes, 1952
including, but not limited to, cattle, sheep, goats, swine, 1953
poultry, and captive deer. "Livestock" does not include 1954
invertebrates, amphibians, reptiles, domestic pets, animals for 1955
use in laboratories or for exhibition, or other animals not 1956
commonly raised for food or food production. 1957

(NN) "Livestock structure" means a building or structure 1958
used exclusively for the housing, raising, feeding, or 1959
sheltering of livestock, and includes feed storage or handling 1960
structures and structures for livestock waste handling. 1961

(OO) "Horticulture" means the growing, cultivation, and 1962
production of flowers, fruits, herbs, vegetables, sod, 1963
mushrooms, and nursery stock. As used in this division, "nursery 1964
stock" has the same meaning as in section 927.51 of the Revised 1965
Code. 1966

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

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

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

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

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

(SS) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed

or indefinite term, for consideration. "Lease" or "rental" 1996
includes future options to purchase or extend, and agreements 1997
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 1998
trailers where the amount of consideration may be increased or 1999
decreased by reference to the amount realized upon the sale or 2000
disposition of the property. "Lease" or "rental" does not 2001
include: 2002

(a) A transfer of possession or control of tangible 2003
personal property under a security agreement or a deferred 2004
payment plan that requires the transfer of title upon completion 2005
of the required payments; 2006

(b) A transfer of possession or control of tangible 2007
personal property under an agreement that requires the transfer 2008
of title upon completion of required payments and payment of an 2009
option price that does not exceed the greater of one hundred 2010
dollars or one per cent of the total required payments; 2011

(c) Providing tangible personal property along with an 2012
operator for a fixed or indefinite period of time, if the 2013
operator is necessary for the property to perform as designed. 2014
For purposes of this division, the operator must do more than 2015
maintain, inspect, or set up the tangible personal property. 2016

(2) "Lease" and "rental," as defined in division (SS) of 2017
this section, shall not apply to leases or rentals that exist 2018
before June 26, 2003. 2019

(3) "Lease" and "rental" have the same meaning as in 2020
division (SS) (1) of this section regardless of whether a 2021
transaction is characterized as a lease or rental under 2022
generally accepted accounting principles, the Internal Revenue 2023
Code, Title XIII of the Revised Code, or other federal, state, 2024

or local laws. 2025

(TT) "Mobile telecommunications service" has the same 2026
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 2027
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 2028
amended, and, on and after August 1, 2003, includes related fees 2029
and ancillary services, including universal service fees, 2030
detailed billing service, directory assistance, service 2031
initiation, voice mail service, and vertical services, such as 2032
caller ID and three-way calling. 2033

(UU) "Certified service provider" has the same meaning as 2034
in section 5740.01 of the Revised Code. 2035

(VV) "Satellite broadcasting service" means the 2036
distribution or broadcasting of programming or services by 2037
satellite directly to the subscriber's receiving equipment 2038
without the use of ground receiving or distribution equipment, 2039
except the subscriber's receiving equipment or equipment used in 2040
the uplink process to the satellite, and includes all service 2041
and rental charges, premium channels or other special services, 2042
installation and repair service charges, and any other charges 2043
having any connection with the provision of the satellite 2044
broadcasting service. 2045

(WW) "Tangible personal property" means personal property 2046
that can be seen, weighed, measured, felt, or touched, or that 2047
is in any other manner perceptible to the senses. For purposes 2048
of this chapter and Chapter 5741. of the Revised Code, "tangible 2049
personal property" includes motor vehicles, electricity, water, 2050
gas, steam, and prewritten computer software. 2051

(XX) "Municipal gas utility" means a municipal corporation 2052
that owns or operates a system for the distribution of natural 2053

gas. 2054

(YY) "Computer" means an electronic device that accepts 2055
information in digital or similar form and manipulates it for a 2056
result based on a sequence of instructions. 2057

(ZZ) "Computer software" means a set of coded instructions 2058
designed to cause a computer or automatic data processing 2059
equipment to perform a task. 2060

(AAA) "Delivered electronically" means delivery of 2061
computer software from the seller to the purchaser by means 2062
other than tangible storage media. 2063

(BBB) "Prewritten computer software" means computer 2064
software, including prewritten upgrades, that is not designed 2065
and developed by the author or other creator to the 2066
specifications of a specific purchaser. The combining of two or 2067
more prewritten computer software programs or prewritten 2068
portions thereof does not cause the combination to be other than 2069
prewritten computer software. "Prewritten computer software" 2070
includes software designed and developed by the author or other 2071
creator to the specifications of a specific purchaser when it is 2072
sold to a person other than the purchaser. If a person modifies 2073
or enhances computer software of which the person is not the 2074
author or creator, the person shall be deemed to be the author 2075
or creator only of such person's modifications or enhancements. 2076
Prewritten computer software or a prewritten portion thereof 2077
that is modified or enhanced to any degree, where such 2078
modification or enhancement is designed and developed to the 2079
specifications of a specific purchaser, remains prewritten 2080
computer software; provided, however, that where there is a 2081
reasonable, separately stated charge or an invoice or other 2082
statement of the price given to the purchaser for the 2083

modification or enhancement, the modification or enhancement 2084
shall not constitute prewritten computer software. 2085

(CCC) (1) "Food" means substances, whether in liquid, 2086
concentrated, solid, frozen, dried, or dehydrated form, that are 2087
sold for ingestion or chewing by humans and are consumed for 2088
their taste or nutritional value. "Food" does not include 2089
alcoholic beverages, dietary supplements, soft drinks, or 2090
tobacco. 2091

(2) As used in division (CCC) (1) of this section: 2092

(a) "Alcoholic beverages" means beverages that are 2093
suitable for human consumption and contain one-half of one per 2094
cent or more of alcohol by volume. 2095

(b) "Dietary supplements" means any product, other than 2096
tobacco, that is intended to supplement the diet and that is 2097
intended for ingestion in tablet, capsule, powder, softgel, 2098
gelcap, or liquid form, or, if not intended for ingestion in 2099
such a form, is not represented as conventional food for use as 2100
a sole item of a meal or of the diet; that is required to be 2101
labeled as a dietary supplement, identifiable by the "supplement 2102
facts" box found on the label, as required by 21 C.F.R. 101.36; 2103
and that contains one or more of the following dietary 2104
ingredients: 2105

(i) A vitamin; 2106

(ii) A mineral; 2107

(iii) An herb or other botanical; 2108

(iv) An amino acid; 2109

(v) A dietary substance for use by humans to supplement 2110
the diet by increasing the total dietary intake; 2111

(vi) A concentrate, metabolite, constituent, extract, or 2112
combination of any ingredient described in divisions (CCC) (2) (b) 2113
(i) to (v) of this section. 2114

(c) "Soft drinks" means nonalcoholic beverages that 2115
contain natural or artificial sweeteners. "Soft drinks" does not 2116
include beverages that contain milk or milk products, soy, rice, 2117
or similar milk substitutes, or that contains greater than fifty 2118
per cent vegetable or fruit juice by volume. 2119

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 2120
tobacco, or any other item that contains tobacco. 2121

(DDD) "Drug" means a compound, substance, or preparation, 2122
and any component of a compound, substance, or preparation, 2123
other than food, dietary supplements, or alcoholic beverages 2124
that is recognized in the official United States pharmacopoeia, 2125
official homeopathic pharmacopoeia of the United States, or 2126
official national formulary, and supplements to them; is 2127
intended for use in the diagnosis, cure, mitigation, treatment, 2128
or prevention of disease; or is intended to affect the structure 2129
or any function of the body. 2130

(EEE) "Prescription" means an order, formula, or recipe 2131
issued in any form of oral, written, electronic, or other means 2132
of transmission by a duly licensed practitioner authorized by 2133
the laws of this state to issue a prescription. 2134

(FFF) "Durable medical equipment" means equipment, 2135
including repair and replacement parts for such equipment, that 2136
can withstand repeated use, is primarily and customarily used to 2137
serve a medical purpose, generally is not useful to a person in 2138
the absence of illness or injury, and is not worn in or on the 2139
body. "Durable medical equipment" does not include mobility 2140

enhancing equipment. 2141

(GGG) "Mobility enhancing equipment" means equipment, 2142
including repair and replacement parts for such equipment, that 2143
is primarily and customarily used to provide or increase the 2144
ability to move from one place to another and is appropriate for 2145
use either in a home or a motor vehicle, that is not generally 2146
used by persons with normal mobility, and that does not include 2147
any motor vehicle or equipment on a motor vehicle normally 2148
provided by a motor vehicle manufacturer. "Mobility enhancing 2149
equipment" does not include durable medical equipment. 2150

(HHH) "Prosthetic device" means a replacement, corrective, 2151
or supportive device, including repair and replacement parts for 2152
the device, worn on or in the human body to artificially replace 2153
a missing portion of the body, prevent or correct physical 2154
deformity or malfunction, or support a weak or deformed portion 2155
of the body. As used in this division, before July 1, 2019, 2156
"prosthetic device" does not include corrective eyeglasses, 2157
contact lenses, or dental prosthesis. On or after July 1, 2019, 2158
"prosthetic device" does not include dental prosthesis but does 2159
include corrective eyeglasses or contact lenses. 2160

(III) (1) "Fractional aircraft ownership program" means a 2161
program in which persons within an affiliated group sell and 2162
manage fractional ownership program aircraft, provided that at 2163
least one hundred airworthy aircraft are operated in the program 2164
and the program meets all of the following criteria: 2165

(a) Management services are provided by at least one 2166
program manager within an affiliated group on behalf of the 2167
fractional owners. 2168

(b) Each program aircraft is owned or possessed by at 2169

least one fractional owner.	2170
(c) Each fractional owner owns or possesses at least a	2171
one-sixteenth interest in at least one fixed-wing program	2172
aircraft.	2173
(d) A dry-lease aircraft interchange arrangement is in	2174
effect among all of the fractional owners.	2175
(e) Multi-year program agreements are in effect regarding	2176
the fractional ownership, management services, and dry-lease	2177
aircraft interchange arrangement aspects of the program.	2178
(2) As used in division (III) (1) of this section:	2179
(a) "Affiliated group" has the same meaning as in division	2180
(B) (3) (e) of this section.	2181
(b) "Fractional owner" means a person that owns or	2182
possesses at least a one-sixteenth interest in a program	2183
aircraft and has entered into the agreements described in	2184
division (III) (1) (e) of this section.	2185
(c) "Fractional ownership program aircraft" or "program	2186
aircraft" means a turbojet aircraft that is owned or possessed	2187
by a fractional owner and that has been included in a dry-lease	2188
aircraft interchange arrangement and agreement under divisions	2189
(III) (1) (d) and (e) of this section, or an aircraft a program	2190
manager owns or possesses primarily for use in a fractional	2191
aircraft ownership program.	2192
(d) "Management services" means administrative and	2193
aviation support services furnished under a fractional aircraft	2194
ownership program in accordance with a management services	2195
agreement under division (III) (1) (e) of this section, and	2196
offered by the program manager to the fractional owners,	2197

including, at a minimum, the establishment and implementation of 2198
safety guidelines; the coordination of the scheduling of the 2199
program aircraft and crews; program aircraft maintenance; 2200
program aircraft insurance; crew training for crews employed, 2201
furnished, or contracted by the program manager or the 2202
fractional owner; the satisfaction of record-keeping 2203
requirements; and the development and use of an operations 2204
manual and a maintenance manual for the fractional aircraft 2205
ownership program. 2206

(e) "Program manager" means the person that offers 2207
management services to fractional owners pursuant to a 2208
management services agreement under division (III) (1) (e) of this 2209
section. 2210

(JJJ) "Electronic publishing" means providing access to 2211
one or more of the following primarily for business customers, 2212
including the federal government or a state government or a 2213
political subdivision thereof, to conduct research: news; 2214
business, financial, legal, consumer, or credit materials; 2215
editorials, columns, reader commentary, or features; photos or 2216
images; archival or research material; legal notices, identity 2217
verification, or public records; scientific, educational, 2218
instructional, technical, professional, trade, or other literary 2219
materials; or other similar information which has been gathered 2220
and made available by the provider to the consumer in an 2221
electronic format. Providing electronic publishing includes the 2222
functions necessary for the acquisition, formatting, editing, 2223
storage, and dissemination of data or information that is the 2224
subject of a sale. 2225

(KKK) "Medicaid health insuring corporation" means a 2226
health insuring corporation that holds a certificate of 2227

authority under Chapter 1751. of the Revised Code and is under 2228
contract with the department of medicaid pursuant to section 2229
5167.10 of the Revised Code. 2230

(LLL) "Managed care premium" means any premium, 2231
capitation, or other payment a medicaid health insuring 2232
corporation receives for providing or arranging for the 2233
provision of health care services to its members or enrollees 2234
residing in this state. 2235

(MMM) "Captive deer" means deer and other cervidae that 2236
have been legally acquired, or their offspring, that are 2237
privately owned for agricultural or farming purposes. 2238

(NNN) "Gift card" means a document, card, certificate, or 2239
other record, whether tangible or intangible, that may be 2240
redeemed by a consumer for a dollar value when making a purchase 2241
of tangible personal property or services. 2242

(OOO) "Specified digital product" means an electronically 2243
transferred digital audiovisual work, digital audio work, or 2244
digital book. 2245

As used in division (OOO) of this section: 2246

(1) "Digital audiovisual work" means a series of related 2247
images that, when shown in succession, impart an impression of 2248
motion, together with accompanying sounds, if any. 2249

(2) "Digital audio work" means a work that results from 2250
the fixation of a series of musical, spoken, or other sounds, 2251
including digitized sound files that are downloaded onto a 2252
device and that may be used to alert the customer with respect 2253
to a communication. 2254

(3) "Digital book" means a work that is generally 2255

recognized in the ordinary and usual sense as a book. 2256

(4) "Electronically transferred" means obtained by the 2257
purchaser by means other than tangible storage media. 2258

(PPP) "Digital advertising services" means providing 2259
access, by means of telecommunications equipment, to computer 2260
equipment that is used to enter, upload, download, review, 2261
manipulate, store, add, or delete data for the purpose of 2262
electronically displaying, delivering, placing, or transferring 2263
promotional advertisements to potential customers about products 2264
or services or about industry or business brands. 2265

(QQQ) "Peer-to-peer car sharing program" has the same 2266
meaning as in section 4516.01 of the Revised Code. 2267

Sec. 5739.02. For the purpose of providing revenue with 2268
which to meet the needs of the state, for the use of the general 2269
revenue fund of the state, for the purpose of securing a 2270
thorough and efficient system of common schools throughout the 2271
state, for the purpose of affording revenues, in addition to 2272
those from general property taxes, permitted under 2273
constitutional limitations, and from other sources, for the 2274
support of local governmental functions, and for the purpose of 2275
reimbursing the state for the expense of administering this 2276
chapter, an excise tax is hereby levied on each retail sale made 2277
in this state. 2278

(A) (1) The tax shall be collected as provided in section 2279
5739.025 of the Revised Code. The rate of the tax shall be five 2280
and three-fourths per cent. The tax applies and is collectible 2281
when the sale is made, regardless of the time when the price is 2282
paid or delivered. 2283

(2) In the case of the lease or rental, with a fixed term 2284

of more than thirty days or an indefinite term with a minimum 2285
period of more than thirty days, of any motor vehicles designed 2286
by the manufacturer to carry a load of not more than one ton, 2287
watercraft, outboard motor, or aircraft, or of any tangible 2288
personal property, other than motor vehicles designed by the 2289
manufacturer to carry a load of more than one ton, to be used by 2290
the lessee or renter primarily for business purposes, the tax 2291
shall be collected by the vendor at the time the lease or rental 2292
is consummated and shall be calculated by the vendor on the 2293
basis of the total amount to be paid by the lessee or renter 2294
under the lease agreement. If the total amount of the 2295
consideration for the lease or rental includes amounts that are 2296
not calculated at the time the lease or rental is executed, the 2297
tax shall be calculated and collected by the vendor at the time 2298
such amounts are billed to the lessee or renter. In the case of 2299
an open-end lease or rental, the tax shall be calculated by the 2300
vendor on the basis of the total amount to be paid during the 2301
initial fixed term of the lease or rental, and for each 2302
subsequent renewal period as it comes due. As used in this 2303
division, "motor vehicle" has the same meaning as in section 2304
4501.01 of the Revised Code, and "watercraft" includes an 2305
outdrive unit attached to the watercraft. 2306

A lease with a renewal clause and a termination penalty or 2307
similar provision that applies if the renewal clause is not 2308
exercised is presumed to be a sham transaction. In such a case, 2309
the tax shall be calculated and paid on the basis of the entire 2310
length of the lease period, including any renewal periods, until 2311
the termination penalty or similar provision no longer applies. 2312
The taxpayer shall bear the burden, by a preponderance of the 2313
evidence, that the transaction or series of transactions is not 2314
a sham transaction. 2315

(3) Except as provided in division (A) (2) of this section, 2316
in the case of a sale, the price of which consists in whole or 2317
in part of the lease or rental of tangible personal property, 2318
the tax shall be measured by the installments of that lease or 2319
rental. 2320

(4) In the case of a sale of a physical fitness facility 2321
service or recreation and sports club service, the price of 2322
which consists in whole or in part of a membership for the 2323
receipt of the benefit of the service, the tax applicable to the 2324
sale shall be measured by the installments thereof. 2325

(B) The tax does not apply to the following: 2326

(1) Sales to the state or any of its political 2327
subdivisions, or to any other state or its political 2328
subdivisions if the laws of that state exempt from taxation 2329
sales made to this state and its political subdivisions; 2330

(2) Sales of food for human consumption off the premises 2331
where sold; 2332

(3) Sales of food sold to students only in a cafeteria, 2333
dormitory, fraternity, or sorority maintained in a private, 2334
public, or parochial school, college, or university; 2335

(4) Sales of newspapers and sales or transfers of 2336
magazines distributed as controlled circulation publications; 2337

(5) The furnishing, preparing, or serving of meals without 2338
charge by an employer to an employee provided the employer 2339
records the meals as part compensation for services performed or 2340
work done; 2341

(6) (a) Sales of motor fuel upon receipt, use, 2342
distribution, or sale of which in this state a tax is imposed by 2343

the law of this state, but this exemption shall not apply to the 2344
sale of motor fuel on which a refund of the tax is allowable 2345
under division (A) of section 5735.14 of the Revised Code; and 2346
the tax commissioner may deduct the amount of tax levied by this 2347
section applicable to the price of motor fuel when granting a 2348
refund of motor fuel tax pursuant to division (A) of section 2349
5735.14 of the Revised Code and shall cause the amount deducted 2350
to be paid into the general revenue fund of this state; 2351

(b) Sales of motor fuel other than that described in 2352
division (B) (6) (a) of this section and used for powering a 2353
refrigeration unit on a vehicle other than one used primarily to 2354
provide comfort to the operator or occupants of the vehicle. 2355

(7) Sales of natural gas by a natural gas company or 2356
municipal gas utility, of water by a water-works company, or of 2357
steam by a heating company, if in each case the thing sold is 2358
delivered to consumers through pipes or conduits, and all sales 2359
of communications services by a telegraph company, all terms as 2360
defined in section 5727.01 of the Revised Code, and sales of 2361
electricity delivered through wires; 2362

(8) Casual sales by a person, or auctioneer employed 2363
directly by the person to conduct such sales, except as to such 2364
sales of motor vehicles, watercraft or outboard motors required 2365
to be titled under section 1548.06 of the Revised Code, 2366
watercraft documented with the United States coast guard, 2367
snowmobiles, and all-purpose vehicles as defined in section 2368
4519.01 of the Revised Code; 2369

(9) (a) Sales of services or tangible personal property, 2370
other than motor vehicles, mobile homes, and manufactured homes, 2371
by churches, organizations exempt from taxation under section 2372
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 2373

organizations operated exclusively for charitable purposes as 2374
defined in division (B) (12) of this section, provided that the 2375
number of days on which such tangible personal property or 2376
services, other than items never subject to the tax, are sold 2377
does not exceed six in any calendar year, except as otherwise 2378
provided in division (B) (9) (b) of this section. If the number of 2379
days on which such sales are made exceeds six in any calendar 2380
year, the church or organization shall be considered to be 2381
engaged in business and all subsequent sales by it shall be 2382
subject to the tax. In counting the number of days, all sales by 2383
groups within a church or within an organization shall be 2384
considered to be sales of that church or organization. 2385

(b) The limitation on the number of days on which tax- 2386
exempt sales may be made by a church or organization under 2387
division (B) (9) (a) of this section does not apply to sales made 2388
by student clubs and other groups of students of a primary or 2389
secondary school, or a parent-teacher association, booster 2390
group, or similar organization that raises money to support or 2391
fund curricular or extracurricular activities of a primary or 2392
secondary school. 2393

(c) Divisions (B) (9) (a) and (b) of this section do not 2394
apply to sales by a noncommercial educational radio or 2395
television broadcasting station. 2396

(10) Sales not within the taxing power of this state under 2397
the Constitution or laws of the United States or the 2398
Constitution of this state; 2399

(11) Except for transactions that are sales under division 2400
(B) (3) (p) of section 5739.01 of the Revised Code, the 2401
transportation of persons or property, unless the transportation 2402
is by a private investigation and security service; 2403

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

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the

operation of a community or area center in which presentations 2435
in music, dramatics, the arts, and related fields are made in 2436
order to foster public interest and education therein; the 2437
production of performances in music, dramatics, and the arts; or 2438
the promotion of education by an organization engaged in 2439
carrying on research in, or the dissemination of, scientific and 2440
technological knowledge and information primarily for the 2441
public. 2442

Nothing in this division shall be deemed to exempt sales 2443
to any organization for use in the operation or carrying on of a 2444
trade or business, or sales to a home for the aged for use in 2445
the operation of independent living facilities as defined in 2446
division (A) of section 5709.12 of the Revised Code. 2447

(13) Building and construction materials and services sold 2448
to construction contractors for incorporation into a structure 2449
or improvement to real property under a construction contract 2450
with this state or a political subdivision of this state, or 2451
with the United States government or any of its agencies; 2452
building and construction materials and services sold to 2453
construction contractors for incorporation into a structure or 2454
improvement to real property that are accepted for ownership by 2455
this state or any of its political subdivisions, or by the 2456
United States government or any of its agencies at the time of 2457
completion of the structures or improvements; building and 2458
construction materials sold to construction contractors for 2459
incorporation into a horticulture structure or livestock 2460
structure for a person engaged in the business of horticulture 2461
or producing livestock; building materials and services sold to 2462
a construction contractor for incorporation into a house of 2463
public worship or religious education, or a building used 2464
exclusively for charitable purposes under a construction 2465

contract with an organization whose purpose is as described in 2466
division (B) (12) of this section; building materials and 2467
services sold to a construction contractor for incorporation 2468
into a building under a construction contract with an 2469
organization exempt from taxation under section 501(c) (3) of the 2470
Internal Revenue Code of 1986 when the building is to be used 2471
exclusively for the organization's exempt purposes; building and 2472
construction materials sold for incorporation into the original 2473
construction of a sports facility under section 307.696 of the 2474
Revised Code; building and construction materials and services 2475
sold to a construction contractor for incorporation into real 2476
property outside this state if such materials and services, when 2477
sold to a construction contractor in the state in which the real 2478
property is located for incorporation into real property in that 2479
state, would be exempt from a tax on sales levied by that state; 2480
building and construction materials for incorporation into a 2481
transportation facility pursuant to a public-private agreement 2482
entered into under sections 5501.70 to 5501.83 of the Revised 2483
Code; and, until one calendar year after the construction of a 2484
convention center that qualifies for property tax exemption 2485
under section 5709.084 of the Revised Code is completed, 2486
building and construction materials and services sold to a 2487
construction contractor for incorporation into the real property 2488
comprising that convention center; 2489

(14) Sales of ships or vessels or rail rolling stock used 2490
or to be used principally in interstate or foreign commerce, and 2491
repairs, alterations, fuel, and lubricants for such ships or 2492
vessels or rail rolling stock; 2493

(15) Sales to persons primarily engaged in any of the 2494
activities mentioned in division (B) (42) (a), (g), or (h) of this 2495
section, to persons engaged in making retail sales, or to 2496

persons who purchase for sale from a manufacturer tangible 2497
personal property that was produced by the manufacturer in 2498
accordance with specific designs provided by the purchaser, of 2499
packages, including material, labels, and parts for packages, 2500
and of machinery, equipment, and material for use primarily in 2501
packaging tangible personal property produced for sale, 2502
including any machinery, equipment, and supplies used to make 2503
labels or packages, to prepare packages or products for 2504
labeling, or to label packages or products, by or on the order 2505
of the person doing the packaging, or sold at retail. "Packages" 2506
includes bags, baskets, cartons, crates, boxes, cans, bottles, 2507
bindings, wrappings, and other similar devices and containers, 2508
but does not include motor vehicles or bulk tanks, trailers, or 2509
similar devices attached to motor vehicles. "Packaging" means 2510
placing in a package. Division (B) (15) of this section does not 2511
apply to persons engaged in highway transportation for hire. 2512

(16) Sales of food to persons using supplemental nutrition 2513
assistance program benefits to purchase the food. As used in 2514
this division, "food" has the same meaning as in 7 U.S.C. 2012 2515
and federal regulations adopted pursuant to the Food and 2516
Nutrition Act of 2008. 2517

(17) Sales to persons engaged in farming, agriculture, 2518
horticulture, or floriculture, of tangible personal property for 2519
use or consumption primarily in the production by farming, 2520
agriculture, horticulture, or floriculture of other tangible 2521
personal property for use or consumption primarily in the 2522
production of tangible personal property for sale by farming, 2523
agriculture, horticulture, or floriculture; or material and 2524
parts for incorporation into any such tangible personal property 2525
for use or consumption in production; and of tangible personal 2526
property for such use or consumption in the conditioning or 2527

holding of products produced by and for such use, consumption, 2528
or sale by persons engaged in farming, agriculture, 2529
horticulture, or floriculture, except where such property is 2530
incorporated into real property; 2531

(18) Sales of drugs for a human being that may be 2532
dispensed only pursuant to a prescription; insulin as recognized 2533
in the official United States pharmacopoeia; urine and blood 2534
testing materials when used by diabetics or persons with 2535
hypoglycemia to test for glucose or acetone; hypodermic syringes 2536
and needles when used by diabetics for insulin injections; 2537
epoetin alfa when purchased for use in the treatment of persons 2538
with medical disease; hospital beds when purchased by hospitals, 2539
nursing homes, or other medical facilities; and medical oxygen 2540
and medical oxygen-dispensing equipment when purchased by 2541
hospitals, nursing homes, or other medical facilities; 2542

(19) Sales of prosthetic devices, durable medical 2543
equipment for home use, or mobility enhancing equipment, when 2544
made pursuant to a prescription and when such devices or 2545
equipment are for use by a human being. 2546

(20) Sales of emergency and fire protection vehicles and 2547
equipment to nonprofit organizations for use solely in providing 2548
fire protection and emergency services, including trauma care 2549
and emergency medical services, for political subdivisions of 2550
the state; 2551

(21) Sales of tangible personal property manufactured in 2552
this state, if sold by the manufacturer in this state to a 2553
retailer for use in the retail business of the retailer outside 2554
of this state and if possession is taken from the manufacturer 2555
by the purchaser within this state for the sole purpose of 2556
immediately removing the same from this state in a vehicle owned 2557

by the purchaser;	2558
(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;	2559 2560 2561 2562 2563
(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;	2564 2565 2566
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	2567 2568 2569 2570 2571 2572 2573 2574 2575 2576 2577 2578 2579 2580 2581
(25) (a) Sales of water to a consumer for residential use;	2582
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	2583 2584 2585 2586

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2587 2588
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	2589 2590 2591 2592
(a) To prepare food for human consumption for sale;	2593
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	2594 2595 2596 2597
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2598 2599
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2600 2601
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	2602 2603 2604 2605
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	2606 2607 2608
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	2609 2610 2611
(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	2612 2613 2614

property belonging to others by a person engaged in highway 2615
transportation for hire, except for packages and packaging used 2616
for the transportation of tangible personal property; 2617

(33) Sales to the state headquarters of any veterans' 2618
organization in this state that is either incorporated and 2619
issued a charter by the congress of the United States or is 2620
recognized by the United States veterans administration, for use 2621
by the headquarters; 2622

(34) Sales to a telecommunications service vendor, mobile 2623
telecommunications service vendor, or satellite broadcasting 2624
service vendor of tangible personal property and services used 2625
directly and primarily in transmitting, receiving, switching, or 2626
recording any interactive, one- or two-way electromagnetic 2627
communications, including voice, image, data, and information, 2628
through the use of any medium, including, but not limited to, 2629
poles, wires, cables, switching equipment, computers, and record 2630
storage devices and media, and component parts for the tangible 2631
personal property. The exemption provided in this division shall 2632
be in lieu of all other exemptions under division (B) (42) (a) or 2633
(n) of this section to which the vendor may otherwise be 2634
entitled, based upon the use of the thing purchased in providing 2635
the telecommunications, mobile telecommunications, or satellite 2636
broadcasting service. 2637

(35) (a) Sales where the purpose of the consumer is to use 2638
or consume the things transferred in making retail sales and 2639
consisting of newspaper inserts, catalogues, coupons, flyers, 2640
gift certificates, or other advertising material that prices and 2641
describes tangible personal property offered for retail sale. 2642

(b) Sales to direct marketing vendors of preliminary 2643
materials such as photographs, artwork, and typesetting that 2644

will be used in printing advertising material; and of printed 2645
matter that offers free merchandise or chances to win sweepstake 2646
prizes and that is mailed to potential customers with 2647
advertising material described in division (B) (35) (a) of this 2648
section; 2649

(c) Sales of equipment such as telephones, computers, 2650
facsimile machines, and similar tangible personal property 2651
primarily used to accept orders for direct marketing retail 2652
sales. 2653

(d) Sales of automatic food vending machines that preserve 2654
food with a shelf life of forty-five days or less by 2655
refrigeration and dispense it to the consumer. 2656

For purposes of division (B) (35) of this section, "direct 2657
marketing" means the method of selling where consumers order 2658
tangible personal property by United States mail, delivery 2659
service, or telecommunication and the vendor delivers or ships 2660
the tangible personal property sold to the consumer from a 2661
warehouse, catalogue distribution center, or similar fulfillment 2662
facility by means of the United States mail, delivery service, 2663
or common carrier. 2664

(36) Sales to a person engaged in the business of 2665
horticulture or producing livestock of materials to be 2666
incorporated into a horticulture structure or livestock 2667
structure; 2668

(37) Sales of personal computers, computer monitors, 2669
computer keyboards, modems, and other peripheral computer 2670
equipment to an individual who is licensed or certified to teach 2671
in an elementary or a secondary school in this state for use by 2672
that individual in preparation for teaching elementary or 2673

secondary school students; 2674

(38) Sales of tangible personal property that is not 2675
required to be registered or licensed under the laws of this 2676
state to a citizen of a foreign nation that is not a citizen of 2677
the United States, provided the property is delivered to a 2678
person in this state that is not a related member of the 2679
purchaser, is physically present in this state for the sole 2680
purpose of temporary storage and package consolidation, and is 2681
subsequently delivered to the purchaser at a delivery address in 2682
a foreign nation. As used in division (B) (38) of this section, 2683
"related member" has the same meaning as in section 5733.042 of 2684
the Revised Code, and "temporary storage" means the storage of 2685
tangible personal property for a period of not more than sixty 2686
days. 2687

(39) Sales of used manufactured homes and used mobile 2688
homes, as defined in section 5739.0210 of the Revised Code, made 2689
on or after January 1, 2000; 2690

(40) Sales of tangible personal property and services to a 2691
provider of electricity used or consumed directly and primarily 2692
in generating, transmitting, or distributing electricity for use 2693
by others, including property that is or is to be incorporated 2694
into and will become a part of the consumer's production, 2695
transmission, or distribution system and that retains its 2696
classification as tangible personal property after 2697
incorporation; fuel or power used in the production, 2698
transmission, or distribution of electricity; energy conversion 2699
equipment as defined in section 5727.01 of the Revised Code; and 2700
tangible personal property and services used in the repair and 2701
maintenance of the production, transmission, or distribution 2702
system, including only those motor vehicles as are specially 2703

designed and equipped for such use. The exemption provided in 2704
this division shall be in lieu of all other exemptions in 2705
division (B) (42) (a) or (n) of this section to which a provider 2706
of electricity may otherwise be entitled based on the use of the 2707
tangible personal property or service purchased in generating, 2708
transmitting, or distributing electricity. 2709

(41) Sales to a person providing services under division 2710
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 2711
personal property and services used directly and primarily in 2712
providing taxable services under that section. 2713

(42) Sales where the purpose of the purchaser is to do any 2714
of the following: 2715

(a) To incorporate the thing transferred as a material or 2716
a part into tangible personal property to be produced for sale 2717
by manufacturing, assembling, processing, or refining; or to use 2718
or consume the thing transferred directly in producing tangible 2719
personal property for sale by mining, including, without 2720
limitation, the extraction from the earth of all substances that 2721
are classed geologically as minerals, or directly in the 2722
rendition of a public utility service, except that the sales tax 2723
levied by this section shall be collected upon all meals, 2724
drinks, and food for human consumption sold when transporting 2725
persons. This paragraph does not exempt from "retail sale" or 2726
"sales at retail" the sale of tangible personal property that is 2727
to be incorporated into a structure or improvement to real 2728
property. 2729

(b) To hold the thing transferred as security for the 2730
performance of an obligation of the vendor; 2731

(c) To resell, hold, use, or consume the thing transferred 2732

as evidence of a contract of insurance;	2733
(d) To use or consume the thing directly in commercial fishing;	2734 2735
(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 circulation publications;	2736 2737 2738 2739
(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 reproductions of written or graphic matter;	2740 2741 2742 2743 2744
(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;	2745 2746 2747
(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 maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	2748 2749 2750 2751 2752 2753
(i) To use the thing transferred as qualified research and development equipment;	2754 2755
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to	2756 2757 2758 2759 2760 2761

retail stores of an affiliated group of which that person is a 2762
member, or by means of direct marketing. This division does not 2763
apply to motor vehicles registered for operation on the public 2764
highways. As used in this division, "affiliated group" has the 2765
same meaning as in division (B) (3) (e) of section 5739.01 of the 2766
Revised Code and "direct marketing" has the same meaning as in 2767
division (B) (35) of this section. 2768

(k) To use or consume the thing transferred to fulfill a 2769
contractual obligation incurred by a warrantor pursuant to a 2770
warranty provided as a part of the price of the tangible 2771
personal property sold or by a vendor of a warranty, maintenance 2772
or service contract, or similar agreement the provision of which 2773
is defined as a sale under division (B) (7) of section 5739.01 of 2774
the Revised Code; 2775

(l) To use or consume the thing transferred in the 2776
production of a newspaper for distribution to the public; 2777

(m) To use tangible personal property to perform a service 2778
listed in division (B) (3) of section 5739.01 of the Revised 2779
Code, if the property is or is to be permanently transferred to 2780
the consumer of the service as an integral part of the 2781
performance of the service; 2782

(n) To use or consume the thing transferred primarily in 2783
producing tangible personal property for sale by farming, 2784
agriculture, horticulture, or floriculture. Persons engaged in 2785
rendering farming, agriculture, horticulture, or floriculture 2786
services for others are deemed engaged primarily in farming, 2787
agriculture, horticulture, or floriculture. This paragraph does 2788
not exempt from "retail sale" or "sales at retail" the sale of 2789
tangible personal property that is to be incorporated into a 2790
structure or improvement to real property. 2791

(o) To use or consume the thing transferred in acquiring, 2792
formatting, editing, storing, and disseminating data or 2793
information by electronic publishing; 2794

(p) To provide the thing transferred to the owner or 2795
lessee of a motor vehicle that is being repaired or serviced, if 2796
the thing transferred is a rented motor vehicle and the 2797
purchaser is reimbursed for the cost of the rented motor vehicle 2798
by a manufacturer, warrantor, or provider of a maintenance, 2799
service, or other similar contract or agreement, with respect to 2800
the motor vehicle that is being repaired or serviced; 2801

(q) To use or consume the thing transferred directly in 2802
production of crude oil and natural gas for sale. Persons 2803
engaged in rendering production services for others are deemed 2804
engaged in production. 2805

As used in division (B) (42) (q) of this section, 2806
"production" means operations and tangible personal property 2807
directly used to expose and evaluate an underground reservoir 2808
that may contain hydrocarbon resources, prepare the wellbore for 2809
production, and lift and control all substances yielded by the 2810
reservoir to the surface of the earth. 2811

(i) For the purposes of division (B) (42) (q) of this 2812
section, the "thing transferred" includes, but is not limited 2813
to, any of the following: 2814

(I) Services provided in the construction of permanent 2815
access roads, services provided in the construction of the well 2816
site, and services provided in the construction of temporary 2817
impoundments; 2818

(II) Equipment and rigging used for the specific purpose 2819
of creating with integrity a wellbore pathway to underground 2820

reservoirs;	2821
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	2822 2823 2824
(IV) Casing, tubulars, and float and centralizing equipment;	2825 2826
(V) Trailers to which production equipment is attached;	2827
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	2828 2829 2830
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	2831 2832 2833
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	2834 2835 2836 2837
(IX) Pressure pumping equipment;	2838
(X) Artificial lift systems equipment;	2839
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	2840 2841 2842
(XII) Tangible personal property directly used to control production equipment.	2843 2844
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	2845 2846 2847

(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	2848 2849 2850
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	2851 2852 2853
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	2854 2855 2856
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	2857 2858 2859 2860
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	2861 2862 2863 2864
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	2865 2866
(VII) Well site fencing, lighting, or security systems;	2867
(VIII) Communication devices or services;	2868
(IX) Office supplies;	2869
(X) Trailers used as offices or lodging;	2870
(XI) Motor vehicles of any kind;	2871
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	2872 2873
(XIII) Tangible personal property used primarily as a	2874

safety device;	2875
(XIV) Data collection or monitoring devices;	2876
(XV) Access ladders, stairs, or platforms attached to storage tanks.	2877 2878
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	2879 2880 2881 2882 2883
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	2884 2885 2886 2887
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	2888 2889 2890
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	2891 2892 2893 2894 2895 2896 2897
(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.	2898 2899 2900 2901 2902 2903

(45) Sales of telecommunications service that is used 2904
directly and primarily to perform the functions of a call 2905
center. As used in this division, "call center" means any 2906
physical location where telephone calls are placed or received 2907
in high volume for the purpose of making sales, marketing, 2908
customer service, technical support, or other specialized 2909
business activity, and that employs at least fifty individuals 2910
that engage in call center activities on a full-time basis, or 2911
sufficient individuals to fill fifty full-time equivalent 2912
positions. 2913

(46) Sales by a telecommunications service vendor of 900 2914
service to a subscriber. This division does not apply to 2915
information services. 2916

(47) Sales of value-added non-voice data service. This 2917
division does not apply to any similar service that is not 2918
otherwise a telecommunications service. 2919

(48) Sales of feminine hygiene products. 2920

(49) Sales of materials, parts, equipment, or engines used 2921
in the repair or maintenance of aircraft or avionics systems of 2922
such aircraft, and sales of repair, remodeling, replacement, or 2923
maintenance services in this state performed on aircraft or on 2924
an aircraft's avionics, engine, or component materials or parts. 2925
As used in division (B) (49) of this section, "aircraft" means 2926
aircraft of more than six thousand pounds maximum certified 2927
takeoff weight or used exclusively in general aviation. 2928

(50) Sales of full flight simulators that are used for 2929
pilot or flight-crew training, sales of repair or replacement 2930
parts or components, and sales of repair or maintenance services 2931
for such full flight simulators. "Full flight simulator" means a 2932

replica of a specific type, or make, model, and series of 2933
aircraft cockpit. It includes the assemblage of equipment and 2934
computer programs necessary to represent aircraft operations in 2935
ground and flight conditions, a visual system providing an out- 2936
of-the-cockpit view, and a system that provides cues at least 2937
equivalent to those of a three-degree-of-freedom motion system, 2938
and has the full range of capabilities of the systems installed 2939
in the device as described in appendices A and B of part 60 of 2940
chapter 1 of title 14 of the Code of Federal Regulations. 2941

(51) Any transfer or lease of tangible personal property 2942
between the state and JobsOhio in accordance with section 2943
4313.02 of the Revised Code. 2944

(52) (a) Sales to a qualifying corporation. 2945

(b) As used in division (B) (52) of this section: 2946

(i) "Qualifying corporation" means a nonprofit corporation 2947
organized in this state that leases from an eligible county 2948
land, buildings, structures, fixtures, and improvements to the 2949
land that are part of or used in a public recreational facility 2950
used by a major league professional athletic team or a class A 2951
to class AAA minor league affiliate of a major league 2952
professional athletic team for a significant portion of the 2953
team's home schedule, provided the following apply: 2954

(I) The facility is leased from the eligible county 2955
pursuant to a lease that requires substantially all of the 2956
revenue from the operation of the business or activity conducted 2957
by the nonprofit corporation at the facility in excess of 2958
operating costs, capital expenditures, and reserves to be paid 2959
to the eligible county at least once per calendar year. 2960

(II) Upon dissolution and liquidation of the nonprofit 2961

corporation, all of its net assets are distributable to the 2962
board of commissioners of the eligible county from which the 2963
corporation leases the facility. 2964

(ii) "Eligible county" has the same meaning as in section 2965
307.695 of the Revised Code. 2966

(53) Sales to or by a cable service provider, video 2967
service provider, or radio or television broadcast station 2968
regulated by the federal government of cable service or 2969
programming, video service or programming, audio service or 2970
programming, or electronically transferred digital audiovisual 2971
or audio work. As used in division (B) (53) of this section, 2972
"cable service" and "cable service provider" have the same 2973
meanings as in section 1332.01 of the Revised Code, and "video 2974
service," "video service provider," and "video programming" have 2975
the same meanings as in section 1332.21 of the Revised Code. 2976

(54) Sales of a digital audio work electronically 2977
transferred for delivery through use of a machine, such as a 2978
juke box, that does all of the following: 2979

(a) Accepts direct payments to operate; 2980

(b) Automatically plays a selected digital audio work for 2981
a single play upon receipt of a payment described in division 2982
(B) (54) (a) of this section; 2983

(c) Operates exclusively for the purpose of playing 2984
digital audio works in a commercial establishment. 2985

(55) (a) Sales of the following occurring on the first 2986
Friday of August and the following Saturday and Sunday of each 2987
year, beginning in 2018: 2988

(i) An item of clothing, the price of which is seventy- 2989

five dollars or less;	2990
(ii) An item of school supplies, the price of which is	2991
twenty dollars or less;	2992
(iii) An item of school instructional material, the price	2993
of which is twenty dollars or less.	2994
(b) As used in division (B) (55) of this section:	2995
(i) "Clothing" means all human wearing apparel suitable	2996
for general use. "Clothing" includes, but is not limited to,	2997
aprons, household and shop; athletic supporters; baby receiving	2998
blankets; bathing suits and caps; beach capes and coats; belts	2999
and suspenders; boots; coats and jackets; costumes; diapers,	3000
children and adult, including disposable diapers; earmuffs;	3001
footlets; formal wear; garters and garter belts; girdles; gloves	3002
and mittens for general use; hats and caps; hosiery; insoles for	3003
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	3004
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	3005
sneakers; socks and stockings; steel-toed shoes; underwear;	3006
uniforms, athletic and nonathletic; and wedding apparel.	3007
"Clothing" does not include items purchased for use in a trade	3008
or business; clothing accessories or equipment; protective	3009
equipment; sports or recreational equipment; belt buckles sold	3010
separately; costume masks sold separately; patches and emblems	3011
sold separately; sewing equipment and supplies including, but	3012
not limited to, knitting needles, patterns, pins, scissors,	3013
sewing machines, sewing needles, tape measures, and thimbles;	3014
and sewing materials that become part of "clothing" including,	3015
but not limited to, buttons, fabric, lace, thread, yarn, and	3016
zippers.	3017
(ii) "School supplies" means items commonly used by a	3018

student in a course of study. "School supplies" includes only 3019
the following items: binders; book bags; calculators; cellophane 3020
tape; blackboard chalk; compasses; composition books; crayons; 3021
erasers; folders, expandable, pocket, plastic, and manila; glue, 3022
paste, and paste sticks; highlighters; index cards; index card 3023
boxes; legal pads; lunch boxes; markers; notebooks; paper, 3024
loose-leaf ruled notebook paper, copy paper, graph paper, 3025
tracing paper, manila paper, colored paper, poster board, and 3026
construction paper; pencil boxes and other school supply boxes; 3027
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 3028
and writing tablets. "School supplies" does not include any item 3029
purchased for use in a trade or business. 3030

(iii) "School instructional material" means written 3031
material commonly used by a student in a course of study as a 3032
reference and to learn the subject being taught. "School 3033
instructional material" includes only the following items: 3034
reference books, reference maps and globes, textbooks, and 3035
workbooks. "School instructional material" does not include any 3036
material purchased for use in a trade or business. 3037

(56) (a) Sales of diapers or incontinence underpads sold 3038
pursuant to a prescription, for the benefit of a medicaid 3039
recipient with a diagnosis of incontinence, and by a medicaid 3040
provider that maintains a valid provider agreement under section 3041
5164.30 of the Revised Code with the department of medicaid, 3042
provided that the medicaid program covers diapers or 3043
incontinence underpads as an incontinence garment. 3044

(b) As used in division (B) (56) (a) of this section: 3045

(i) "Diaper" means an absorbent garment worn by humans who 3046
are incapable of, or have difficulty, controlling their bladder 3047
or bowel movements. 3048

(ii) "Incontinence underpad" means an absorbent product, 3049
not worn on the body, designed to protect furniture or other 3050
tangible personal property from soiling or damage due to human 3051
incontinence. 3052

(57) Sales of investment metal bullion and investment 3053
coins. "Investment metal bullion" means any bullion described in 3054
section 408(m)(3)(B) of the Internal Revenue Code, regardless of 3055
whether that bullion is in the physical possession of a trustee. 3056
"Investment coin" means any coin composed primarily of gold, 3057
silver, platinum, or palladium. 3058

(58) Documentary services charges imposed pursuant to 3059
section 4517.261 or 4781.24 of the Revised Code. 3060

(C) For the purpose of the proper administration of this 3061
chapter, and to prevent the evasion of the tax, it is presumed 3062
that all sales made in this state are subject to the tax until 3063
the contrary is established. 3064

(D) The tax collected by the vendor from the consumer 3065
under this chapter is not part of the price, but is a tax 3066
collection for the benefit of the state, and of counties levying 3067
an additional sales tax pursuant to section 5739.021 or 5739.026 3068
of the Revised Code and of transit authorities levying an 3069
additional sales tax pursuant to section 5739.023 of the Revised 3070
Code. Except for the discount authorized under section 5739.12 3071
of the Revised Code and the effects of any rounding pursuant to 3072
section 5703.055 of the Revised Code, no person other than the 3073
state or such a county or transit authority shall derive any 3074
benefit from the collection or payment of the tax levied by this 3075
section or section 5739.021, 5739.023, or 5739.026 of the 3076
Revised Code. 3077

Sec. 5739.03. (A) Except as provided in section 5739.05 or 3078
section 5739.051 of the Revised Code, the tax imposed by or 3079
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 3080
the Revised Code shall be paid by the consumer to the vendor, 3081
and each vendor shall collect from the consumer, as a trustee 3082
for the state of Ohio, the full and exact amount of the tax 3083
payable on each taxable sale, in the manner and at the times 3084
provided as follows: 3085

(1) If the price is, at or prior to the provision of the 3086
service or the delivery of possession of the thing sold to the 3087
consumer, paid in currency passed from hand to hand by the 3088
consumer or the consumer's agent to the vendor or the vendor's 3089
agent, the vendor or the vendor's agent shall collect the tax 3090
with and at the same time as the price; 3091

(2) If the price is otherwise paid or to be paid, the 3092
vendor or the vendor's agent shall, at or prior to the provision 3093
of the service or the delivery of possession of the thing sold 3094
to the consumer, charge the tax imposed by or pursuant to 3095
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 3096
Code to the account of the consumer, which amount shall be 3097
collected by the vendor from the consumer in addition to the 3098
price. Such sale shall be reported on and the amount of the tax 3099
applicable thereto shall be remitted with the return for the 3100
period in which the sale is made, and the amount of the tax 3101
shall become a legal charge in favor of the vendor and against 3102
the consumer. 3103

(B) (1) (a) If any sale is claimed to be exempt under 3104
division (E) of section 5739.01 of the Revised Code or under 3105
section 5739.02 of the Revised Code, with the exception of 3106
divisions (B) (1) to (11), (28), (48), ~~or (55)~~, or (58) of 3107

section 5739.02 of the Revised Code, the consumer must provide 3108
to the vendor, and the vendor must obtain from the consumer, a 3109
certificate specifying the reason that the sale is not legally 3110
subject to the tax. The certificate shall be in such form, and 3111
shall be provided either in a hard copy form or electronic form, 3112
as the tax commissioner prescribes. 3113

(b) A vendor that obtains a fully completed exemption 3114
certificate from a consumer is relieved of liability for 3115
collecting and remitting tax on any sale covered by that 3116
certificate. If it is determined the exemption was improperly 3117
claimed, the consumer shall be liable for any tax due on that 3118
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 3119
Chapter 5741. of the Revised Code. Relief under this division 3120
from liability does not apply to any of the following: 3121

(i) A vendor that fraudulently fails to collect tax; 3122

(ii) A vendor that solicits consumers to participate in 3123
the unlawful claim of an exemption; 3124

(iii) A vendor that accepts an exemption certificate from 3125
a consumer that claims an exemption based on who purchases or 3126
who sells property or a service, when the subject of the 3127
transaction sought to be covered by the exemption certificate is 3128
actually received by the consumer at a location operated by the 3129
vendor in this state, and this state has posted to its web site 3130
an exemption certificate form that clearly and affirmatively 3131
indicates that the claimed exemption is not available in this 3132
state; 3133

(iv) A vendor that accepts an exemption certificate from a 3134
consumer who claims a multiple points of use exemption under 3135
division (D) of section 5739.033 of the Revised Code, if the 3136

item purchased is tangible personal property, other than 3137
prewritten computer software. 3138

(2) The vendor shall maintain records, including exemption 3139
certificates, of all sales on which a consumer has claimed an 3140
exemption, and provide them to the tax commissioner on request. 3141

(3) The tax commissioner may establish an identification 3142
system whereby the commissioner issues an identification number 3143
to a consumer that is exempt from payment of the tax. The 3144
consumer must present the number to the vendor, if any sale is 3145
claimed to be exempt as provided in this section. 3146

(4) If no certificate is provided or obtained within 3147
ninety days after the date on which such sale is consummated, it 3148
shall be presumed that the tax applies. Failure to have so 3149
provided or obtained a certificate shall not preclude a vendor, 3150
within one hundred twenty days after the tax commissioner gives 3151
written notice of intent to levy an assessment, from either 3152
establishing that the sale is not subject to the tax, or 3153
obtaining, in good faith, a fully completed exemption 3154
certificate. 3155

(5) Certificates need not be obtained nor provided where 3156
the identity of the consumer is such that the transaction is 3157
never subject to the tax imposed or where the item of tangible 3158
personal property sold or the service provided is never subject 3159
to the tax imposed, regardless of use, or when the sale is in 3160
interstate commerce. 3161

(6) If a transaction is claimed to be exempt under 3162
division (B) (13) of section 5739.02 of the Revised Code, the 3163
contractor shall obtain certification of the claimed exemption 3164
from the contractee. This certification shall be in addition to 3165

an exemption certificate provided by the contractor to the 3166
vendor. A contractee that provides a certification under this 3167
division shall be deemed to be the consumer of all items 3168
purchased by the contractor under the claim of exemption, if it 3169
is subsequently determined that the exemption is not properly 3170
claimed. The certification shall be in such form as the tax 3171
commissioner prescribes. 3172

(C) As used in this division, "contractee" means a person 3173
who seeks to enter or enters into a contract or agreement with a 3174
contractor or vendor for the construction of real property or 3175
for the sale and installation onto real property of tangible 3176
personal property. 3177

Any contractor or vendor may request from any contractee a 3178
certification of what portion of the property to be transferred 3179
under such contract or agreement is to be incorporated into the 3180
realty and what portion will retain its status as tangible 3181
personal property after installation is completed. The 3182
contractor or vendor shall request the certification by 3183
certified mail delivered to the contractee, return receipt 3184
requested. Upon receipt of such request and prior to entering 3185
into the contract or agreement, the contractee shall provide to 3186
the contractor or vendor a certification sufficiently detailed 3187
to enable the contractor or vendor to ascertain the resulting 3188
classification of all materials purchased or fabricated by the 3189
contractor or vendor and transferred to the contractee. This 3190
requirement applies to a contractee regardless of whether the 3191
contractee holds a direct payment permit under section 5739.031 3192
of the Revised Code or provides to the contractor or vendor an 3193
exemption certificate as provided under this section. 3194

For the purposes of the taxes levied by this chapter and 3195

Chapter 5741. of the Revised Code, the contractor or vendor may 3196
in good faith rely on the contractee's certification. 3197
Notwithstanding division (B) of section 5739.01 of the Revised 3198
Code, if the tax commissioner determines that certain property 3199
certified by the contractee as tangible personal property 3200
pursuant to this division is, in fact, real property, the 3201
contractee shall be considered to be the consumer of all 3202
materials so incorporated into that real property and shall be 3203
liable for the applicable tax, and the contractor or vendor 3204
shall be excused from any liability on those materials. 3205

 If a contractee fails to provide such certification upon 3206
the request of the contractor or vendor, the contractor or 3207
vendor shall comply with the provisions of this chapter and 3208
Chapter 5741. of the Revised Code without the certification. If 3209
the tax commissioner determines that such compliance has been 3210
performed in good faith and that certain property treated as 3211
tangible personal property by the contractor or vendor is, in 3212
fact, real property, the contractee shall be considered to be 3213
the consumer of all materials so incorporated into that real 3214
property and shall be liable for the applicable tax, and the 3215
construction contractor or vendor shall be excused from any 3216
liability on those materials. 3217

 This division does not apply to any contract or agreement 3218
where the tax commissioner determines as a fact that a 3219
certification under this division was made solely on the 3220
decision or advice of the contractor or vendor. 3221

 (D) Notwithstanding division (B) of section 5739.01 of the 3222
Revised Code, whenever the total rate of tax imposed under this 3223
chapter is increased after the date after a construction 3224
contract is entered into, the contractee shall reimburse the 3225

construction contractor for any additional tax paid on tangible 3226
property consumed or services received pursuant to the contract. 3227

(E) A vendor who files a petition for reassessment 3228
contesting the assessment of tax on sales for which the vendor 3229
obtained no valid exemption certificates and for which the 3230
vendor failed to establish that the sales were properly not 3231
subject to the tax during the one-hundred-twenty-day period 3232
allowed under division (B) of this section, may present to the 3233
tax commissioner additional evidence to prove that the sales 3234
were properly subject to a claim of exception or exemption. The 3235
vendor shall file such evidence within ninety days of the 3236
receipt by the vendor of the notice of assessment, except that, 3237
upon application and for reasonable cause, the period for 3238
submitting such evidence shall be extended thirty days. 3239

The commissioner shall consider such additional evidence 3240
in reaching the final determination on the assessment and 3241
petition for reassessment. 3242

(F) Whenever a vendor refunds the price, minus any 3243
separately stated delivery charge, of an item of tangible 3244
personal property on which the tax imposed under this chapter 3245
has been paid, the vendor shall also refund the amount of tax 3246
paid, minus the amount of tax attributable to the delivery 3247
charge. 3248

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor 3249
has paid taxes to the treasurer of state or the treasurer of 3250
state's agent, or to the tax commissioner or the commissioner's 3251
agent, the commissioner shall refund to the vendor the amount of 3252
taxes paid, and any penalties assessed with respect to such 3253
taxes, if the vendor has refunded to the consumer the full 3254
amount of taxes the consumer paid illegally or erroneously or if 3255

the vendor has illegally or erroneously billed the consumer but 3256
has not collected the taxes from the consumer. 3257

(B) When, pursuant to this chapter, a consumer has paid 3258
taxes directly to the treasurer of state or the treasurer of 3259
state's agent, or to the tax commissioner or the commissioner's 3260
agent, and the payment or assessment was illegal or erroneous, 3261
the commissioner shall refund to the consumer the full amount of 3262
illegal or erroneous taxes paid and any penalties assessed with 3263
respect to such taxes. 3264

(C) The commissioner shall refund to the consumer ~~taxes~~ 3265
amounts paid illegally or erroneously to a vendor only if: 3266

(1) The commissioner has not refunded the tax to the 3267
vendor and the vendor has not refunded the tax to the consumer; 3268
or 3269

(2) The consumer has received a refund from a manufacturer 3270
or other person, other than the vendor, of the full purchase 3271
price, but not the tax, paid to the vendor in settlement of a 3272
complaint by the consumer about the property or service 3273
purchased. 3274

The commissioner may require the consumer to obtain or the 3275
vendor to provide a written statement confirming that the vendor 3276
has not refunded the tax to the consumer and has not filed an 3277
application for refund of the tax with the commissioner. 3278

(D) Subject to division (E) of this section, an 3279
application for refund shall be filed with the tax commissioner 3280
on the form prescribed by the commissioner within four years 3281
from the date of the illegal or erroneous payment ~~of the tax,~~ 3282
unless the vendor or consumer waives the time limitation under 3283
division (A) (3) of section 5739.16 of the Revised Code. If the 3284

time limitation is waived, the refund application period shall 3285
be extended for the same period as the waiver. 3286

(E) An application for refund shall be filed in accordance 3287
with division (D) of this section unless a person is subject to 3288
an assessment that is subject to the time limit of division (B) 3289
of section 5703.58 of the Revised Code for ~~a tax~~ amounts not 3290
reported and paid between the four-year time limit described in 3291
division (D) of this section and the seven-year limit described 3292
in division (B) of section 5703.58 of the Revised Code, in which 3293
case the person may file an application within six months after 3294
the date the assessment is issued. Any refund allowed under this 3295
division shall not exceed the amount of the assessment due for 3296
the same period. 3297

(F) On the filing of an application for a refund, the 3298
commissioner shall determine the amount of refund to which the 3299
applicant is entitled. If the amount is not less than that 3300
claimed, the commissioner shall certify that amount to the 3301
director of budget and management and the treasurer of state for 3302
payment from the tax refund fund created by section 5703.052 of 3303
the Revised Code. If the amount is less than that claimed, the 3304
commissioner shall proceed in accordance with section 5703.70 of 3305
the Revised Code. 3306

(G) When a refund is granted under this section, it shall 3307
include interest thereon as provided by section 5739.132 of the 3308
Revised Code. 3309

Sec. 5739.104. The tax commissioner shall refund to a 3310
person subject to a tax under section 5739.101 of the Revised 3311
Code ~~the amount of taxes~~ amounts paid illegally or erroneously 3312
or paid on an illegal or erroneous assessment. Applications for 3313
a refund shall be filed with the commissioner, on a form 3314

prescribed by the commissioner, within four years from the date 3315
of the illegal or erroneous payment ~~of the tax~~, except where the 3316
person subject to the tax waives the time limitation under 3317
division (C) of section 5739.16 of the Revised Code, in which 3318
case the four-year refund limitation shall be extended for the 3319
same period of time as the waiver. 3320

On the filing of an application for a refund, the 3321
commissioner shall determine the amount of refund to which the 3322
applicant is entitled. If the amount is not less than that 3323
claimed, the commissioner shall certify the amount to the 3324
treasurer of state for payment from the current resort area 3325
excise tax receipts of the municipal corporation or township 3326
from which the refund is due. If the amount is less than that 3327
claimed, the commissioner shall proceed in accordance with 3328
section 5703.70 of the Revised Code. 3329

If a refund is granted for payment of an illegal or 3330
erroneous assessment issued by the commissioner, the refund 3331
shall include interest computed at the rate per annum prescribed 3332
under section 5703.47 of the Revised Code. 3333

Sec. 5741.02. (A) (1) For the use of the general revenue 3334
fund of the state, an excise tax is hereby levied on the 3335
storage, use, or other consumption in this state of tangible 3336
personal property or the benefit realized in this state of any 3337
service provided. The tax shall be collected as provided in 3338
section 5739.025 of the Revised Code. The rate of the tax shall 3339
be five and three-fourths per cent. 3340

(2) In the case of the lease or rental, with a fixed term 3341
of more than thirty days or an indefinite term with a minimum 3342
period of more than thirty days, of any motor vehicles designed 3343
by the manufacturer to carry a load of not more than one ton, 3344

watercraft, outboard motor, or aircraft, or of any tangible 3345
personal property, other than motor vehicles designed by the 3346
manufacturer to carry a load of more than one ton, to be used by 3347
the lessee or renter primarily for business purposes, the tax 3348
shall be collected by the seller at the time the lease or rental 3349
is consummated and shall be calculated by the seller on the 3350
basis of the total amount to be paid by the lessee or renter 3351
under the lease or rental agreement. If the total amount of the 3352
consideration for the lease or rental includes amounts that are 3353
not calculated at the time the lease or rental is executed, the 3354
tax shall be calculated and collected by the seller at the time 3355
such amounts are billed to the lessee or renter. In the case of 3356
an open-end lease or rental, the tax shall be calculated by the 3357
seller on the basis of the total amount to be paid during the 3358
initial fixed term of the lease or rental, and for each 3359
subsequent renewal period as it comes due. As used in this 3360
division, "motor vehicle" has the same meaning as in section 3361
4501.01 of the Revised Code, and "watercraft" includes an 3362
outdrive unit attached to the watercraft. 3363

(3) Except as provided in division (A) (2) of this section, 3364
in the case of a transaction, the price of which consists in 3365
whole or part of the lease or rental of tangible personal 3366
property, the tax shall be measured by the installments of those 3367
leases or rentals. 3368

(B) Each consumer, storing, using, or otherwise consuming 3369
in this state tangible personal property or realizing in this 3370
state the benefit of any service provided, shall be liable for 3371
the tax, and such liability shall not be extinguished until the 3372
tax has been paid to this state; provided, that the consumer 3373
shall be relieved from further liability for the tax if the tax 3374
has been paid to a seller in accordance with section 5741.04 of 3375

the Revised Code or prepaid by the seller in accordance with 3376
section 5741.06 of the Revised Code. 3377

(C) The tax does not apply to the storage, use, or 3378
consumption in this state of the following described tangible 3379
personal property or services, nor to the storage, use, or 3380
consumption or benefit in this state of tangible personal 3381
property or services purchased under the following described 3382
circumstances: 3383

(1) When the sale of property or service in this state is 3384
subject to the excise tax imposed by sections 5739.01 to 5739.31 3385
of the Revised Code, provided said tax has been paid; 3386

(2) Except as provided in division (D) of this section, 3387
tangible personal property or services, the acquisition of 3388
which, if made in Ohio, would be a sale not subject to the tax 3389
imposed by sections 5739.01 to 5739.31 of the Revised Code; 3390

(3) Property or services, the storage, use, or other 3391
consumption of or benefit from which this state is prohibited 3392
from taxing by the Constitution of the United States, laws of 3393
the United States, or the Constitution of this state. This 3394
exemption shall not exempt from the application of the tax 3395
imposed by this section the storage, use, or consumption of 3396
tangible personal property that was purchased in interstate 3397
commerce, but that has come to rest in this state, provided that 3398
fuel to be used or transported in carrying on interstate 3399
commerce that is stopped within this state pending transfer from 3400
one conveyance to another is exempt from the excise tax imposed 3401
by this section and section 5739.02 of the Revised Code; 3402

(4) Transient use of tangible personal property in this 3403
state by a nonresident tourist or vacationer, or a nonbusiness 3404

use within this state by a nonresident of this state, if the 3405
property so used was purchased outside this state for use 3406
outside this state and is not required to be registered or 3407
licensed under the laws of this state; 3408

(5) Tangible personal property or services rendered, upon 3409
which taxes have been paid to another jurisdiction to the extent 3410
of the amount of the tax paid to such other jurisdiction. Where 3411
the amount of the tax imposed by this section and imposed 3412
pursuant to section 5741.021, 5741.022, or 5741.023 of the 3413
Revised Code exceeds the amount paid to another jurisdiction, 3414
the difference shall be allocated between the tax imposed by 3415
this section and any tax imposed by a county or a transit 3416
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 3417
the Revised Code, in proportion to the respective rates of such 3418
taxes. 3419

As used in this subdivision, "taxes paid to another 3420
jurisdiction" means the total amount of retail sales or use tax 3421
or similar tax based upon the sale, purchase, or use of tangible 3422
personal property or services rendered legally, levied by and 3423
paid to another state or political subdivision thereof, or to 3424
the District of Columbia, where the payment of such tax does not 3425
entitle the taxpayer to any refund or credit for such payment. 3426

(6) The transfer of a used manufactured home or used 3427
mobile home, as defined by section 5739.0210 of the Revised 3428
Code, made on or after January 1, 2000; 3429

(7) Drugs that are or are intended to be distributed free 3430
of charge to a practitioner licensed to prescribe, dispense, and 3431
administer drugs to a human being in the course of a 3432
professional practice and that by law may be dispensed only by 3433
or upon the order of such a practitioner; 3434

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

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

(a) A nonprofit organization operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; or

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

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

(10) Equipment stored, used, or otherwise consumed in this state by an out-of-state disaster business during a disaster response period during which the business conducts disaster work

pursuant to a qualifying solicitation received by the business, 3464
provided the equipment is removed from the state before the last 3465
day of that period. All terms used in division (C) (10) of this 3466
section have the same meanings as in section 5703.94 of the 3467
Revised Code. 3468

(11) (a) Watercraft, if all of the following apply: 3469

(i) The watercraft is in this state only for storage and 3470
maintenance purposes. 3471

(ii) The watercraft is not used or stored in this state 3472
between the first day of May and the last day of September of 3473
any year. 3474

(iii) The watercraft is not required to be registered in 3475
this state under section 1547.54 of the Revised Code. 3476

(iv) The owner paid taxes to another jurisdiction on the 3477
sale, use, or consumption of the watercraft or paid sales tax on 3478
the watercraft under section 5739.027 of the Revised Code, 3479
unless the watercraft is used and titled or registered in a 3480
jurisdiction that does not impose a sales or use tax or similar 3481
excise tax on the ownership or use of the watercraft. 3482

(b) As used in division (C) (11) of this section: 3483

(i) "Taxes paid to another jurisdiction" has the same 3484
meaning as in division (C) (5) of this section. 3485

(ii) "Maintenance" means any act to preserve or improve 3486
the condition or efficiency of a watercraft including cleaning 3487
and repairing the watercraft and installing equipment, fixtures, 3488
or technology in or on the watercraft. 3489

(c) Nothing in division (C) (11) of this section exempts 3490
sales of storage of watercraft taxable under division (B) (9) of 3491

section 5739.01 of the Revised Code or sales of repair or 3492
installation of tangible personal property in or on the 3493
watercraft taxable under division (B) (3) (a) or (b) of that 3494
section. 3495

(D) The tax applies to the storage, use, or other 3496
consumption in this state of tangible personal property or 3497
services, the acquisition of which at the time of sale was 3498
excepted under division (E) of section 5739.01 of the Revised 3499
Code from the tax imposed by section 5739.02 of the Revised 3500
Code, but which has subsequently been temporarily or permanently 3501
stored, used, or otherwise consumed in a taxable manner. 3502

(E) (1) (a) If any transaction is claimed to be exempt under 3503
division (E) of section 5739.01 of the Revised Code or under 3504
section 5739.02 of the Revised Code, with the exception of 3505
divisions (B) (1) to (11) or (28) of section 5739.02 of the 3506
Revised Code, the consumer shall provide to the seller, and the 3507
seller shall obtain from the consumer, a certificate specifying 3508
the reason that the transaction is not subject to the tax. The 3509
certificate shall be in such form, and shall be provided either 3510
in a hard copy form or electronic form, as the tax commissioner 3511
prescribes. 3512

(b) A seller that obtains a fully completed exemption 3513
certificate from a consumer is relieved of liability for 3514
collecting and remitting tax on any sale covered by that 3515
certificate. If it is determined the exemption was improperly 3516
claimed, the consumer shall be liable for any tax due on that 3517
sale under this chapter. Relief under this division from 3518
liability does not apply to any of the following: 3519

(i) A seller that fraudulently fails to collect tax; 3520

(ii) A seller that solicits consumers to participate in	3521
the unlawful claim of an exemption;	3522
(iii) A seller that accepts an exemption certificate from	3523
a consumer that claims an exemption based on who purchases or	3524
who sells property or a service, when the subject of the	3525
transaction sought to be covered by the exemption certificate is	3526
actually received by the consumer at a location operated by the	3527
seller in this state, and this state has posted to its web site	3528
an exemption certificate form that clearly and affirmatively	3529
indicates that the claimed exemption is not available in this	3530
state;	3531
(iv) A seller that accepts an exemption certificate from a	3532
consumer who claims a multiple points of use exemption under	3533
division (D) of section 5739.033 of the Revised Code, if the	3534
item purchased is tangible personal property, other than	3535
prewritten computer software.	3536
(2) The seller shall maintain records, including exemption	3537
certificates, of all sales on which a consumer has claimed an	3538
exemption, and provide them to the tax commissioner on request.	3539
(3) If no certificate is provided or obtained within	3540
ninety days after the date on which the transaction is	3541
consummated, it shall be presumed that the tax applies. Failure	3542
to have so provided or obtained a certificate shall not preclude	3543
a seller, within one hundred twenty days after the tax	3544
commissioner gives written notice of intent to levy an	3545
assessment, from either establishing that the transaction is not	3546
subject to the tax, or obtaining, in good faith, a fully	3547
completed exemption certificate.	3548
(4) If a transaction is claimed to be exempt under	3549

division (B) (13) of section 5739.02 of the Revised Code, the 3550
contractor shall obtain certification of the claimed exemption 3551
from the contractee. This certification shall be in addition to 3552
an exemption certificate provided by the contractor to the 3553
seller. A contractee that provides a certification under this 3554
division shall be deemed to be the consumer of all items 3555
purchased by the contractor under the claim of exemption, if it 3556
is subsequently determined that the exemption is not properly 3557
claimed. The certification shall be in such form as the tax 3558
commissioner prescribes. 3559

(F) A seller who files a petition for reassessment 3560
contesting the assessment of tax on transactions for which the 3561
seller obtained no valid exemption certificates, and for which 3562
the seller failed to establish that the transactions were not 3563
subject to the tax during the one-hundred-twenty-day period 3564
allowed under division (E) of this section, may present to the 3565
tax commissioner additional evidence to prove that the 3566
transactions were exempt. The seller shall file such evidence 3567
within ninety days of the receipt by the seller of the notice of 3568
assessment, except that, upon application and for reasonable 3569
cause, the tax commissioner may extend the period for submitting 3570
such evidence thirty days. 3571

(G) For the purpose of the proper administration of 3572
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 3573
the evasion of the tax hereby levied, it shall be presumed that 3574
any use, storage, or other consumption of tangible personal 3575
property in this state is subject to the tax until the contrary 3576
is established. 3577

(H) The tax collected by the seller from the consumer 3578
under this chapter is not part of the price, but is a tax 3579

collection for the benefit of the state, and of counties levying 3580
an additional use tax pursuant to section 5741.021 or 5741.023 3581
of the Revised Code and of transit authorities levying an 3582
additional use tax pursuant to section 5741.022 of the Revised 3583
Code. Except for the discount authorized under section 5741.12 3584
of the Revised Code and the effects of any rounding pursuant to 3585
section 5703.055 of the Revised Code, no person other than the 3586
state or such a county or transit authority shall derive any 3587
benefit from the collection of such tax. 3588

Sec. 5741.10. Refunds of ~~taxes~~ amounts paid pursuant to 3589
this chapter by a seller or consumer illegally or erroneously 3590
shall be made in the same manner as refunds are made to a vendor 3591
or consumer under section 5739.07 of the Revised Code. 3592

Sec. 5743.53. (A) The treasurer of state shall refund to a 3593
taxpayer any of the following: 3594

(1) ~~Any tobacco products or vapor products tax~~ Amounts 3595
imposed under this chapter that were paid illegally or 3596
erroneously; 3597

~~(2) Any tobacco products or vapor products tax~~ or paid on 3598
an illegal or erroneous assessment; 3599

~~(3)~~ (2) Any tax paid on tobacco products or vapor products 3600
that have been sold or shipped to retail dealers, wholesale 3601
dealers, or vapor distributors outside this state, returned to 3602
the manufacturer, or destroyed by the taxpayer with the prior 3603
approval of the tax commissioner. 3604

Any application for refund shall be filed with the 3605
commissioner on a form prescribed by the commissioner for that 3606
purpose. The commissioner may not pay any refund on an 3607
application for refund filed with the commissioner more than 3608

three years from the date of the payment ~~of the tax~~. 3609

(B) On the filing of the application for refund, the 3610
commissioner shall determine the amount of the refund to which 3611
the applicant is entitled. If the amount is not less than that 3612
claimed, the commissioner shall certify the amount to the 3613
director of budget and management and to the treasurer of state 3614
for payment from the tax refund fund created by section 5703.052 3615
of the Revised Code. If the amount is less than that claimed, 3616
the commissioner shall proceed in accordance with section 3617
5703.70 of the Revised Code. 3618

If a refund is granted for payment of an illegal or 3619
erroneous assessment issued by the department of taxation, the 3620
refund shall include interest on the amount of the refund from 3621
the date of the overpayment. The interest shall be computed at 3622
the rate per annum in the manner prescribed by section 5703.47 3623
of the Revised Code. 3624

(C) If any person entitled to a refund ~~of tax~~ under this 3625
section or section 5703.70 of the Revised Code is indebted to 3626
the state for any tax administered by the tax commissioner, or 3627
any charge, penalties, or interest arising from such tax, the 3628
amount allowable on the application for refund first shall be 3629
applied in satisfaction of the debt. 3630

(D) In lieu of granting a refund payable under division 3631
~~(A) (3)~~ (A) (2) of this section, the tax commissioner may allow a 3632
taxpayer to claim a credit of the amount of refundable tax on 3633
the return for the period during which the tax became 3634
refundable. The commissioner may require taxpayers to submit any 3635
information necessary to support a claim for a credit under this 3636
section, and the commissioner shall allow no credit if that 3637
information is not provided. 3638

Sec. 5745.11. An application to refund to a taxpayer ~~the~~ 3639
~~amount of taxes paid on any illegal, erroneous, or excessive~~ 3640
~~payment of tax under this chapter, including assessments, amounts~~ 3641
paid under this chapter that are overpaid, paid illegally or 3642
erroneously, or paid on any illegal or erroneous assessment 3643
shall be filed with the tax commissioner within three years 3644
after the date of the illegal, erroneous, or excessive payment 3645
~~of the tax~~, or within any additional period allowed by division 3646
(A) of section 5745.12 of the Revised Code. The application 3647
shall be filed in the form prescribed by the tax commissioner. 3648

On the filing of a refund application, the commissioner 3649
shall determine the amount of refund to which the applicant is 3650
entitled. If the amount is not less than that claimed, the 3651
commissioner shall certify the amount of the refund to each 3652
municipal corporation to which the overpayment was made. If the 3653
amount is less than that claimed, the commissioner shall proceed 3654
in accordance with divisions (A) to (C) of section 5703.70 of 3655
the Revised Code and shall certify to each municipal corporation 3656
to which the overpayment was made the amount to be refunded 3657
under division (B) or (C) of that section. 3658

On receipt of a certification of a refund, the municipal 3659
corporation shall issue a refund to the taxpayer, or, upon the 3660
taxpayer's written request, shall credit the amount of the 3661
refund against the taxpayer's estimated tax payments to the 3662
municipal corporation for an ensuing taxable year. 3663

Any portion of the refund not issued within ninety days 3664
after the tax commissioner's notice is received by the municipal 3665
corporation shall bear interest at the rate per annum prescribed 3666
by section 5703.47 of the Revised Code from the ninetieth day 3667
after such notice is received by the municipal corporation until 3668

the day the refund is paid or credited. On an illegal or 3669
erroneous assessment, interest shall be paid at that rate from 3670
the date of payment on the illegal or erroneous assessment until 3671
the day the refund is paid or credited. 3672

Sec. 5747.11. (A) The tax commissioner shall refund to 3673
employers, qualifying entities, electing pass-through entities, 3674
or taxpayers subject to a tax imposed under section 5733.41, 3675
5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised 3676
Code the amount of any overpayment of such tax amounts that were 3677
overpaid, paid illegally or erroneously, or paid on an illegal 3678
or erroneous assessment. 3679

(B) (1) Except as otherwise provided under divisions (D) 3680
and (E) of this section, applications for refund shall be filed 3681
with the tax commissioner, on the form prescribed by the 3682
commissioner, within four years from the date of the illegal, 3683
erroneous, or excessive payment ~~of the tax~~, or within any 3684
additional period allowed by division (B) (3) (b) of section 3685
5747.05, division (E) of section 5747.10, division (A) of 3686
section 5747.13, or division (C) of section 5747.45 of the 3687
Revised Code. 3688

On filing of the refund application, the commissioner 3689
shall determine the amount of refund due and, if that amount 3690
exceeds one dollar, certify such amount to the director of 3691
budget and management and treasurer of state for payment from 3692
the tax refund fund created by section 5703.052 of the Revised 3693
Code. Payment shall be made as provided in division (C) of 3694
section 126.35 of the Revised Code. 3695

(2) If an individual taxpayer is deceased, a refund may be 3696
issued in the name of the decedent and of the executor, 3697
administrator, or other person charged with the decedent's 3698

property, upon the request of that person. Such a request shall 3699
include any documentation, including a copy of the taxpayer's 3700
death certificate and any fiduciary or court documents, that the 3701
tax commissioner considers necessary to prove that the person 3702
making the request is qualified to receive the refund. If the 3703
request is for a refund that was previously issued in only the 3704
decedent's name, the person making the request must also provide 3705
the previously issued payment to the commissioner. 3706

(C) (1) Interest shall be allowed and paid at the rate per 3707
annum prescribed by section 5703.47 of the Revised Code on 3708
amounts refunded with respect to the tax imposed under section 3709
5747.02 or Chapter 5748. of the Revised Code from the date of 3710
the overpayment until the date of the refund of the overpayment, 3711
except that if any overpayment is refunded within ninety days 3712
after the final filing date of the annual return or ninety days 3713
after the return is filed, whichever is later, no interest shall 3714
be allowed on such overpayment. If the overpayment results from 3715
the carryback of a net operating loss or net capital loss to a 3716
previous taxable year, the overpayment is deemed not to have 3717
been made prior to the filing date, including any extension 3718
thereof, for the taxable year in which the net operating loss or 3719
net capital loss arises. For purposes of the payment of interest 3720
on overpayments, no amount of tax, for any taxable year, shall 3721
be treated as having been paid before the date on which the tax 3722
return for that year was due without regard to any extension of 3723
time for filing such return. 3724

(2) Interest shall be allowed at the rate per annum 3725
prescribed by section 5703.47 of the Revised Code on amounts 3726
refunded with respect to the taxes imposed under sections 3727
5733.41 and 5747.41 or under section 5747.38 of the Revised 3728
Code. The interest shall run from whichever of the following 3729

days is the latest until the day the refund is paid: the day the 3730
illegal, erroneous, or excessive payment was made; the ninetieth 3731
day after the final day the annual report was required to be 3732
filed under section 5747.42 of the Revised Code; or the 3733
ninetieth day after the day that report was filed. 3734

(D) "Ninety days" shall be substituted for "four years" in 3735
division (B) of this section if the taxpayer satisfies both of 3736
the following conditions: 3737

(1) The taxpayer has applied for a refund based in whole 3738
or in part upon section 5747.059 of the Revised Code; 3739

(2) The taxpayer asserts that either the imposition or 3740
collection of the tax imposed or charged by this chapter or any 3741
portion of such tax violates the Constitution of the United 3742
States or the Constitution of Ohio. 3743

(E) (1) Division (E) (2) of this section applies only if all 3744
of the following conditions are satisfied: 3745

(a) A qualifying entity pays an amount of the tax imposed 3746
by section 5733.41 or 5747.41 of the Revised Code; 3747

(b) The taxpayer is a qualifying investor as to that 3748
qualifying entity; 3749

(c) The taxpayer did not claim the credit provided for in 3750
section 5747.059 of the Revised Code as to the tax described in 3751
division (E) (1) (a) of this section; 3752

(d) The four-year period described in division (B) of this 3753
section has ended as to the taxable year for which the taxpayer 3754
otherwise would have claimed that credit. 3755

(2) A taxpayer shall file an application for refund 3756
pursuant to division (E) of this section within one year after 3757

the date the payment described in division (E) (1) (a) of this 3758
section is made. An application filed under division (E) (2) of 3759
this section shall claim refund only of overpayments resulting 3760
from the taxpayer's failure to claim the credit described in 3761
division (E) (1) (c) of this section. Nothing in division (E) of 3762
this section shall be construed to relieve a taxpayer from 3763
complying with division (A) (15) of section 5747.01 of the 3764
Revised Code. 3765

Sec. 5747.82. There is allowed a nonrefundable credit 3766
against a taxpayer's aggregate tax liability under section 3767
5747.02 of the Revised Code for a taxpayer that has been issued 3768
a tax credit certificate under section 122.91 of the Revised 3769
Code. The amount of the credit shall equal the credit amount 3770
stated on the certificate. The credit shall be claimed for the 3771
taxpayer's most recently concluded taxable year that ended 3772
before the issuance date stated on the certificate. 3773

The credit shall be claimed in the order required under 3774
section 5747.98 of the Revised Code. Any credit amount in excess 3775
of the aggregate amount of tax due under section 5747.02 of the 3776
Revised Code, after allowing for any other credits preceding the 3777
credit in that order, may be carried forward for five taxable 3778
years, but the amount of the excess credit allowed in any such 3779
year shall be deducted from the balance carried forward to the 3780
next year. 3781

Nothing in this section limits or disallows pass-through 3782
treatment of the credit if the credit certificate has been 3783
issued to a pass-through entity. 3784

Sec. 5747.98. (A) To provide a uniform procedure for 3785
calculating a taxpayer's aggregate tax liability under section 3786
5747.02 of the Revised Code, a taxpayer shall claim any credits 3787

to which the taxpayer is entitled in the following order:	3788
Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;	3789 3790 3791 3792
Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;	3793 3794 3795
The dependent care credit under section 5747.054 of the Revised Code;	3796 3797
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	3798 3799
The campaign contribution credit under section 5747.29 of the Revised Code;	3800 3801
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	3802 3803
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	3804 3805
The earned income credit under section 5747.71 of the Revised Code;	3806 3807
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	3808 3809
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	3810 3811 3812
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the	3813 3814

Revised Code;	3815
The nonrefundable vocational job credit under section	3816
5747.057 of the Revised Code;	3817
The credit for adoption of a minor child under section	3818
5747.37 of the Revised Code;	3819
The nonrefundable job retention credit under division (B)	3820
of section 5747.058 of the Revised Code;	3821
The enterprise zone credit under section 5709.66 of the	3822
Revised Code;	3823
The credit for beginning farmers who participate in a	3824
financial management program under division (B) of section	3825
5747.77 of the Revised Code;	3826
<u>The credit for commercial vehicle operator training</u>	3827
<u>expenses under section 5747.82 of the Revised Code;</u>	3828
The credit for selling or renting agricultural assets to	3829
beginning farmers under division (A) of section 5747.77 of the	3830
Revised Code;	3831
The credit for purchases of qualifying grape production	3832
property under section 5747.28 of the Revised Code;	3833
The small business investment credit under section 5747.81	3834
of the Revised Code;	3835
The nonrefundable lead abatement credit under section	3836
5747.26 of the Revised Code;	3837
The opportunity zone investment credit under section	3838
122.84 of the Revised Code;	3839
The enterprise zone credits under section 5709.65 of the	3840
Revised Code;	3841

The research and development credit under section 5747.331	3842
of the Revised Code;	3843
The credit for rehabilitating a historic building under	3844
section 5747.76 of the Revised Code;	3845
The nonresident credit under division (A) of section	3846
5747.05 of the Revised Code;	3847
The credit for a resident's out-of-state income under	3848
division (B) of section 5747.05 of the Revised Code;	3849
The refundable motion picture and Broadway theatrical	3850
production credit under section 5747.66 of the Revised Code;	3851
The refundable jobs creation credit or job retention	3852
credit under division (A) of section 5747.058 of the Revised	3853
Code;	3854
The refundable credit for taxes paid by a qualifying	3855
entity granted under section 5747.059 of the Revised Code;	3856
The refundable credits for taxes paid by a qualifying	3857
pass-through entity granted under division (I) of section	3858
5747.08 of the Revised Code;	3859
The refundable credit under section 5747.80 of the Revised	3860
Code for losses on loans made to the Ohio venture capital	3861
program under sections 150.01 to 150.10 of the Revised Code;	3862
The refundable credit for rehabilitating a historic	3863
building under section 5747.76 of the Revised Code;	3864
The refundable credit under section 5747.39 of the Revised	3865
Code for taxes levied under section 5747.38 of the Revised Code	3866
paid by an electing pass-through entity.	3867
(B) For any credit, except the refundable credits	3868

enumerated in this section and the credit granted under division 3869
(H) of section 5747.08 of the Revised Code, the amount of the 3870
credit for a taxable year shall not exceed the taxpayer's 3871
aggregate amount of tax due under section 5747.02 of the Revised 3872
Code, after allowing for any other credit that precedes it in 3873
the order required under this section. Any excess amount of a 3874
particular credit may be carried forward if authorized under the 3875
section creating that credit. Nothing in this chapter shall be 3876
construed to allow a taxpayer to claim, directly or indirectly, 3877
a credit more than once for a taxable year. 3878

Sec. 5749.08. The tax commissioner shall refund to 3879
taxpayers ~~the amount of taxes levied by section 5749.02 of the~~ 3880
~~Revised Code and amounts due~~ amounts paid under this chapter or 3881
section 1509.50 of the Revised Code that were paid illegally or 3882
erroneously or paid on an illegal or erroneous assessment. 3883
Applications for refund shall be filed with the commissioner, on 3884
the form prescribed by the commissioner, within four years from 3885
the date of the illegal or erroneous payment. On the filing of 3886
the application, the commissioner shall determine the amount of 3887
refund to which the applicant is entitled, plus interest 3888
computed in accordance with section 5703.47 of the Revised Code 3889
from the date of the payment of an erroneous or illegal 3890
assessment until the date the refund is paid. If the amount is 3891
not less than that claimed, the commissioner shall certify the 3892
amount to the director of budget and management and treasurer of 3893
state for payment from the tax refund fund created by section 3894
5703.052 of the Revised Code. If the amount is less than that 3895
claimed, the commissioner shall proceed in accordance with 3896
section 5703.70 of the Revised Code. 3897

Sec. 5751.08. (A) An application for refund to the 3898
taxpayer of ~~the amount of taxes~~ amounts imposed under this 3899

chapter that are overpaid, paid illegally or erroneously, or 3900
paid on any illegal or erroneous assessment shall be filed by 3901
the reporting person with the tax commissioner, on the form 3902
prescribed by the commissioner, within four years after the date 3903
of the illegal or erroneous payment ~~of the tax~~, or within any 3904
additional period allowed under division (F) of section 5751.09 3905
of the Revised Code. The applicant shall provide the amount of 3906
the requested refund along with the claimed reasons for, and 3907
documentation to support, the issuance of a refund. 3908

(B) On the filing of the refund application, the tax 3909
commissioner shall determine the amount of refund to which the 3910
applicant is entitled. If the amount is not less than that 3911
claimed, the commissioner shall certify the amount to the 3912
director of budget and management and treasurer of state for 3913
payment from the tax refund fund created under section 5703.052 3914
of the Revised Code. If the amount is less than that claimed, 3915
the commissioner shall proceed in accordance with section 3916
5703.70 of the Revised Code. 3917

(C) Interest on a refund applied for under this section, 3918
computed at the rate provided for in section 5703.47 of the 3919
Revised Code, shall be allowed from the later of the date the 3920
~~tax amount~~ was paid or when the ~~tax payment amount~~ was due. 3921

(D) A calendar quarter taxpayer with more than one million 3922
dollars in taxable gross receipts in a calendar year other than 3923
calendar year 2005 and that is not able to exclude one million 3924
dollars in taxable gross receipts because of the operation of 3925
the taxpayer's business in that calendar year may file for a 3926
refund under this section to obtain the full exclusion of one 3927
million dollars in taxable gross receipts for that calendar 3928
year. 3929

(E) Except as provided in section 5751.081 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax period the amount of any refund due the taxpayer under this chapter for a preceding tax period.

Sec. 5753.06. (A) A taxpayer may apply to the tax commissioner for a refund of the amount of taxes under section 5753.02 or 5753.021 of the Revised Code amounts imposed under this chapter that were overpaid, paid illegally or erroneously, or paid on an illegal or erroneous assessment. The application shall be on a form prescribed by the tax commissioner. The taxpayer shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund. The taxpayer shall file the application with the tax commissioner within four years after the date the payment was made, unless the applicant has waived the time limitation under division (D) of section 5753.07 of the Revised Code. In the latter event, the four-year limitation is extended for the same period of time as the waiver.

(B) Upon the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the tax commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund. If the amount is less than that claimed, the tax commissioner shall proceed under section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the

~~tax amount~~ was due or the date payment ~~of the tax~~ was made. 3960
Except as provided in section 5753.07 of the Revised Code, the 3961
tax commissioner may, with the consent of the taxpayer, provide 3962
for crediting against the tax due for a tax period, the amount 3963
of any refund due the taxpayer for a preceding tax period. 3964

(D) Refunds under this section are subject to offset under 3965
section 5753.061 of the Revised Code. 3966

Section 2. That existing sections 128.47, 323.08, 718.05, 3967
718.27, 718.85, 718.89, 718.91, 3734.905, 4307.05, 5725.222, 3968
5726.30, 5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 3969
5735.122, 5736.08, 5739.01, 5739.02, 5739.03, 5739.07, 5739.104, 3970
5741.02, 5741.10, 5743.53, 5745.11, 5747.11, 5747.98, 5749.08, 3971
5751.08, and 5753.06 of the Revised Code are hereby repealed. 3972

Section 3. (A) Except as otherwise provided in division 3973
(B) of this section, the amendment by this act of sections 3974
5739.01, 5739.02, and 5741.02 of the Revised Code applies on and 3975
after the first day of the first month beginning after the 3976
effective date of this section. 3977

(B) The amendment by this act of divisions (B) (3) (l) and 3978
(m) of section 5739.01 of the Revised Code applies on and after 3979
July 1, 2023. 3980

(C) The amendment by this act of section 323.08 of the 3981
Revised Code applies to tax year 2023 and every tax year 3982
thereafter. 3983

(D) The amendment by this act of sections 718.05, 718.27, 3984
718.85, and 718.89 of the Revised Code applies to tax returns 3985
required to be filed for taxable years ending on or after 3986
January 1, 2023. 3987

(E) The amendment by this act of sections 128.47, 718.91, 3988

3734.905, 4307.05, 5725.222, 5726.30, 5727.28, 5727.91, 3989
5728.061, 5729.102, 5735.11, 5735.122, 5736.08, 5739.07, 3990
5739.104, 5741.10, 5743.53, 5745.11, 5747.11, 5749.08, 5751.08, 3991
and 5753.06 applies to refunds allowed on and after January 1, 3992
2023. 3993

Section 4. In adopting the rules required under division 3994
(E) of section 122.91 of the Revised Code, as enacted by this 3995
act, the Director of Development shall file the notice and text 3996
of the proposed rules as required by division (B) of section 3997
119.03 of the Revised Code not later than one hundred fifty days 3998
after the effective date of this section. 3999

Section 5. Pursuant to division (G) of section 5703.95 of 4000
the Revised Code, which states that any bill introduced in the 4001
House of Representatives or the Senate that proposes to enact or 4002
modify one or more tax expenditures should include a statement 4003
explaining the objectives of the tax expenditure or its 4004
modification and the sponsor's intent in proposing the tax 4005
expenditure or its modification: 4006

The objective of the amendment by this act of section 4007
5741.02 of the Revised Code is to increase business to Ohio's 4008
marine industry by removing a disincentive for out-of-state boat 4009
owners from coming into Ohio with their business. 4010

Currently, subjecting boats to use taxes on the value of 4011
the boat has resulted in out-of-state boats going elsewhere for 4012
winter storage, repair, and refitting work. The charge for 4013
winter storage notwithstanding, most winter work orders from 4014
customers are estimated to range from fifteen thousand dollars 4015
to one hundred thousand dollars. The loss of even one major job, 4016
never mind several, could mean the success or failure of a 4017
marine business. 4018

The state of Ohio also suffers significant losses. 4019
Virtually everything related to winter storage and work is 4020
subject to sales tax, including parts, materials, labor, and 4021
storage. When a boat is not winter-stored in Ohio, there are not 4022
only no related sales taxes collected, but also no commercial 4023
activity taxes and no income taxes. 4024

Section 6. Section 5747.11 of the Revised Code is 4025
presented in this act as a composite of the section as amended 4026
by both S.B. 231 and S.B. 246 of the 134th General Assembly. The 4027
General Assembly, applying the principle stated in division (B) 4028
of section 1.52 of the Revised Code that amendments are to be 4029
harmonized if reasonably capable of simultaneous operation, 4030
finds that the composite is the resulting version of the section 4031
in effect prior to the effective date of the section as 4032
presented in this act. 4033

Section 5747.98 of the Revised Code is presented in this 4034
act as a composite of the section as amended by H.B. 95, S.B. 4035
166, and S.B. 246, all of the 134th General Assembly. The 4036
General Assembly, applying the principle stated in division (B) 4037
of section 1.52 of the Revised Code that amendments are to be 4038
harmonized if reasonably capable of simultaneous operation, 4039
finds that the composite is the resulting version of the section 4040
in effect prior to the effective date of the section as 4041
presented in this act. 4042