

# As Passed by the House

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Representative Amstutz

Cosponsors: Representatives Adams, R., Beck, Blair, Blessing, Boose,  
Bubp, Hackett, Henne, Hottinger, Huffman, McClain, Ruhl, Sprague,  
Stebelton, Uecker, Wachtmann Speaker Batchelder

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## A B I L L

|   |    |
|---|----|
| To amend sections 122.17, 122.171, 122.85, 145.114, | 1  |
| 145.116, 149.311, 150.01, 150.07, 150.10, 715.013,  | 2  |
| 742.114, 742.116, 3307.152, 3307.154, 3309.157,     | 3  |
| 3309.159, 5505.068, 5505.0610, 5703.052, 5703.053,  | 4  |
| 5703.70, 5707.03, 5709.76, 5711.22, 5725.02,        | 5  |
| 5725.14, 5725.16, 5725.26, 5725.33, 5733.01,        | 6  |
| 5733.02, 5733.021, 5733.06, 5747.01, 5747.98,       | 7  |
| 5751.01, 5751.011, 5751.012, and 5751.98 and to     | 8  |
| enact sections 5701.12, 5726.01 to 5726.08,         | 9  |
| 5726.10, 5726.20, 5726.21, 5726.30 to 5726.33,      | 10 |
| 5726.36, 5726.40 to 5726.43, 5726.50 to 5726.57,    | 11 |
| 5726.98, 5726.99, 5747.65, and 5751.54 of the       | 12 |
| Revised Code to impose a new tax on financial       | 13 |
| institutions, effective January 1, 2014, to         | 14 |
| provide that such institutions and dealers in       | 15 |
| intangibles are no longer subject to the            | 16 |
| corporation franchise tax or dealers in             | 17 |
| intangibles tax after 2013, and to require dealers  | 18 |
| in intangibles to pay the commercial activity tax   | 19 |
| after 2013.   | 20 |

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

**Section 1.** That sections 122.17, 122.171, 122.85, 145.114, 21  
145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 742.114, 22  
742.116, 3307.152, 3307.154, 3309.157, 3309.159, 5505.068, 23  
5505.0610, 5703.052, 5703.053, 5703.70, 5707.03, 5709.76, 5711.22, 24  
5725.02, 5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 5733.02, 25  
5733.021, 5733.06, 5747.01, 5747.98, 5751.01, 5751.011, 5751.012, 26  
and 5751.98 be amended and sections 5701.12, 5726.01, 5726.02, 27  
5726.03, 5726.04, 5726.05, 5726.06, 5726.07, 5726.08, 5726.10, 28  
5726.20, 5726.21, 5726.30, 5726.31, 5726.32, 5726.33, 5726.36, 29  
5726.40, 5726.41, 5726.42, 5726.43, 5726.50, 5726.51, 5726.52, 30  
5726.53, 5726.54, 5726.55, 5726.56, 5726.57, 5726.98, 5726.99, 31  
5747.65, and 5751.54 of the Revised Code be enacted to read as 32  
follows: 33

**Sec. 122.17.** (A) As used in this section: 34

(1) "Income tax revenue" means the total amount withheld 35  
under section 5747.06 of the Revised Code by the taxpayer during 36  
the taxable year, or during the calendar year that includes the 37  
tax period, from the compensation of each employee employed in the 38  
project to the extent the employee's withholdings are not used to 39  
determine the credit under section 122.171 of the Revised Code. 40  
"Income tax revenue" excludes amounts withheld before the day the 41  
taxpayer becomes eligible for the credit. 42

(2) "Baseline income tax revenue" means income tax revenue 43  
except that the applicable withholding period is the twelve months 44  
immediately preceding the date the tax credit authority approves 45  
the taxpayer's application multiplied by the sum of one plus an 46  
annual pay increase factor to be determined by the tax credit 47  
authority. If the taxpayer becomes eligible for the credit after 48

the first day of the taxpayer's taxable year or after the first 49  
day of the calendar year that includes the tax period, the 50  
taxpayer's baseline income tax revenue for the first such taxable 51  
or calendar year of credit eligibility shall be reduced in 52  
proportion to the number of days during the taxable or calendar 53  
year for which the taxpayer was not eligible for the credit. For 54  
subsequent taxable or calendar years, "baseline income tax 55  
revenue" equals the unreduced baseline income tax revenue for the 56  
preceding taxable or calendar year multiplied by the sum of one 57  
plus the pay increase factor. 58

(3) "Excess income tax revenue" means income tax revenue 59  
minus baseline income tax revenue. 60

(B) The tax credit authority may make grants under this 61  
section to foster job creation in this state. Such a grant shall 62  
take the form of a refundable credit allowed against the tax 63  
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 64  
or levied under Chapter 5751. of the Revised Code. The credit 65  
shall be claimed for the taxable years or tax periods specified in 66  
the taxpayer's agreement with the tax credit authority under 67  
division (D) of this section. With respect to taxes imposed under 68  
section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the 69  
Revised Code, the credit shall be claimed in the order required 70  
under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised 71  
Code. The amount of the credit available for a taxable year or for 72  
a calendar year that includes a tax period equals the excess 73  
income tax revenue for that year multiplied by the percentage 74  
specified in the agreement with the tax credit authority. Any 75  
credit granted under this section against the tax imposed by 76  
section 5733.06 or 5747.02 of the Revised Code, to the extent not 77  
fully utilized against such tax for taxable years ending prior to 78  
2008, shall automatically be converted without any action taken by 79  
the tax credit authority to a credit against the tax levied under 80

Chapter 5751. of the Revised Code for tax periods beginning on or 81  
after July 1, 2008, provided that the person to whom the credit 82  
was granted is subject to such tax. The converted credit shall 83  
apply to those calendar years in which the remaining taxable years 84  
specified in the agreement end. 85

(C) A taxpayer or potential taxpayer who proposes a project 86  
to create new jobs in this state may apply to the tax credit 87  
authority to enter into an agreement for a tax credit under this 88  
section. The director of development services shall prescribe the 89  
form of the application. After receipt of an application, the 90  
authority may enter into an agreement with the taxpayer for a 91  
credit under this section if it determines all of the following: 92

(1) The taxpayer's project will increase payroll and income 93  
tax revenue; 94

(2) The taxpayer's project is economically sound and will 95  
benefit the people of this state by increasing opportunities for 96  
employment and strengthening the economy of this state; 97

(3) Receiving the tax credit is a major factor in the 98  
taxpayer's decision to go forward with the project. 99

(D) An agreement under this section shall include all of the 100  
following: 101

(1) A detailed description of the project that is the subject 102  
of the agreement; 103

(2) The term of the tax credit, which shall not exceed 104  
fifteen years, and the first taxable year, or first calendar year 105  
that includes a tax period, for which the credit may be claimed; 106

(3) A requirement that the taxpayer shall maintain operations 107  
at the project location for at least the greater of seven years or 108  
the term of the credit plus three years; 109

(4) The percentage, as determined by the tax credit 110

authority, of excess income tax revenue that will be allowed as 111  
the amount of the credit for each taxable year or for each 112  
calendar year that includes a tax period; 113

(5) The pay increase factor to be applied to the taxpayer's 114  
baseline income tax revenue; 115

(6) A requirement that the taxpayer annually shall report to 116  
the director of development services employment, tax withholding, 117  
investment, and other information the director needs to perform 118  
the director's duties under this section; 119

(7) A requirement that the director of development services 120  
annually review the information reported under division (D)(6) of 121  
this section and verify compliance with the agreement; if the 122  
taxpayer is in compliance, a requirement that the director issue a 123  
certificate to the taxpayer stating that the information has been 124  
verified and identifying the amount of the credit that may be 125  
claimed for the taxable or calendar year; 126

(8) A provision providing that the taxpayer may not relocate 127  
a substantial number of employment positions from elsewhere in 128  
this state to the project location unless the director of 129  
development services determines that the legislative authority of 130  
the county, township, or municipal corporation from which the 131  
employment positions would be relocated has been notified by the 132  
taxpayer of the relocation. 133

For purposes of this section, the movement of an employment 134  
position from one political subdivision to another political 135  
subdivision shall be considered a relocation of an employment 136  
position unless the employment position in the first political 137  
subdivision is replaced. 138

(E) If a taxpayer fails to meet or comply with any condition 139  
or requirement set forth in a tax credit agreement, the tax credit 140  
authority may amend the agreement to reduce the percentage or term 141

of the tax credit. The reduction of the percentage or term may 142  
take effect in the current taxable or calendar year. 143

(F) Projects that consist solely of point-of-final-purchase 144  
retail facilities are not eligible for a tax credit under this 145  
section. If a project consists of both point-of-final-purchase 146  
retail facilities and nonretail facilities, only the portion of 147  
the project consisting of the nonretail facilities is eligible for 148  
a tax credit and only the excess income tax revenue from the 149  
nonretail facilities shall be considered when computing the amount 150  
of the tax credit. If a warehouse facility is part of a 151  
point-of-final-purchase retail facility and supplies only that 152  
facility, the warehouse facility is not eligible for a tax credit. 153  
Catalog distribution centers are not considered 154  
point-of-final-purchase retail facilities for the purposes of this 155  
division, and are eligible for tax credits under this section. 156

(G) Financial statements and other information submitted to 157  
the department of development services or the tax credit authority 158  
by an applicant or recipient of a tax credit under this section, 159  
and any information taken for any purpose from such statements or 160  
information, are not public records subject to section 149.43 of 161  
the Revised Code. However, the chairperson of the authority may 162  
make use of the statements and other information for purposes of 163  
issuing public reports or in connection with court proceedings 164  
concerning tax credit agreements under this section. Upon the 165  
request of the tax commissioner or, if the applicant or recipient 166  
is an insurance company, upon the request of the superintendent of 167  
insurance, the chairperson of the authority shall provide to the 168  
commissioner or superintendent any statement or information 169  
submitted by an applicant or recipient of a tax credit in 170  
connection with the credit. The commissioner or superintendent 171  
shall preserve the confidentiality of the statement or 172  
information. 173

(H) A taxpayer claiming a credit under this section shall 174  
submit to the tax commissioner or, if the taxpayer is an insurance 175  
company, to the superintendent of insurance, a copy of the 176  
director of ~~development~~'s development services' certificate of 177  
verification under division (D)(7) of this section with the 178  
taxpayer's tax report or return for the taxable year or for the 179  
calendar year that includes the tax period. Failure to submit a 180  
copy of the certificate with the report or return does not 181  
invalidate a claim for a credit if the taxpayer submits a copy of 182  
the certificate to the commissioner or superintendent within sixty 183  
days after the commissioner or superintendent requests it. 184

(I) The director of development services, after consultation 185  
with the tax commissioner and the superintendent of insurance and 186  
in accordance with Chapter 119. of the Revised Code, shall adopt 187  
rules necessary to implement this section. The rules may provide 188  
for recipients of tax credits under this section to be charged 189  
fees to cover administrative costs of the tax credit program. The 190  
fees collected shall be credited to the tax incentive programs 191  
operating fund created in section 122.174 of the Revised Code. At 192  
the time the director gives public notice under division (A) of 193  
section 119.03 of the Revised Code of the adoption of the rules, 194  
the director shall submit copies of the proposed rules to the 195  
chairpersons of the standing committees on economic development in 196  
the senate and the house of representatives. 197

(J) For the purposes of this section, a taxpayer may include 198  
a partnership, a corporation that has made an election under 199  
subchapter S of chapter one of subtitle A of the Internal Revenue 200  
Code, or any other business entity through which income flows as a 201  
distributive share to its owners. A partnership, S-corporation, or 202  
other such business entity may elect to pass the credit received 203  
under this section through to the persons to whom the income or 204  
profit of the partnership, S-corporation, or other entity is 205

distributed. The election shall be made on the annual report 206  
required under division (D)(6) of this section. The election 207  
applies to and is irrevocable for the credit for which the report 208  
is submitted. If the election is made, the credit shall be 209  
apportioned among those persons in the same proportions as those 210  
in which the income or profit is distributed. 211

(K) If the director of development services determines that a 212  
taxpayer who has received a credit under this section is not 213  
complying with the requirement under division (D)(3) of this 214  
section, the director shall notify the tax credit authority of the 215  
noncompliance. After receiving such a notice, and after giving the 216  
taxpayer an opportunity to explain the noncompliance, the tax 217  
credit authority may require the taxpayer to refund to this state 218  
a portion of the credit in accordance with the following: 219

(1) If the taxpayer maintained operations at the project 220  
location for a period less than or equal to the term of the 221  
credit, an amount not exceeding one hundred per cent of the sum of 222  
any credits allowed and received under this section; 223

(2) If the taxpayer maintained operations at the project 224  
location for a period longer than the term of the credit, but less 225  
than the greater of seven years or the term of the credit plus 226  
three years, an amount not exceeding seventy-five per cent of the 227  
sum of any credits allowed and received under this section. 228

In determining the portion of the tax credit to be refunded 229  
to this state, the tax credit authority shall consider the effect 230  
of market conditions on the taxpayer's project and whether the 231  
taxpayer continues to maintain other operations in this state. 232  
After making the determination, the authority shall certify the 233  
amount to be refunded to the tax commissioner or superintendent of 234  
insurance, as appropriate. If the amount is certified to the 235  
commissioner, the commissioner shall make an assessment for that 236  
amount against the taxpayer under Chapter 5726., 5733., 5747., or 237



5751. of the Revised Code. If the amount is certified to the 238  
superintendent, the superintendent shall make an assessment for 239  
that amount against the taxpayer under Chapter 5725. or 5729. of 240  
the Revised Code. The time limitations on assessments under those 241  
chapters do not apply to an assessment under this division, but 242  
the commissioner or superintendent, as appropriate, shall make the 243  
assessment within one year after the date the authority certifies 244  
to the commissioner or superintendent the amount to be refunded. 245

(L) On or before the first day of August each year, the 246  
director of development services shall submit a report to the 247  
governor, the president of the senate, and the speaker of the 248  
house of representatives on the tax credit program under this 249  
section. The report shall include information on the number of 250  
agreements that were entered into under this section during the 251  
preceding calendar year, a description of the project that is the 252  
subject of each such agreement, and an update on the status of 253  
projects under agreements entered into before the preceding 254  
calendar year. 255

(M) There is hereby created the tax credit authority, which 256  
consists of the director of development services and four other 257  
members appointed as follows: the governor, the president of the 258  
senate, and the speaker of the house of representatives each shall 259  
appoint one member who shall be a specialist in economic 260  
development; the governor also shall appoint a member who is a 261  
specialist in taxation. Of the initial appointees, the members 262  
appointed by the governor shall serve a term of two years; the 263  
members appointed by the president of the senate and the speaker 264  
of the house of representatives shall serve a term of four years. 265  
Thereafter, terms of office shall be for four years. Initial 266  
appointments to the authority shall be made within thirty days 267  
after January 13, 1993. Each member shall serve on the authority 268  
until the end of the term for which the member was appointed. 269

Vacancies shall be filled in the same manner provided for original 270  
appointments. Any member appointed to fill a vacancy occurring 271  
prior to the expiration of the term for which the member's 272  
predecessor was appointed shall hold office for the remainder of 273  
that term. Members may be reappointed to the authority. Members of 274  
the authority shall receive their necessary and actual expenses 275  
while engaged in the business of the authority. The director of 276  
development services shall serve as chairperson of the authority, 277  
and the members annually shall elect a vice-chairperson from among 278  
themselves. Three members of the authority constitute a quorum to 279  
transact and vote on the business of the authority. The majority 280  
vote of the membership of the authority is necessary to approve 281  
any such business, including the election of the vice-chairperson. 282

The director of development services may appoint a 283  
professional employee of the department of development services to 284  
serve as the director's substitute at a meeting of the authority. 285  
The director shall make the appointment in writing. In the absence 286  
of the director from a meeting of the authority, the appointed 287  
substitute shall serve as chairperson. In the absence of both the 288  
director and the director's substitute from a meeting, the 289  
vice-chairperson shall serve as chairperson. 290

(N) For purposes of the credits granted by this section 291  
against the taxes imposed under sections 5725.18 and 5729.03 of 292  
the Revised Code, "taxable year" means the period covered by the 293  
taxpayer's annual statement to the superintendent of insurance. 294

**Sec. 122.171.** (A) As used in this section: 295

(1) "Capital investment project" means a plan of investment 296  
at a project site for the acquisition, construction, renovation, 297  
or repair of buildings, machinery, or equipment, or for 298  
capitalized costs of basic research and new product development 299  
determined in accordance with generally accepted accounting 300

principles, but does not include any of the following: 301

(a) Payments made for the acquisition of personal property 302  
through operating leases; 303

(b) Project costs paid before January 1, 2002; 304

(c) Payments made to a related member as defined in section 305  
5733.042 of the Revised Code or to a consolidated elected taxpayer 306  
or a combined taxpayer as defined in section 5751.01 of the 307  
Revised Code. 308

(2) "Eligible business" means a taxpayer and its related 309  
members with Ohio operations satisfying all of the following: 310

(a) The taxpayer employs at least five hundred full-time 311  
equivalent employees or has an annual payroll of at least 312  
thirty-five million dollars at the time the tax credit authority 313  
grants the tax credit under this section; 314

(b) The taxpayer makes or causes to be made payments for the 315  
capital investment project of one of the following: 316

(i) If the taxpayer is engaged at the project site primarily 317  
as a manufacturer, at least fifty million dollars in the aggregate 318  
at the project site during a period of three consecutive calendar 319  
years, including the calendar year that includes a day of the 320  
taxpayer's taxable year or tax period with respect to which the 321  
credit is granted; 322

(ii) If the taxpayer is engaged at the project site primarily 323  
in significant corporate administrative functions, as defined by 324  
the director of development services by rule, at least twenty 325  
million dollars in the aggregate at the project site during a 326  
period of three consecutive calendar years including the calendar 327  
year that includes a day of the taxpayer's taxable year or tax 328  
period with respect to which the credit is granted; 329

(iii) If the taxpayer is applying to enter into an agreement 330

for a tax credit authorized under division (B)(3) of this section, 331  
at least five million dollars in the aggregate at the project site 332  
during a period of three consecutive calendar years, including the 333  
calendar year that includes a day of the taxpayer's taxable year 334  
or tax period with respect to which the credit is granted. 335

(c) The taxpayer had a capital investment project reviewed 336  
and approved by the tax credit authority as provided in divisions 337  
(C), (D), and (E) of this section. 338

(3) "Full-time equivalent employees" means the quotient 339  
obtained by dividing the total number of hours for which employees 340  
were compensated for employment in the project by two thousand 341  
eighty. "Full-time equivalent employees" shall exclude hours that 342  
are counted for a credit under section 122.17 of the Revised Code. 343

(4) "Income tax revenue" means the total amount withheld 344  
under section 5747.06 of the Revised Code by the taxpayer during 345  
the taxable year, or during the calendar year that includes the 346  
tax period, from the compensation of all employees employed in the 347  
project whose hours of compensation are included in calculating 348  
the number of full-time equivalent employees. 349

(5) "Manufacturer" has the same meaning as in section 350  
5739.011 of the Revised Code. 351

(6) "Project site" means an integrated complex of facilities 352  
in this state, as specified by the tax credit authority under this 353  
section, within a fifteen-mile radius where a taxpayer is 354  
primarily operating as an eligible business. 355

(7) "Related member" has the same meaning as in section 356  
5733.042 of the Revised Code as that section existed on the 357  
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 358  
general assembly, September 29, 1997. 359

(8) "Taxable year" includes, in the case of a domestic or 360  
foreign insurance company, the calendar year ending on the 361

thirty-first day of December preceding the day the superintendent 362  
of insurance is required to certify to the treasurer of state 363  
under section 5725.20 or 5729.05 of the Revised Code the amount of 364  
taxes due from insurance companies. 365

(B) The tax credit authority created under section 122.17 of 366  
the Revised Code may grant tax credits under this section for the 367  
purpose of fostering job retention in this state. Upon application 368  
by an eligible business and upon consideration of the 369  
recommendation of the director of budget and management, tax 370  
commissioner, the superintendent of insurance in the case of an 371  
insurance company, and director of development services under 372  
division (C) of this section, the tax credit authority may grant 373  
the following credits against the tax imposed by section 5725.18, 374  
5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised 375  
Code: 376

(1) A nonrefundable credit to an eligible business; 377

(2) A refundable credit to an eligible business meeting the 378  
following conditions, provided that the director of budget and 379  
management, tax commissioner, superintendent of insurance in the 380  
case of an insurance company, and director of development services 381  
have recommended the granting of the credit to the tax credit 382  
authority before July 1, 2011: 383

(a) The business retains at least one thousand full-time 384  
equivalent employees at the project site. 385

(b) The business makes or causes to be made payments for a 386  
capital investment project of at least twenty-five million dollars 387  
in the aggregate at the project site during a period of three 388  
consecutive calendar years, including the calendar year that 389  
includes a day of the business' taxable year or tax period with 390  
respect to which the credit is granted. 391

(c) In 2010, the business received a written offer of 392

financial incentives from another state of the United States that 393  
the director determines to be sufficient inducement for the 394  
business to relocate the business' operations from this state to 395  
that state. 396

(3) A refundable credit to an eligible business with a total 397  
annual payroll of at least twenty million dollars, provided that 398  
the tax credit authority grants the tax credit on or after July 1, 399  
2011, and before January 1, 2014. 400

The credits authorized in divisions (B)(1), (2), and (3) of 401  
this section may be granted for a period up to fifteen taxable 402  
years or, in the case of the tax levied by section 5751.02 of the 403  
Revised Code, for a period of up to fifteen calendar years. The 404  
credit amount for a taxable year or a calendar year that includes 405  
the tax period for which a credit may be claimed equals the income 406  
tax revenue for that year multiplied by the percentage specified 407  
in the agreement with the tax credit authority. The percentage may 408  
not exceed seventy-five per cent. The credit shall be claimed in 409  
the order required under section 5725.98, 5726.98, 5729.98, 410  
5733.98, 5747.98, or 5751.98 of the Revised Code. In determining 411  
the percentage and term of the credit, the tax credit authority 412  
shall consider both the number of full-time equivalent employees 413  
and the value of the capital investment project. The credit amount 414  
may not be based on the income tax revenue for a calendar year 415  
before the calendar year in which the tax credit authority 416  
specifies the tax credit is to begin, and the credit shall be 417  
claimed only for the taxable years or tax periods specified in the 418  
eligible business' agreement with the tax credit authority. In no 419  
event shall the credit be claimed for a taxable year or tax period 420  
terminating before the date specified in the agreement. Any credit 421  
granted under this section against the tax imposed by section 422  
5733.06 or 5747.02 of the Revised Code, to the extent not fully 423  
utilized against such tax for taxable years ending prior to 2008, 424

shall automatically be converted without any action taken by the 425  
tax credit authority to a credit against the tax levied under 426  
Chapter 5751. of the Revised Code for tax periods beginning on or 427  
after July 1, 2008, provided that the person to whom the credit 428  
was granted is subject to such tax. The converted credit shall 429  
apply to those calendar years in which the remaining taxable years 430  
specified in the agreement end. 431

If a nonrefundable credit allowed under division (B)(1) of 432  
this section for a taxable year or tax period exceeds the 433  
taxpayer's tax liability for that year or period, the excess may 434  
be carried forward for the three succeeding taxable or calendar 435  
years, but the amount of any excess credit allowed in any taxable 436  
year or tax period shall be deducted from the balance carried 437  
forward to the succeeding year or period. 438

(C) A taxpayer that proposes a capital investment project to 439  
retain jobs in this state may apply to the tax credit authority to 440  
enter into an agreement for a tax credit under this section. The 441  
director of development services shall prescribe the form of the 442  
application. After receipt of an application, the authority shall 443  
forward copies of the application to the director of budget and 444  
management, the tax commissioner, the superintendent of insurance 445  
in the case of an insurance company, and the director of 446  
development services, each of whom shall review the application to 447  
determine the economic impact the proposed project would have on 448  
the state and the affected political subdivisions and shall submit 449  
a summary of their determinations and recommendations to the 450  
authority. 451

(D) Upon review and consideration of the determinations and 452  
recommendations described in division (C) of this section, the tax 453  
credit authority may enter into an agreement with the taxpayer for 454  
a credit under this section if the authority determines all of the 455  
following: 456

(1) The taxpayer's capital investment project will result in 457  
the retention of employment in this state. 458

(2) The taxpayer is economically sound and has the ability to 459  
complete the proposed capital investment project. 460

(3) The taxpayer intends to and has the ability to maintain 461  
operations at the project site for at least the greater of (a) the 462  
term of the credit plus three years, or (b) seven years. 463

(4) Receiving the credit is a major factor in the taxpayer's 464  
decision to begin, continue with, or complete the project. 465

(5) If the taxpayer is applying to enter into an agreement 466  
for a tax credit authorized under division (B)(3) of this section, 467  
the taxpayer's capital investment project will be located in the 468  
political subdivision in which the taxpayer maintains its 469  
principal place of business. 470

(E) An agreement under this section shall include all of the 471  
following: 472

(1) A detailed description of the project that is the subject 473  
of the agreement, including the amount of the investment, the 474  
period over which the investment has been or is being made, the 475  
number of full-time equivalent employees at the project site, and 476  
the anticipated income tax revenue to be generated. 477

(2) The term of the credit, the percentage of the tax credit, 478  
the maximum annual value of tax credits that may be allowed each 479  
year, and the first year for which the credit may be claimed. 480

(3) A requirement that the taxpayer maintain operations at 481  
the project site for at least the greater of (a) the term of the 482  
credit plus three years, or (b) seven years. 483

(4)(a) In the case of a credit granted under division (B)(1) 484  
of this section, a requirement that the taxpayer retain at least 485  
five hundred full-time equivalent employees at the project site 486



and within this state for the entire term of the credit, or a 487  
requirement that the taxpayer maintain an annual payroll of at 488  
least thirty-five million dollars for the entire term of the 489  
credit; 490

(b) In the case of a credit granted under division (B)(2) of 491  
this section, a requirement that the taxpayer retain at least one 492  
thousand full-time equivalent employees at the project site and 493  
within this state for the entire term of the credit; 494

(c) In the case of a credit granted under division (B)(3) of 495  
this section, either of the following: 496

(i) A requirement that the taxpayer retain at least five 497  
hundred full-time equivalent employees at the project site and 498  
within this state for the entire term of the credit and a 499  
requirement that the taxpayer maintain an annual payroll of at 500  
least twenty million dollars for the entire term of the credit; 501

(ii) A requirement that the taxpayer maintain an annual 502  
payroll of at least thirty-five million dollars for the entire 503  
term of the credit. 504

(5) A requirement that the taxpayer annually report to the 505  
director of development services employment, tax withholding, 506  
capital investment, and other information the director needs to 507  
perform the director's duties under this section. 508

(6) A requirement that the director of development services 509  
annually review the annual reports of the taxpayer to verify the 510  
information reported under division (E)(5) of this section and 511  
compliance with the agreement. Upon verification, the director 512  
shall issue a certificate to the taxpayer stating that the 513  
information has been verified and identifying the amount of the 514  
credit for the taxable year or calendar year that includes the tax 515  
period. In determining the number of full-time equivalent 516  
employees, no position shall be counted that is filled by an 517

employee who is included in the calculation of a tax credit under 518  
section 122.17 of the Revised Code. 519

(7) A provision providing that the taxpayer may not relocate 520  
a substantial number of employment positions from elsewhere in 521  
this state to the project site unless the director of development 522  
services determines that the taxpayer notified the legislative 523  
authority of the county, township, or municipal corporation from 524  
which the employment positions would be relocated. 525

For purposes of this section, the movement of an employment 526  
position from one political subdivision to another political 527  
subdivision shall be considered a relocation of an employment 528  
position unless the movement is confined to the project site. The 529  
transfer of an employment position from one political subdivision 530  
to another political subdivision shall not be considered a 531  
relocation of an employment position if the employment position in 532  
the first political subdivision is replaced by another employment 533  
position. 534

(8) A waiver by the taxpayer of any limitations periods 535  
relating to assessments or adjustments resulting from the 536  
taxpayer's failure to comply with the agreement. 537

(F) If a taxpayer fails to meet or comply with any condition 538  
or requirement set forth in a tax credit agreement, the tax credit 539  
authority may amend the agreement to reduce the percentage or term 540  
of the credit. The reduction of the percentage or term may take 541  
effect in the current taxable or calendar year. 542

(G) Financial statements and other information submitted to 543  
the department of development services or the tax credit authority 544  
by an applicant for or recipient of a tax credit under this 545  
section, and any information taken for any purpose from such 546  
statements or information, are not public records subject to 547  
section 149.43 of the Revised Code. However, the chairperson of 548

the authority may make use of the statements and other information 549  
for purposes of issuing public reports or in connection with court 550  
proceedings concerning tax credit agreements under this section. 551  
Upon the request of the tax commissioner, or the superintendent of 552  
insurance in the case of an insurance company, the chairperson of 553  
the authority shall provide to the commissioner or superintendent 554  
any statement or other information submitted by an applicant for 555  
or recipient of a tax credit in connection with the credit. The 556  
commissioner or superintendent shall preserve the confidentiality 557  
of the statement or other information. 558

(H) A taxpayer claiming a tax credit under this section shall 559  
submit to the tax commissioner or, in the case of an insurance 560  
company, to the superintendent of insurance, a copy of the 561  
director of ~~development's~~ development services' certificate of 562  
verification under division (E)(6) of this section with the 563  
taxpayer's tax report or return for the taxable year or for the 564  
calendar year that includes the tax period. Failure to submit a 565  
copy of the certificate with the report or return does not 566  
invalidate a claim for a credit if the taxpayer submits a copy of 567  
the certificate to the commissioner or superintendent within sixty 568  
days after the commissioner or superintendent requests it. 569

(I) For the purposes of this section, a taxpayer may include 570  
a partnership, a corporation that has made an election under 571  
subchapter S of chapter one of subtitle A of the Internal Revenue 572  
Code, or any other business entity through which income flows as a 573  
distributive share to its owners. A partnership, S-corporation, or 574  
other such business entity may elect to pass the credit received 575  
under this section through to the persons to whom the income or 576  
profit of the partnership, S-corporation, or other entity is 577  
distributed. The election shall be made on the annual report 578  
required under division (E)(5) of this section. The election 579  
applies to and is irrevocable for the credit for which the report 580

is submitted. If the election is made, the credit shall be 581  
apportioned among those persons in the same proportions as those 582  
in which the income or profit is distributed. 583

(J) If the director of development services determines that a 584  
taxpayer that received a ~~tax credit under~~ certificate under 585  
division (E)(6) of this section is not complying with the 586  
requirement under division (E)(3) of this section, the director 587  
shall notify the tax credit authority of the noncompliance. After 588  
receiving such a notice, and after giving the taxpayer an 589  
opportunity to explain the noncompliance, the authority may 590  
terminate the agreement and require the taxpayer, or any related 591  
member or members that claimed the tax credit under division (N) 592  
of this section, to refund to the state all or a portion of the 593  
credit claimed in previous years, as follows: 594

(1) If the taxpayer maintained operations at the project site 595  
for less than or equal to the term of the credit, an amount not to 596  
exceed one hundred per cent of the sum of any tax credits allowed 597  
and received under this section. 598

(2) If the taxpayer maintained operations at the project site 599  
longer than the term of the credit, but less than the greater of 600  
(a) the term of the credit plus three years, or (b) seven years, 601  
the amount required to be refunded shall not exceed seventy-five 602  
per cent of the sum of any tax credits allowed and received under 603  
this section. 604

In determining the portion of the credit to be refunded to 605  
this state, the authority shall consider the effect of market 606  
conditions on the taxpayer's project and whether the taxpayer 607  
continues to maintain other operations in this state. After making 608  
the determination, the authority shall certify the amount to be 609  
refunded to the tax commissioner or the superintendent of 610  
insurance. If the taxpayer, or any related member or members who 611  
claimed the tax credit under division (N) of this section, is not 612

an insurance company, the commissioner shall make an assessment 613  
for that amount against the taxpayer under Chapter 5726., 5733., 614  
5747., or 5751. of the Revised Code. If the taxpayer, or any 615  
related member or members that claimed the tax credit under 616  
division (N) of this section, is an insurance company, the 617  
superintendent of insurance shall make an assessment under section 618  
5725.222 or 5729.102 of the Revised Code. The time limitations on 619  
assessments under those chapters and sections do not apply to an 620  
assessment under this division, but the commissioner or 621  
superintendent shall make the assessment within one year after the 622  
date the authority certifies to the commissioner or superintendent 623  
the amount to be refunded. 624

(K) The director of development services, after consultation 625  
with the tax commissioner and the superintendent of insurance and 626  
in accordance with Chapter 119. of the Revised Code, shall adopt 627  
rules necessary to implement this section. The rules may provide 628  
for recipients of tax credits under this section to be charged 629  
fees to cover administrative costs of the tax credit program. The 630  
fees collected shall be credited to the tax incentive programs 631  
operating fund created in section 122.174 of the Revised Code. At 632  
the time the director gives public notice under division (A) of 633  
section 119.03 of the Revised Code of the adoption of the rules, 634  
the director shall submit copies of the proposed rules to the 635  
chairpersons of the standing committees on economic development in 636  
the senate and the house of representatives. 637

(L) On or before the first day of August of each year, the 638  
director of development services shall submit a report to the 639  
governor, the president of the senate, and the speaker of the 640  
house of representatives on the tax credit program under this 641  
section. The report shall include information on the number of 642  
agreements that were entered into under this section during the 643  
preceding calendar year, a description of the project that is the 644

subject of each such agreement, and an update on the status of 645  
projects under agreements entered into before the preceding 646  
calendar year. 647

(M)(1) The aggregate amount of tax credits issued under 648  
division (B)(1) of this section during any calendar year for 649  
capital investment projects reviewed and approved by the tax 650  
credit authority may not exceed the following amounts: 651

(a) For 2010, thirteen million dollars; 652

(b) For 2011 through 2023, the amount of the limit for the 653  
preceding calendar year plus thirteen million dollars; 654

(c) For 2024 and each year thereafter, one hundred 655  
ninety-five million dollars. 656

(2) The aggregate amount of tax credits authorized under 657  
divisions (B)(2) and (3) of this section and allowed to be claimed 658  
by taxpayers in any calendar year for capital improvement projects 659  
reviewed and approved by the tax credit authority in 2011, 2012, 660  
and 2013 combined shall not exceed twenty-five million dollars. An 661  
amount equal to the aggregate amount of credits first authorized 662  
in calendar year 2011, 2012, and 2013 may be claimed over the 663  
ensuing period up to fifteen years, subject to the terms of 664  
individual tax credit agreements. 665

The limitations in division (M) of this section do not apply 666  
to credits for capital investment projects approved by the tax 667  
credit authority before July 1, 2009. 668

(N) This division applies only to an eligible business that 669  
is part of a group of taxpayers that includes a diversified 670  
savings and loan holding company as defined in 12 U.S.C. 1467a, as 671  
that section existed on January 1, 2012, or a grandfathered 672  
unitary savings and loan holding company as defined in 12 U.S.C. 673  
1467b. Notwithstanding any contrary provision of the agreement 674  
between such an eligible business and the tax credit authority, 675

any credit granted under this section against the tax imposed by 676  
section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the 677  
Revised Code to the eligible business, at the election of the 678  
eligible business and without any action by the tax credit 679  
authority, may be shared by the taxpayer or any related member or 680  
members that comprise the eligible business, which taxpayer or 681  
related members may claim the credit against the taxes imposed by 682  
section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of 683  
the Revised Code. Credits shall be claimed by the eligible 684  
business in sequential order, as applicable, first claiming the 685  
credits to the fullest extent possible against the tax that the 686  
certificate holder is subject to, then against the tax imposed by, 687  
sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and 688  
lastly 5726.02 of the Revised Code. The credits may be allocated 689  
among the taxpayer and related members in such manner as the 690  
eligible business elects, but subject to the sequential order 691  
required under this division. This division applies to credits 692  
granted before, on, or after the effective date of H.B. 510 of the 693  
129th general assembly. Credits granted before that effective date 694  
that are shared and allocated under this division may be claimed 695  
in those calendar years in which the remaining taxable years 696  
specified in the agreement end. 697

**Sec. 122.85.** (A) As used in this section and in sections 698  
5726.55, 5733.59 and, 5747.66, and 5751.54 of the Revised Code: 699

(1) "Tax credit-eligible production" means a motion picture 700  
production certified by the director of development services under 701  
division (B) of this section as qualifying the motion picture 702  
company for a tax credit under section 5726.55, 5733.59 or, 703  
5747.66, or 5751.54 of the Revised Code. 704

(2) "Certificate owner" means a motion picture company to 705  
which a tax credit certificate is issued. 706

(3) "Motion picture company" means an individual, 707  
corporation, partnership, limited liability company, or other form 708  
of business association producing a motion picture. 709

(4) "Eligible production expenditures" means expenditures 710  
made after June 30, 2009, for goods or services purchased and 711  
consumed in this state by a motion picture company directly for 712  
the production of a tax credit-eligible production. 713

"Eligible production expenditures" includes, but is not 714  
limited to, expenditures for resident and nonresident cast and 715  
crew wages, accommodations, costs of set construction and 716  
operations, editing and related services, photography, sound 717  
synchronization, lighting, wardrobe, makeup and accessories, film 718  
processing, transfer, sound mixing, special and visual effects, 719  
music, location fees, and the purchase or rental of facilities and 720  
equipment. 721

(5) "Motion picture" means entertainment content created in 722  
whole or in part within this state for distribution or exhibition 723  
to the general public, including, but not limited to, 724  
feature-length films; documentaries; long-form, specials, 725  
miniseries, series, and interstitial television programming; 726  
interactive web sites; sound recordings; videos; music videos; 727  
interactive television; interactive games; ~~videogames~~ video games; 728  
commercials; any format of digital media; and any trailer, pilot, 729  
video teaser, or demo created primarily to stimulate the sale, 730  
marketing, promotion, or exploitation of future investment in 731  
either a product or a motion picture by any means and media in any 732  
digital media format, film, or videotape, provided the motion 733  
picture qualifies as a motion picture. "Motion picture" does not 734  
include any television program created primarily as news, weather, 735  
or financial market reports, a production featuring current events 736  
or sporting events, an awards show or other gala event, a 737  
production whose sole purpose is fundraising, a long-form 738



production that primarily markets a product or service or in-house 739  
corporate advertising or other similar productions, a production 740  
for purposes of political advocacy, or any production for which 741  
records are required to be maintained under 18 U.S.C. 2257 with 742  
respect to sexually explicit content. 743

(B) For the purpose of encouraging and developing a strong 744  
film industry in this state, the director of development services 745  
may certify a motion picture produced by a motion picture company 746  
as a tax credit-eligible production. In the case of a television 747  
series, the director may certify the production of each episode of 748  
the series as a separate tax credit-eligible production. A motion 749  
picture company shall apply for certification of a motion picture 750  
as a tax credit-eligible production on a form and in the manner 751  
prescribed by the director. Each application shall include the 752  
following information: 753

(1) The name and telephone number of the motion picture 754  
production company; 755

(2) The name and telephone number of the company's contact 756  
person; 757

(3) A list of the first preproduction date through the last 758  
production date in Ohio; 759

(4) The Ohio production office address and telephone number; 760

(5) The total production budget of the motion picture; 761

(6) The total budgeted eligible production expenditures and 762  
the percentage that amount is of the total production budget of 763  
the motion picture; 764

(7) The total percentage of the motion picture being shot in 765  
Ohio; 766

(8) The level of employment of cast and crew who reside in 767  
Ohio; 768

|   |  |
|---|--|
| (9) A synopsis of the script;   | 769  |
| (10) The shooting script;   | 770  |
| (11) A creative elements list that includes the names of the principal cast and crew and the producer and director;   | 771<br>772   |
| (12) Documentation of financial ability to undertake and complete the motion picture;   | 773<br>774   |
| (13) Estimated value of the tax credit based upon total budgeted eligible production expenditures;  | 775<br>776   |
| (14) Any other information considered necessary by the director.  | 777<br>778   |
| Within ninety days after certification of a motion picture as a tax credit-eligible production, and any time thereafter upon the <del>director's</del> <u>director of development services</u> ' request, the motion picture company shall present to the director <del>of development</del> sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director <del>of development</del> may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for certification. | 779<br>780<br>781<br>782<br>783<br>784<br>785<br>786<br>787<br>788<br>789<br>790 |
| (C)(1) A motion picture company whose motion picture has been certified as a tax credit-eligible production may apply to the director of development <u>services</u> on or after July 1, 2009, for a refundable credit against the tax imposed by section <u>5726.02, 5733.06 or, 5747.02, or 5751.02</u> of the Revised Code. The director in consultation with the tax commissioner shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.  | 791<br>792<br>793<br>794<br>795<br>796<br>797<br>798                             |

The credit is determined as follows: 799

(a) If the total budgeted eligible production expenditures 800  
stated in the application submitted under division (B) of this 801  
section or the actual eligible production expenditures as finally 802  
determined under division (D) of this section, whichever is least, 803  
is less than or equal to three hundred thousand dollars, no credit 804  
is allowed; 805

(b) If the total budgeted eligible production expenditures 806  
stated in the application submitted under division (B) of this 807  
section or the actual eligible production expenditures as finally 808  
determined under division (D) of this section, whichever is least, 809  
is greater than three hundred thousand dollars, the credit equals 810  
the sum of the following, subject to the limitation in division 811  
(C)(4) of this section: 812

(i) Twenty-five per cent of the least of such budgeted or 813  
actual eligible expenditure amounts excluding budgeted or actual 814  
eligible expenditures for resident cast and crew wages; 815

(ii) Thirty-five per cent of budgeted or actual eligible 816  
expenditures for resident cast and crew wages. 817

(2) Except as provided in division (C)(4) of this section, if 818  
the director of development services approves a motion picture 819  
company's application for a credit, the director shall issue a tax 820  
credit certificate to the company. The director in consultation 821  
with the tax commissioner shall prescribe the form and manner of 822  
issuing certificates. The director shall assign a unique 823  
identifying number to each tax credit certificate and shall record 824  
the certificate in a register devised and maintained by the 825  
director for that purpose. The certificate shall state the amount 826  
of the eligible production expenditures on which the credit is 827  
based and the amount of the credit. Upon the issuance of a 828  
certificate, the director shall certify to the tax commissioner 829

the name of the applicant, the amount of eligible production 830  
expenditures shown on the certificate, and any other information 831  
required by the rules adopted to administer this section. 832

(3) The amount of eligible production expenditures for which 833  
a tax credit may be claimed is subject to inspection and 834  
examination by the tax commissioner or employees of the 835  
commissioner under section 5703.19 of the Revised Code and any 836  
other applicable law. Once the eligible production expenditures 837  
are finally determined under section 5703.19 of the Revised Code 838  
and division (D) of this section, the credit amount is not subject 839  
to adjustment unless the director determines an error was 840  
committed in the computation of the credit amount. 841

(4) No tax credit certificate may be issued before the 842  
completion of the tax credit-eligible production. For the fiscal 843  
biennium beginning July 1, 2009, and ending June 30, 2011, not 844  
more than thirty million dollars of tax credit may be allowed, of 845  
which not more than ten million dollars of tax credit may be 846  
allowed in the first year of the biennium. In succeeding fiscal 847  
biennia, not more than twenty million dollars of tax credit may be 848  
allowed per fiscal biennium, and not more than ten million dollars 849  
may be allowed in the first year of the biennium. At any time, not 850  
more than five million dollars of tax credit may be allowed per 851  
tax credit-eligible production. 852

(D) A motion picture company whose motion picture has been 853  
certified as a tax credit-eligible production shall engage, at the 854  
company's expense, an independent certified public accountant to 855  
examine the company's production expenditures to identify the 856  
expenditures that qualify as eligible production expenditures. The 857  
certified public accountant shall issue a report to the company 858  
and to the director of development services certifying the 859  
company's eligible production expenditures and any other 860  
information required by the director. Upon receiving and examining 861

the report, the director may disallow any expenditure the director  
determines is not an eligible production expenditure. If the  
director disallows an expenditure, the director shall issue a  
written notice to the motion picture production company stating  
that the expenditure is disallowed and the reason for the  
disallowance. Upon examination of the report and disallowance of  
any expenditures, the director shall determine finally the lesser  
of the total budgeted eligible production expenditures stated in  
the application submitted under division (B) of this section or  
the actual eligible production expenditures for the purpose of  
computing the amount of the credit.

(E) No credit shall be allowed under section 5726.55, 5733.59  
~~or~~, 5747.66, or 5751.54 of the Revised Code unless the director  
has reviewed the report and made the determination prescribed by  
division (D) of this section.

(F) This state reserves the right to refuse the use of this  
state's name in the credits of any tax credit-eligible motion  
picture production.

(G)(1) The director of development services in consultation  
with the tax commissioner shall adopt rules for the administration  
of this section, including rules setting forth and governing the  
criteria for determining whether a motion picture production is a  
tax credit-eligible production; activities that constitute the  
production of a motion picture; reporting sufficient evidence of  
reviewable progress; expenditures that qualify as eligible  
production expenditures; a competitive process for approving  
credits; and consideration of geographic distribution of credits.  
The rules shall be adopted under Chapter 119. of the Revised Code.

(2) The director may require a reasonable application fee to  
cover administrative costs of the tax credit program. The fees  
collected shall be credited to the motion picture tax credit  
program operating fund, which is hereby created in the state

treasury. The motion picture tax credit program operating fund 894  
shall consist of all grants, gifts, fees, and contributions made 895  
to the director ~~of development~~ for marketing and promotion of the 896  
motion picture industry within this state. The director ~~of~~ 897  
~~development~~ shall use money in the fund to pay expenses related to 898  
the administration of the Ohio film office and the credit 899  
authorized by this section and sections 5726.55., 5733.59 ~~and~~, 900  
5747.66, and 5751.54 of the Revised Code. 901

**Sec. 145.114.** (A) As used in this section and in section 902  
145.116 of the Revised Code: 903

(1) "Agent" means a dealer, as defined in section 1707.01 of 904  
the Revised Code, who is licensed under sections 1707.01 to 905  
1707.45 of the Revised Code or under comparable laws of another 906  
state or of the United States. 907

(2) "Minority business enterprise" has the same meaning as in 908  
section 122.71 of the Revised Code. 909

(3) "Ohio-qualified agent" means an agent designated as such 910  
by the public employees retirement board. 911

(4) "Ohio-qualified investment manager" means an investment 912  
manager designated as such by the public employees retirement 913  
board. 914

(5) "Principal place of business" means an office in which 915  
the agent regularly provides securities or investment advisory 916  
services and solicits, meets with, or otherwise communicates with 917  
clients. 918

(B) The public employees retirement board shall, for the 919  
purposes of this section, designate an agent as an Ohio-qualified 920  
agent if the agent meets all of the following requirements: 921

(1) The agent is subject to taxation under Chapter 5725., 922  
5726., 5733., ~~or~~ 5747., or 5751. of the Revised Code; 923

(2) The agent is authorized to conduct business in this 924  
state; 925

(3) The agent maintains a principal place of business in this 926  
state and employs at least five residents of this state. 927

(C) The public employees retirement board shall adopt and 928  
implement a written policy to establish criteria and procedures 929  
used to select agents to execute securities transactions on behalf 930  
of the retirement system. The policy shall address each of the 931  
following: 932

(1) Commissions charged by the agent, both in the aggregate 933  
and on a per share basis; 934

(2) The execution speed and trade settlement capabilities of 935  
the agent; 936

(3) The responsiveness, reliability, and integrity of the 937  
agent; 938

(4) The nature and value of research provided by the agent; 939

(5) Any special capabilities of the agent. 940

(D)(1) The board shall, at least annually, establish a policy 941  
with the goal to increase utilization by the board of 942  
Ohio-qualified agents for the execution of domestic equity and 943  
fixed income trades on behalf of the retirement system, when an 944  
Ohio-qualified agent offers quality, services, and safety 945  
comparable to other agents otherwise available to the board and 946  
meets the criteria established under division (C) of this section. 947

(2) The board shall review, at least annually, the 948  
performance of the agents that execute securities transactions on 949  
behalf of the board. 950

(3) The board shall determine whether an agent is an 951  
Ohio-qualified agent, meets the criteria established by the board 952  
pursuant to division (C) of this section, and offers quality, 953

services, and safety comparable to other agents otherwise 954  
available to the board. The board's determination shall be final. 955

(E) The board shall, at least annually, submit to the Ohio 956  
retirement study council a report containing the following 957  
information: 958

(1) The name of each agent designated as an Ohio-qualified 959  
agent under this section; 960

(2) The name of each agent that executes securities 961  
transactions on behalf of the board; 962

(3) The amount of equity and fixed-income trades that are 963  
executed by Ohio-qualified agents, expressed as a percentage of 964  
all equity and fixed-income trades that are executed by agents on 965  
behalf of the board; 966

(4) The compensation paid to Ohio-qualified agents, expressed 967  
as a percentage of total compensation paid to all agents that 968  
execute securities transactions on behalf of the board; 969

(5) The amount of equity and fixed-income trades that are 970  
executed by agents that are minority business enterprises, 971  
expressed as a percentage of all equity and fixed-income trades 972  
that are executed by agents on behalf of the board; 973

(6) Any other information requested by the Ohio retirement 974  
study council regarding the board's use of agents. 975

**Sec. 145.116.** (A) The public employees retirement board 976  
shall, for the purposes of this section, designate an investment 977  
manager as an Ohio-qualified investment manager if the investment 978  
manager meets all of the following requirements: 979

(1) The investment manager is subject to taxation under 980  
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 981  
Code; 982



|  |      |
|--|------|
| (2) The investment manager meets one of the following              | 983  |
| requirements:  | 984  |
| (a) Has its corporate headquarters or principal place of           | 985  |
| business in this state;  | 986  |
| (b) Employs at least five hundred individuals in this state;       | 987  |
| (c) Has a principal place of business in this state and            | 988  |
| employs at least 20 residents of this state.                       | 989  |
| (B)(1) The board shall, at least annually, establish a policy      | 990  |
| with the goal to increase utilization by the board of              | 991  |
| Ohio-qualified investment managers, when an Ohio-qualified         | 992  |
| investment manager offers quality, services, and safety comparable | 993  |
| to other investment managers otherwise available to the board. The | 994  |
| policy shall also provide for the following:                       | 995  |
| (a) A process whereby the board can develop a list of              | 996  |
| Ohio-qualified investment managers and their investment products;  | 997  |
| (b) A process whereby the board can give public notice to          | 998  |
| Ohio-qualified investment managers of the board's search for an    | 999  |
| investment manager that includes the board's search criteria.      | 1000 |
| (2) The board shall determine whether an investment manager        | 1001 |
| is an Ohio-qualified investment manager and whether the investment | 1002 |
| manager offers quality, services, and safety comparable to other   | 1003 |
| investment managers otherwise available to the board. The board's  | 1004 |
| determination shall be final.                                      | 1005 |
| (C) The board shall, at least annually, submit to the Ohio         | 1006 |
| retirement study council a report containing the following         | 1007 |
| information:   | 1008 |
| (1) The name of each investment manager designated as an           | 1009 |
| Ohio-qualified investment manager under this section;              | 1010 |
| (2) The name of each investment manager with which the board       | 1011 |
| contracts;   | 1012 |

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

**Sec. 149.311.** (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as a an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner of a an historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging a an historic building;

(b) Expenditures attributable to work done to facilities 1043  
related to the building, such as parking lots, sidewalks, and 1044  
landscaping; 1045

(c) New building construction costs. 1046

(3) "Owner" of a an historic building means a person holding 1047  
the fee simple interest in the building. "Owner" does not include 1048  
the state or a state agency, or any political subdivision as 1049  
defined in section 9.23 of the Revised Code. 1050

(4) "Certificate owner" means the owner of a an historic 1051  
building to which a rehabilitation tax credit certificate was 1052  
issued under this section. 1053

(5) "Registered historic district" means a an historic 1054  
district listed in the national register of historic places under 1055  
16 U.S.C. 470a, a an historic district designated by a local 1056  
government certified under 16 U.S.C. 470a(c), or a local historic 1057  
district certified under 36 C.F.R. 67.8 and 67.9. 1058

(6) "Rehabilitation" means the process of repairing or 1059  
altering a an historic building or buildings, making possible an 1060  
efficient use while preserving those portions and features of the 1061  
building and its site and environment that are significant to its 1062  
historic, architectural, and cultural values. 1063

(7) "Rehabilitation period" means one of the following: 1064

(a) If the rehabilitation initially was not planned to be 1065  
completed in stages, a period chosen by the owner not to exceed 1066  
twenty-four months during which rehabilitation occurs; 1067

(b) If the rehabilitation initially was planned to be 1068  
completed in stages, a period chosen by the owner not to exceed 1069  
sixty months during which rehabilitation occurs. Each stage shall 1070  
be reviewed as a phase of a rehabilitation as determined under 26 1071  
C.F.R. 1.48-12 or a successor to that section. 1072

(8) "State historic preservation officer" or "officer" means 1073  
the state historic preservation officer appointed by the governor 1074  
under 16 U.S.C. 470a. 1075

(B) The owner of ~~a~~ an historic building may apply to the 1076  
director of development services for a rehabilitation tax credit 1077  
certificate for qualified rehabilitation expenditures paid or 1078  
incurred after April 4, 2007, for rehabilitation of ~~a~~ an historic 1079  
building. The form and manner of filing such applications shall be 1080  
prescribed by rule of the director ~~of development~~. Each 1081  
application shall state the amount of qualified rehabilitation 1082  
expenditures the applicant estimates will be paid or incurred. The 1083  
director may require applicants to furnish documentation of such 1084  
estimates. 1085

The director, after consultation with the tax commissioner 1086  
and in accordance with Chapter 119. of the Revised Code, shall 1087  
adopt rules that establish all of the following: 1088

(1) Forms and procedures by which applicants may apply for 1089  
rehabilitation tax credit certificates; 1090

(2) Criteria for reviewing, evaluating, and approving 1091  
applications for certificates within the limitations under 1092  
division (D) of this section, criteria for assuring that the 1093  
certificates issued encompass a mixture of high and low qualified 1094  
rehabilitation expenditures, and criteria for issuing certificates 1095  
under division (C)(3)(b) of this section; 1096

(3) Eligibility requirements for obtaining a certificate 1097  
under this section; 1098

(4) The form of rehabilitation tax credit certificates; 1099

(5) Reporting requirements and monitoring procedures; 1100

(6) Procedures and criteria for conducting cost-benefit 1101  
analyses of historic buildings that are the subjects of 1102

applications filed under this section. The purpose of a 1103  
cost-benefit analysis shall be to determine whether rehabilitation 1104  
of the historic building will result in a net revenue gain in 1105  
state and local taxes once the building is used. 1106

(7) Any other rules necessary to implement and administer 1107  
this section. 1108

(C) The director of development services shall review the 1109  
applications with the assistance of the state historic 1110  
preservation officer and determine whether all of the following 1111  
criteria are met: 1112

(1) That the building that is the subject of the application 1113  
is ~~a~~ an historic building and the applicant is the owner of the 1114  
building; 1115

(2) That the rehabilitation will satisfy standards prescribed 1116  
by the United States secretary of the interior under 16 U.S.C. 1117  
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 1118  
that section; 1119

(3) That receiving a rehabilitation tax credit certificate 1120  
under this section is a major factor in: 1121

(a) The applicant's decision to rehabilitate the historic 1122  
building; or 1123

(b) To increase the level of investment in such 1124  
rehabilitation. 1125

An applicant shall demonstrate to the satisfaction of the 1126  
state historic preservation officer and director of development 1127  
services that the rehabilitation will satisfy the standards 1128  
described in division (C)(2) of this section before the applicant 1129  
begins the physical rehabilitation of the historic building. 1130

(D)(1) If the director of development services determines 1131  
that an application meets the criteria in divisions (C)(1), (2), 1132

and (3) of this section, the director shall conduct a cost-benefit 1133  
analysis for the historic building that is the subject of the 1134  
application to determine whether rehabilitation of the historic 1135  
building will result in a net revenue gain in state and local 1136  
taxes once the building is used. The director shall consider the 1137  
results of the cost-benefit analysis in determining whether to 1138  
approve the application. The director shall also consider the 1139  
potential economic impact and the regional distributive balance of 1140  
the credits throughout the state. The director may approve an 1141  
application only after completion of the cost-benefit analysis. 1142

(2) A rehabilitation tax credit certificate shall not be 1143  
issued for an amount greater than the estimated amount furnished 1144  
by the applicant on the application for such certificate and 1145  
approved by the director. The director shall not approve more than 1146  
a total of sixty million dollars of rehabilitation tax credits per 1147  
fiscal year but the director may reallocate unused tax credits 1148  
from a prior fiscal year for new applicants and such reallocated 1149  
credits shall not apply toward the dollar limit of this division. 1150

(3) For rehabilitations with a rehabilitation period not 1151  
exceeding twenty-four months as provided in division (A)(7)(a) of 1152  
this section, a rehabilitation tax credit certificate shall not be 1153  
issued before the rehabilitation of the historic building is 1154  
completed. 1155

(4) For rehabilitations with a rehabilitation period not 1156  
exceeding sixty months as provided in division (A)(7)(b) of this 1157  
section, a rehabilitation tax credit certificate shall not be 1158  
issued before a stage of rehabilitation is completed. After all 1159  
stages of rehabilitation are completed, if the director cannot 1160  
determine that the criteria in division (C) of this section are 1161  
satisfied for all stages of rehabilitations, the director shall 1162  
certify this finding to the tax commissioner, and any 1163  
rehabilitation tax credits received by the applicant shall be 1164

repaid by the applicant and may be collected by assessment as 1165  
unpaid tax by the commissioner. 1166

(5) The director of development services shall require the 1167  
applicant to provide a third-party cost certification by a 1168  
certified public accountant of the actual costs attributed to the 1169  
rehabilitation of the historic building when qualified 1170  
rehabilitation expenditures exceed two hundred thousand dollars. 1171

If an applicant whose application is approved for receipt of 1172  
a rehabilitation tax credit certificate fails to provide to the 1173  
director ~~of development~~ sufficient evidence of reviewable 1174  
progress, including a viable financial plan, copies of final 1175  
construction drawings, and evidence that the applicant has 1176  
obtained all historic approvals within twelve months after the 1177  
date the applicant received notification of approval, and if the 1178  
applicant fails to provide evidence to the director ~~of development~~ 1179  
that the applicant has secured and closed on financing for the 1180  
rehabilitation within eighteen months after receiving notification 1181  
of approval, the director may rescind the approval of the 1182  
application. The director shall notify the applicant if the 1183  
approval has been rescinded. Credits that would have been 1184  
available to an applicant whose approval was rescinded shall be 1185  
available for other qualified applicants. Nothing in this division 1186  
prohibits an applicant whose approval has been rescinded from 1187  
submitting a new application for a rehabilitation tax credit 1188  
certificate. 1189

(E) Issuance of a certificate represents a finding by the 1190  
director of development services of the matters described in 1191  
divisions (C)(1), (2), and (3) of this section only; issuance of a 1192  
certificate does not represent a verification or certification by 1193  
the director of the amount of qualified rehabilitation 1194  
expenditures for which a tax credit may be claimed under section 1195  
5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the 1196

Revised Code. The amount of qualified rehabilitation expenditures 1197  
for which a tax credit may be claimed is subject to inspection and 1198  
examination by the tax commissioner or employees of the 1199  
commissioner under section 5703.19 of the Revised Code and any 1200  
other applicable law. Upon the issuance of a certificate, the 1201  
director shall certify to the tax commissioner, in the form and 1202  
manner requested by the tax commissioner, the name of the 1203  
applicant, the amount of qualified rehabilitation expenditures 1204  
shown on the certificate, and any other information required by 1205  
the rules adopted under this section. 1206

(F)(1) On or before the first day of April each year, the 1207  
director of development services and tax commissioner jointly 1208  
shall submit to the president of the senate and the speaker of the 1209  
house of representatives a report on the tax credit program 1210  
established under this section and sections 5725.151, 5725.34, 1211  
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The 1212  
report shall present an overview of the program and shall include 1213  
information on the number of rehabilitation tax credit 1214  
certificates issued under this section during the preceding fiscal 1215  
year, an update on the status of each historic building for which 1216  
an application was approved under this section, the dollar amount 1217  
of the tax credits granted under sections 5725.151, 5725.34, 1218  
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and 1219  
any other information the director and commissioner consider 1220  
relevant to the topics addressed in the report. 1221

(2) On or before December 1, 2015, the director of 1222  
development services and tax commissioner jointly shall submit to 1223  
the president of the senate and the speaker of the house of 1224  
representatives a comprehensive report that includes the 1225  
information required by division (F)(1) of this section and a 1226  
detailed analysis of the effectiveness of issuing tax credits for 1227  
rehabilitating historic buildings. The report shall be prepared 1228



with the assistance of an economic research organization jointly 1229  
chosen by the director and commissioner. 1230

(G) There is hereby created in the state treasury the 1231  
historic rehabilitation tax credit operating fund. The director of 1232  
development services is authorized to charge reasonable 1233  
application and other fees in connection with the administration 1234  
of tax credits authorized by this section and sections 5725.151, 1235  
5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the Revised 1236  
Code. Any such fees collected shall be credited to the fund and 1237  
used to pay reasonable costs incurred by the department of 1238  
development services in administering this section and sections 1239  
5725.151, 5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the 1240  
Revised Code. 1241

The Ohio historic preservation office is authorized to charge 1242  
reasonable fees in connection with its review and approval of 1243  
applications under this section. Any such fees collected shall be 1244  
credited to the fund and used to pay administrative costs incurred 1245  
by the Ohio historic preservation office pursuant to this section. 1246

**Sec. 150.01.** (A) As used in this chapter: 1247

(1) "Authority" means the Ohio venture capital authority 1248  
created under section 150.02 of the Revised Code. 1249

(2) "Issuer" means a port authority organized and existing 1250  
under applicable provisions of Chapter 4582. of the Revised Code 1251  
that, pursuant to an agreement entered into under division (E) of 1252  
section 150.02 of the Revised Code, issues or issued obligations 1253  
to fund one or more loans to the program fund. 1254

(3) "Lender" means any person that lends money to the program 1255  
fund as provided in this chapter and includes any issuer and any 1256  
trustee. 1257

(4) "Loss" means a loss incurred with respect to a lender's 1258

loan to the program fund. Such a loss is incurred only if and to 1259  
the extent a program administrator fails to satisfy its 1260  
obligations to the lender to make timely payments of principal or 1261  
interest as provided in the loan agreement between the lender and 1262  
the program administrator. "Loss" does not include either of the 1263  
following: 1264

(a) Any loss incurred by the program fund, including a loss 1265  
attributable to any investment made by a program administrator; 1266

(b) Any loss of the capital required to be provided by a 1267  
program administrator, or income accruing to that capital, under 1268  
the agreement entered into under division (B) of section 150.05 of 1269  
the Revised Code. 1270

(5) "Ohio-based business enterprise" means a person that is 1271  
engaged in business, that employs at least one individual on a 1272  
full-time or part-time basis at a place of business in this state, 1273  
including a person engaged in business if that person is a 1274  
self-employed individual, and that is in the seed or early stage 1275  
of business development requiring initial or early stage funding 1276  
or is an established business enterprise developing new methods or 1277  
technologies. 1278

(6) "Ohio-based venture capital fund" means a venture capital 1279  
fund having its principal office in this state, where the majority 1280  
of the fund's staff are employed and where at least one investment 1281  
professional is employed who has at least five years of experience 1282  
in venture capital investment. 1283

(7) "Program fund" means the fund created under section 1284  
150.03 of the Revised Code. 1285

(8) "Research and development purposes" has the same meaning 1286  
as used in Section 2p of Article VIII, Ohio Constitution, and 1287  
includes the development of sites and facilities in this state for 1288  
and in support of those research and development purposes. 1289

(9) "Trustee" means a trust company or a bank with corporate trust powers, in either case having a place of business in this state, being a taxpayer under Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 5747 of the Revised Code at the time it may claim and receive a tax credit under division (E) of section 150.07 of the Revised Code, and acting in its capacity as a trustee pursuant to a trust agreement under which an issuer issues obligations to fund loans to the program fund.

(B) The general assembly declares that its purpose in enacting Chapter 150. of the Revised Code is to increase the amount of private investment capital available in this state for Ohio-based business enterprises in the seed or early stages of business development and requiring initial or early stage funding, as well as established Ohio-based business enterprises developing new methods or technologies, including the promotion of research and development purposes, thereby increasing employment, creating additional wealth, and otherwise benefiting the economic welfare of the people of this state. Accordingly, it is the intention of the general assembly that the program fund make investments in support of Ohio-based business enterprises in accordance with the investment policy authorized and required under section 150.03 of the Revised Code, and that the Ohio venture capital authority focus its investment policy principally on venture capital funds investing in such Ohio-based business enterprises. The general assembly finds and determines that this chapter and the investment policy, and actions taken under and consistent therewith, will promote and implement the public purposes of Section 2p of Article VIII, Ohio Constitution.

**Sec. 150.07.** (A) For the purpose stated in section 150.01 of the Revised Code, the authority may authorize a lender to claim one of the refundable tax credits allowed under section 5707.031, 5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 of the

Revised Code. The credits shall be authorized by a written 1322  
contract with the lender. The contract shall specify the terms 1323  
under which the lender may claim the credit, including the amount 1324  
of loss, if any, the lender must incur before the lender may claim 1325  
the credit; specify that the credit shall not exceed the amount of 1326  
the loss; and specify that the lender may claim the credit only 1327  
for a loss certified by a program administrator to the authority 1328  
under the procedures prescribed under division (B)(6) of section 1329  
150.05 of the Revised Code. The program administrator shall 1330  
provide to the authority an estimate of the amount of tax credits, 1331  
if any, that are likely, in the administrator's reasonable 1332  
judgment, to be claimed by a lender during the current and next 1333  
succeeding state fiscal years. The estimate shall be provided at 1334  
the same time each year that the administrator is required to 1335  
report the annual audit to the authority under section 150.05 of 1336  
the Revised Code. 1337

(B) Tax credits may be authorized at any time after the 1338  
authority establishes the investment policy under section 150.03 1339  
of the Revised Code, but a tax credit so authorized may not be 1340  
claimed before July 1, 2007, or after June 30, 2026, except, with 1341  
respect to loans made from the proceeds of obligations issued 1342  
under section 4582.71 of the Revised Code, a tax credit may not be 1343  
claimed before July 1, 2012, or after June 30, 2036. 1344

(C)(1) Upon receiving certification of a lender's loss from a 1345  
program administrator pursuant to the procedures in the investment 1346  
policy, the authority shall issue a tax credit certificate to the 1347  
lender, except as otherwise provided in division (D) of this 1348  
section. 1349

(2) If the lender is a pass-through entity, as defined in 1350  
section 5733.04 of the Revised Code, then each equity investor in 1351  
the lender pass-through entity shall be entitled to claim one of 1352

the tax credits allowed under division (A) of this section for 1353  
that equity investor's taxable year in which or with which ends 1354  
the taxable year of the lender pass-through entity in an amount 1355  
based on the equity investor's distributive or proportionate share 1356  
of the credit amount set forth in the certificate issued by the 1357  
authority. If all equity investors of the lender pass-through 1358  
entity are not eligible to claim a credit against the same tax set 1359  
forth in division (A) of this section, then each equity investor 1360  
may elect to claim a credit against the tax to which the equity 1361  
investor is subject to in an amount based on the equity investor's 1362  
distributive or proportionate share of the credit amount set forth 1363  
in the certificate issued by the authority. 1364

(3) The certificate shall state the amount of the credit and 1365  
the calendar year under section 5707.031, 5725.19, 5727.241, or 1366  
5729.08, the tax year under section 5726.53 or 5733.49, or the 1367  
taxable year under section 5747.80 of the Revised Code for which 1368  
the credit may be claimed. The authority, in conjunction with the 1369  
tax commissioner, shall develop a system for issuing tax credit 1370  
certificates for the purpose of verifying that any credit claimed 1371  
is a credit issued under this section and is properly taken in the 1372  
year specified in the certificate and in compliance with division 1373  
(B) of this section. 1374

(D) The authority shall not, in any fiscal year, issue tax 1375  
credit certificates under this section in a total amount exceeding 1376  
twenty million dollars. The authority shall not issue tax credit 1377  
certificates under this section in a total amount exceeding three 1378  
hundred eighty million dollars. 1379

(E) Notwithstanding any other section of this chapter or any 1380  
provision of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1381  
5747. of the Revised Code, if provided by the terms of an 1382  
agreement entered into by the issuer and the authority under 1383  
division (E) of section 150.02 of the Revised Code, and subject to 1384

the limitations of divisions (B) and (D) of this section, a 1385  
trustee shall have the right, for the benefit of the issuer, to 1386  
receive and claim the credits authorized under division (A) of 1387  
this section solely for the purpose provided for in section 150.04 1388  
of the Revised Code, and the trustee shall be entitled to file a 1389  
tax return, an amended tax return, or an estimated tax return at 1390  
such times as are permitted or required under the applicable 1391  
provisions of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1392  
5747. of the Revised Code for the purpose of claiming credits 1393  
issued to the trustee. The trustee shall receive the proceeds of 1394  
such a tax credit for the benefit of the issuer, and shall apply 1395  
the proceeds solely to satisfy a loss or restore a reserve as 1396  
provided in section 150.04 of the Revised Code. Nothing in this 1397  
section shall require a trustee to file a tax return under any 1398  
chapter for any purpose other than claiming such credits if the 1399  
trustee is not otherwise required to make such a filing. 1400

The general assembly may from time to time modify or repeal 1401  
any of the taxes against which the credits authorized under 1402  
division (A) of this section may be claimed, and may authorize 1403  
those credits to be claimed for the purposes provided for in 1404  
section 150.04 of the Revised Code with respect to any other tax 1405  
imposed by this state; provided, that if any obligations issued 1406  
under section 4582.71 of the Revised Code are then outstanding and 1407  
such modification or repeal would have the effect of impairing any 1408  
covenant made in or pursuant to an agreement under division (E) of 1409  
section 150.02 of the Revised Code regarding the maintenance or 1410  
restoration of reserves established and maintained with a trustee 1411  
consistent with division (B)(2) of section 150.04 of the Revised 1412  
Code and such agreement, the state shall provide other security to 1413  
the extent necessary to avoid or offset the impairment of such 1414  
covenant. 1415

**Sec. 150.10.** (A) On the first day of January of the second 1416

year after the date of entering into an agreement under section 1417  
150.05 of the Revised Code and of each ensuing year, the authority 1418  
shall file with the clerk of the house of representatives, the 1419  
clerk of the senate, and the chairpersons of the house and senate 1420  
standing committees predominantly concerned with economic 1421  
development a written report on the Ohio venture capital program. 1422  
The report shall include all the following: 1423

(1) A description of the details of the investment policy 1424  
established or modified in accordance with sections 150.03 and 1425  
150.04 of the Revised Code; 1426

(2) The authority's assessment of the program's achievement 1427  
of its purpose stated in section 150.01 of the Revised Code; 1428

(3) The value of tax credit certificates issued by the 1429  
authority under section 150.07 of the Revised Code in each fiscal 1430  
year ending on or before the preceding thirtieth day of June; 1431

(4) The amount of tax credits claimed pursuant to section 1432  
5707.031, 5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 1433  
of the Revised Code, as to the respective taxes involved; 1434

(5) The financial status of the Ohio venture capital fund; 1435

(6) The names of venture capital funds in which money from 1436  
the program fund has been invested and the locations of their 1437  
principal offices, and the names of the enterprises in which each 1438  
of those venture capital funds has invested such money and the 1439  
locations of those enterprises' principal offices; 1440

(7) Any recommendations for modifying the program to better 1441  
achieve the purpose stated in section 150.01 of the Revised Code. 1442

(B) During each year that a report is issued under division 1443  
(A) of this section, the chairperson of the authority, or another 1444  
member of the authority designated by the chairperson as the 1445  
authority's representative, shall be required to appear in person 1446

before the standing committees of the house and senate 1447  
predominantly concerned with economic development to give 1448  
testimony concerning the status of the Ohio venture capital 1449  
program. 1450

**Sec. 715.013.** (A) Except as otherwise expressly authorized by 1451  
the Revised Code, no municipal corporation shall levy a tax that 1452  
is the same as or similar to a tax levied under Chapter 322., 1453  
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 1454  
5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 5737., 1455  
5739., 5741., 5743., or 5749. of the Revised Code. 1456

(B) This section does not prohibit a municipal corporation 1457  
from levying a tax on any of the following: 1458

(1) Amounts received for admission to any place; 1459

(2) The income of an electric company or combined company, as 1460  
defined in section 5727.01 of the Revised Code; 1461

(3) On and after January 1, 2004, the income of a telephone 1462  
company, as defined in section 5727.01 of the Revised Code. 1463

**Sec. 742.114.** (A) As used in this section and in section 1464  
742.116 of the Revised Code: 1465

(1) "Agent" means a dealer, as defined in section 1707.01 of 1466  
the Revised Code, who is licensed under sections 1707.01 to 1467  
1707.45 of the Revised Code or under comparable laws of another 1468  
state or of the United States. 1469

(2) "Minority business enterprise" has the same meaning as in 1470  
section 122.71 of the Revised Code. 1471

(3) "Ohio-qualified agent" means an agent designated as such 1472  
by the board of trustees of the fund. 1473

(4) "Ohio-qualified investment manager" means an investment 1474  
manager designated as such by the board of trustees of the fund. 1475



(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The board of trustees of the fund shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised Code;

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed-income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety

comparable to other agents otherwise available to the board and 1506  
meets the criteria established under division (C) of this section. 1507

(2) The board shall review, at least annually, the 1508  
performance of the agents that execute securities transactions on 1509  
behalf of the board. 1510

(3) The board shall determine whether an agent is an 1511  
Ohio-qualified agent, meets the criteria established by the board 1512  
pursuant to division (C) of this section, and offers quality, 1513  
services, and safety comparable to other agents otherwise 1514  
available to the board. The board's determination shall be final. 1515

(E) The board shall, at least annually, submit to the Ohio 1516  
retirement study council a report containing the following 1517  
information: 1518

(1) The name of each agent designated as an Ohio-qualified 1519  
agent under this section; 1520

(2) The name of each agent that executes securities 1521  
transactions on behalf of the board; 1522

(3) The amount of equity and fixed-income trades that are 1523  
executed by Ohio-qualified agents, expressed as a percentage of 1524  
all equity and fixed-income trades that are executed by agents on 1525  
behalf of the board; 1526

(4) The compensation paid to Ohio-qualified agents, expressed 1527  
as a percentage of total compensation paid to all agents that 1528  
execute securities transactions on behalf of the board; 1529

(5) The amount of equity and fixed-income trades that are 1530  
executed by agents that are minority business enterprises, 1531  
expressed as a percentage of all equity and fixed-income trades 1532  
that are executed by agents on behalf of the board; 1533

(6) Any other information requested by the Ohio retirement 1534  
study council regarding the board's use of agents. 1535

**Sec. 742.116.** (A) The board of trustees of the pension fund 1536  
shall, for the purposes of this section, designate an investment 1537  
manager as an Ohio-qualified investment manager if the investment 1538  
manager meets all of the following requirements: 1539

(1) The investment manager is subject to taxation under 1540  
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 1541  
Code; 1542

(2) The investment manager meets one of the following 1543  
requirements: 1544

(a) Has its corporate headquarters or principal place of 1545  
business in this state; 1546

(b) Employs at least five hundred individuals in this state; 1547

(c) Has a principal place of business in this state and 1548  
employs at least 20 residents of this state. 1549

(B)(1) The board shall, at least annually, establish a policy 1550  
with the goal to increase utilization by the board of 1551  
Ohio-qualified investment managers, when an Ohio-qualified 1552  
investment manager offers quality, services, and safety comparable 1553  
to other investment managers otherwise available to the board. The 1554  
policy shall also provide for the following: 1555

(a) A process whereby the board can develop a list of 1556  
Ohio-qualified investment managers and their investment products; 1557

(b) A process whereby the board can give public notice to 1558  
Ohio-qualified investment managers of the board's search for an 1559  
investment manager that includes the board's search criteria. 1560

(2) The board shall determine whether an investment manager 1561  
is an Ohio-qualified investment manager and whether the investment 1562  
manager offers quality, services, and safety comparable to other 1563  
investment managers otherwise available to the board. The board's 1564  
determination shall be final. 1565

(C) The board shall, at least annually, submit to the Ohio 1566  
retirement study council a report containing the following 1567  
information: 1568

(1) The name of each investment manager designated as an 1569  
Ohio-qualified investment manager under this section; 1570

(2) The name of each investment manager with which the board 1571  
contracts; 1572

(3) The amount of assets managed by Ohio-qualified investment 1573  
managers, expressed as a percentage of the total assets held by 1574  
the retirement system and as a percentage of assets managed by 1575  
investment managers with which the board has contracted; 1576

(4) The compensation paid to Ohio-qualified investment 1577  
managers, expressed as a percentage of total compensation paid to 1578  
all investment managers with which the board has contracted; 1579

(5) Any other information requested by the Ohio retirement 1580  
study council regarding the board's use of investment managers. 1581

**Sec. 3307.152.** (A) As used in this section and in section 1582  
3307.154 of the Revised Code: 1583

(1) "Agent" means a dealer, as defined in section 1707.01 of 1584  
the Revised Code, who is licensed under sections 1707.01 to 1585  
1707.45 of the Revised Code or under comparable laws of another 1586  
state or of the United States. 1587

(2) "Minority business enterprise" has the same meaning as in 1588  
section 122.71 of the Revised Code. 1589

(3) "Ohio-qualified agent" means an agent designated as such 1590  
by the state teachers retirement board. 1591

(4) "Ohio-qualified investment manager" means an investment 1592  
manager designated as such by the state teachers retirement board. 1593

(5) "Principal place of business" means an office in which 1594

the agent regularly provides securities or investment advisory 1595  
services and solicits, meets with, or otherwise communicates with 1596  
clients. 1597

(B) The state teachers retirement board shall, for the 1598  
purposes of this section, designate an agent as an Ohio-qualified 1599  
agent if the agent meets all of the following requirements: 1600

(1) The agent is subject to taxation under Chapter 5725., 1601  
5726., 5733., ~~or~~ 5747., or 5751. of the Revised Code. 1602

(2) The agent is authorized to conduct business in this 1603  
state. 1604

(3) The agent maintains a principal place of business in this 1605  
state and employs at least five residents of this state. 1606

(C) The state teachers retirement board shall adopt and 1607  
implement a written policy to establish criteria and procedures 1608  
used to select agents to execute securities transactions on behalf 1609  
of the retirement system. The policy shall address each of the 1610  
following: 1611

~~(a)~~(1) Commissions charged by the agent, both in the 1612  
aggregate and on a per share basis; 1613

~~(b)~~(2) The execution speed and trade settlement capabilities 1614  
of the agent; 1615

~~(c)~~(3) The responsiveness, reliability, and integrity of the 1616  
agent; 1617

~~(d)~~(4) The nature and value of research provided by the 1618  
agent; 1619

~~(e)~~(5) Any special capabilities of the agent. 1620

(D)(1) The board shall, at least annually, establish a policy 1621  
with the goal to increase utilization by the board of 1622  
Ohio-qualified agents for the execution of domestic equity and 1623  
fixed income trades on behalf of the retirement system, when an 1624

Ohio-qualified agent offers quality, services, and safety 1625  
comparable to other agents otherwise available to the board and 1626  
meets the criteria established under division (C) of this section. 1627

(2) The board shall review, at least annually, the 1628  
performance of the agents that execute securities transactions on 1629  
behalf of the board. 1630

(3) The board shall determine whether an agent is an 1631  
Ohio-qualified agent, meets the criteria established by the board 1632  
pursuant to division (C) of this section, and offers quality, 1633  
services, and safety comparable to other agents otherwise 1634  
available to the board. The board's determination shall be final. 1635

(E) The board shall, at least annually, submit to the Ohio 1636  
retirement study council a report containing the following 1637  
information: 1638

(1) The name of each agent designated as an Ohio-qualified 1639  
agent under this section; 1640

(2) The name of each agent that executes securities 1641  
transactions on behalf of the board; 1642

(3) The amount of equity and fixed-income trades that are 1643  
executed by Ohio-qualified agents, expressed as a percentage of 1644  
all equity and fixed-income trades that are executed by agents on 1645  
behalf of the board; 1646

(4) The compensation paid to Ohio-qualified agents, expressed 1647  
as a percentage of total compensation paid to all agents that 1648  
execute securities transactions on behalf of the board; 1649

(5) The amount of equity and fixed-income trades that are 1650  
executed by agents that are minority business enterprises, 1651  
expressed as a percentage of all equity and fixed-income trades 1652  
that are executed by agents on behalf of the board; 1653

(6) Any other information requested by the Ohio retirement 1654

study council regarding the board's use of agents. 1655

**Sec. 3307.154.** (A) The state teachers retirement board shall, 1656  
for the purposes of this section, designate an investment manager 1657  
as an Ohio-qualified investment manager if the investment manager 1658  
meets all of the following requirements: 1659

(1) The investment manager is subject to taxation under 1660  
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 1661  
Code. 1662

(2) The investment manager meets one of the following 1663  
requirements: 1664

(a) Has its corporate headquarters or principal place of 1665  
business in this state; 1666

(b) Employs at least five hundred individuals in this state; 1667

(c) Has a principal place of business in this state and 1668  
employs at least twenty residents of this state. 1669

(B)(1) The board shall, at least annually, establish a policy 1670  
with the goal to increase utilization by the board of 1671  
Ohio-qualified investment managers, when an Ohio-qualified 1672  
investment manager offers quality, services, and safety comparable 1673  
to other investment managers otherwise available to the board. The 1674  
policy shall also provide for the following: 1675

(a) A process whereby the board can develop a list of 1676  
Ohio-qualified investment managers and their investment products; 1677

(b) A process whereby the board can give public notice to 1678  
Ohio-qualified investment managers of the board's search for an 1679  
investment manager that includes the board's search criteria. 1680

(2) The board shall determine whether an investment manager 1681  
is an Ohio-qualified investment manager and whether the investment 1682  
manager offers quality, services, and safety comparable to other 1683

investment managers otherwise available to the board. The board's 1684  
determination shall be final. 1685

(C) The board shall, at least annually, submit to the Ohio 1686  
retirement study council a report containing the following 1687  
information: 1688

(1) The name of each investment manager designated as an 1689  
Ohio-qualified investment manager under this section; 1690

(2) The name of each investment manager with which the board 1691  
contracts; 1692

(3) The amount of assets managed by Ohio-qualified investment 1693  
managers, expressed as a percentage of the total assets held by 1694  
the retirement system and as a percentage of assets managed by 1695  
investment managers with which the board has contracted; 1696

(4) The compensation paid to Ohio-qualified investment 1697  
managers, expressed as a percentage of total compensation paid to 1698  
all investment managers with which the board has contracted; 1699

(5) Any other information requested by the Ohio retirement 1700  
study council regarding the board's use of investment managers. 1701

**Sec. 3309.157.** (A) As used in this section and in section 1702  
3309.159 of the Revised Code: 1703

(1) "Agent" means a dealer, as defined in section 1707.01 of 1704  
the Revised Code, who is licensed under sections 1707.01 to 1705  
1707.45 of the Revised Code or under comparable laws of another 1706  
state or of the United States. 1707

(2) "Minority business enterprise" has the same meaning as in 1708  
section 122.71 of the Revised Code. 1709

(3) "Ohio-qualified agent" means an agent designated as such 1710  
by the school employees retirement board. 1711

(4) "Ohio-qualified investment manager" means an investment 1712



manager designated as such by the school employees retirement 1713  
board. 1714

(5) "Principal place of business" means an office in which 1715  
the agent regularly provides securities or investment advisory 1716  
services and solicits, meets with, or otherwise communicates with 1717  
clients. 1718

(B) The school employees retirement board shall, for the 1719  
purposes of this section, designate an agent as an Ohio-qualified 1720  
agent if the agent meets all of the following requirements: 1721

(1) The agent is subject to taxation under Chapter 5725., 1722  
5726., 5733., or 5747., or 5751. of the Revised Code. 1723

(2) The agent is authorized to conduct business in this 1724  
state. 1725

(3) The agent maintains a principal place of business in this 1726  
state and ~~employees~~ employs at least five residents of this state. 1727

(C) The school employees retirement board shall adopt and 1728  
implement a written policy to establish criteria and procedures 1729  
used to select agents to execute securities transactions on behalf 1730  
of the retirement system. The policy shall address each of the 1731  
following: 1732

~~(a)~~ (1) Commissions charged by the agent, both in the 1733  
aggregate and on a per share basis; 1734

~~(b)~~ (2) The execution speed and trade settlement capabilities 1735  
of the agent; 1736

~~(c)~~ (3) The responsiveness, reliability, and integrity of the 1737  
agent; 1738

~~(d)~~ (4) The nature and value of research provided by the 1739  
agent; 1740

~~(e)~~ (5) Any special capabilities of the agent. 1741

(D)(1) The board shall, at least annually, establish a policy 1742  
with the goal to increase utilization by the board of 1743  
Ohio-qualified agents for the execution of domestic equity and 1744  
fixed income trades on behalf of the retirement system, when an 1745  
Ohio-qualified agent offers quality, services, and safety 1746  
comparable to other agents otherwise available to the board and 1747  
meets the criteria established under division (C) of this section. 1748

(2) The board shall review, at least annually, the 1749  
performance of the agents that execute securities transactions on 1750  
behalf of the board. 1751

(3) The board shall determine whether an agent is an 1752  
Ohio-qualified agent, meets the criteria established by the board 1753  
pursuant to division (C) of this section, and offers quality, 1754  
services, and safety comparable to other agents otherwise 1755  
available to the board. The board's determination shall be final. 1756

(E) The board shall, at least annually, submit to the Ohio 1757  
retirement study council a report containing the following 1758  
information: 1759

(1) The name of each agent designated as an Ohio-qualified 1760  
agent under this section; 1761

(2) The name of each agent that executes securities 1762  
transactions on behalf of the board; 1763

(3) The amount of equity and fixed-income trades that are 1764  
executed by Ohio-qualified agents, expressed as a percentage of 1765  
all equity and fixed-income trades that are executed by agents on 1766  
behalf of the board; 1767

(4) The compensation paid to Ohio-qualified agents, expressed 1768  
as a percentage of total compensation paid to all agents that 1769  
execute securities transactions on behalf of the board; 1770

(5) The amount of equity and fixed-income trades that are 1771

executed by agents that are minority business enterprises, 1772  
expressed as a percentage of all equity and fixed-income trades 1773  
that are executed by agents on behalf of the board; 1774

(6) Any other information requested by the Ohio retirement 1775  
study council regarding the board's use of agents. 1776

**Sec. 3309.159.** (A) The school employees retirement board 1777  
shall, for the purposes of this section, designate an investment 1778  
manager as an Ohio-qualified investment manager if the investment 1779  
manager meets all of the following requirements: 1780

(1) The investment manager is subject to taxation under 1781  
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 1782  
Code. 1783

(2) The investment manager meets one of the following 1784  
requirements: 1785

(a) Has its corporate headquarters or principal place of 1786  
business in this state; 1787

(b) Employs at least five hundred individuals in this state; 1788

(c) Has a principal place of business in this state and 1789  
employs at least ~~20~~ twenty residents of this state. 1790

(B)(1) The board shall, at least annually, establish a policy 1791  
with the goal to increase utilization by the board of 1792  
Ohio-qualified investment managers, when an Ohio-qualified 1793  
investment manager offers quality, services, and safety comparable 1794  
to other investment managers otherwise available to the board. The 1795  
policy shall also provide for the following: 1796

(a) A process whereby the board can develop a list of 1797  
Ohio-qualified investment managers and their investment products; 1798

(b) A process whereby the board can give public notice to 1799  
Ohio-qualified investment managers of the board's search for an 1800

investment manager that includes the board's search criteria. 1801

(2) The board shall determine whether an investment manager 1802  
is an Ohio-qualified investment manager and whether the investment 1803  
manager offers quality, services, and safety comparable to other 1804  
investment managers otherwise available to the board. The board's 1805  
determination shall be final. 1806

(C) The board shall, at least annually, submit to the Ohio 1807  
retirement study council a report containing the following 1808  
information: 1809

(1) The name of each investment manager designated as an 1810  
Ohio-qualified investment manager under this section; 1811

(2) The name of each investment manager with which the board 1812  
contracts; 1813

(3) The amount of assets managed by Ohio-qualified investment 1814  
managers, expressed as a percentage of the total assets held by 1815  
the retirement system and as a percentage of assets managed by 1816  
investment managers with which the board has contracted; 1817

(4) The compensation paid to Ohio-qualified investment 1818  
managers, expressed as a percentage of total compensation paid to 1819  
all investment managers with which the board has contracted; 1820

(5) Any other information requested by the Ohio retirement 1821  
study council regarding the board's use of investment managers. 1822

**Sec. 5505.068.** (A) As used in this section and in section 1823  
5505.0610 of the Revised Code: 1824

(1) "Agent" means a dealer, as defined in section 1707.01 of 1825  
the Revised Code, who is licensed under sections 1707.01 to 1826  
1707.45 of the Revised Code or under comparable laws of another 1827  
state or of the United States. 1828

(2) "Minority business enterprise" has the same meaning as in 1829

section 122.71 of the Revised Code. 1830

(3) "Ohio-qualified agent" means an agent designated as such 1831  
by the state highway patrol retirement board. 1832

(4) "Ohio-qualified investment manager" means an investment 1833  
manager designated as such by the state highway patrol retirement 1834  
board. 1835

(5) "Principal place of business" means an office in which 1836  
the agent regularly provides securities or investment advisory 1837  
services and solicits, meets with, or otherwise communicates with 1838  
clients. 1839

(B) The state highway patrol retirement board shall, for the 1840  
purposes of this section, designate an agent as an Ohio-qualified 1841  
agent if the agent meets all of the following requirements: 1842

(1) The agent is subject to taxation under Chapter 5725., 1843  
5726., 5733., or 5747., or 5751. of the Revised Code. 1844

(2) The agent is authorized to conduct business in this 1845  
state; 1846

(3) The agent maintains a principal place of business in this 1847  
state and employs at least five residents of this state. 1848

(C) The state highway patrol retirement board shall adopt and 1849  
implement a written policy to establish criteria and procedures 1850  
used to select agents to execute securities transactions on behalf 1851  
of the retirement system. The policy shall address each of the 1852  
following: 1853

(1) Commissions charged by the agent, both in the aggregate 1854  
and on a per share basis; 1855

(2) The execution speed and trade settlement capabilities of 1856  
the agent; 1857

(3) The responsiveness, reliability, and integrity of the 1858  
agent; 1859

(4) The nature and value of research provided by the agent; 1860

(5) Any special capabilities of the agent. 1861

(D)(1) The board shall, at least annually, establish a policy 1862  
with the goal to increase utilization by the board of 1863  
Ohio-qualified agents for the execution of domestic equity and 1864  
fixed income trades on behalf of the retirement system, when an 1865  
Ohio-qualified agent offers quality, services, and safety 1866  
comparable to other agents otherwise available to the board and 1867  
meets the criteria established under division (C) of this section. 1868

(2) The board shall review, at least annually, the 1869  
performance of the agents that execute securities transactions on 1870  
behalf of the board. 1871

(3) The board shall determine whether an agent is an 1872  
Ohio-qualified agent, meets the criteria established by the board 1873  
pursuant to division (C) of this section, and offers quality, 1874  
services, and safety comparable to other agents otherwise 1875  
available to the board. The board's determination shall be final. 1876

(E) The board shall, at least annually, submit to the Ohio 1877  
retirement study council a report containing the following 1878  
information: 1879

(1) The name of each agent designated as an Ohio-qualified 1880  
agent under this section; 1881

(2) The name of each agent that executes securities 1882  
transactions on behalf of the board; 1883

(3) The amount of equity and fixed-income trades that are 1884  
executed by Ohio-qualified agents, expressed as a percentage of 1885  
all equity and fixed-income trades that are executed by agents on 1886  
behalf of the board; 1887

(4) The compensation paid to Ohio-qualified agents, expressed 1888  
as a percentage of total compensation paid to all agents that 1889

execute securities transactions on behalf of the board; 1890

(5) The amount of equity and fixed-income trades that are 1891  
executed by agents that are minority business enterprises, 1892  
expressed as a percentage of all equity and fixed-income trades 1893  
that are executed by agents on behalf of the board; 1894

(6) Any other information requested by the Ohio retirement 1895  
study council regarding the board's use of agents. 1896

**Sec. 5505.0610.** (A) The state highway patrol retirement board 1897  
shall, for the purposes of this section, designate an investment 1898  
manager as an Ohio-qualified investment manager if the investment 1899  
manager meets all of the following requirements: 1900

(1) The investment manager is subject to taxation under 1901  
Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised 1902  
Code. 1903

(2) The investment manager meets one of the following 1904  
requirements: 1905

(a) Has its corporate headquarters or principal place of 1906  
business in this state; 1907

(b) Employs at least five hundred individuals in this state; 1908

(c) Has a principal place of business in this state and 1909  
employs at least ~~20~~ twenty residents of this state. 1910

(B)(1) The board shall, at least annually, establish a policy 1911  
with the goal to increase utilization by the board of 1912  
Ohio-qualified investment managers, when an Ohio-qualified 1913  
investment manager offers quality, services, and safety comparable 1914  
to other investment managers otherwise available to the board. The 1915  
policy shall also provide for the following: 1916

(a) A process whereby the board can develop a list of 1917  
Ohio-qualified investment managers and their investment products; 1918

(b) A process whereby the board can give public notice to 1919  
Ohio-qualified investment managers of the board's search for an 1920  
investment manager that includes the board's search criteria. 1921

(2) The board shall determine whether an investment manager 1922  
is an Ohio-qualified investment manager and whether the investment 1923  
manager offers quality, services, and safety comparable to other 1924  
investment managers otherwise available to the board. The board's 1925  
determination shall be final. 1926

(C) The board shall, at least annually, submit to the Ohio 1927  
retirement study council a report containing the following 1928  
information: 1929

(1) The name of each investment manager designated as an 1930  
Ohio-qualified investment manager under this section; 1931

(2) The name of each investment manager with which the board 1932  
contracts; 1933

(3) The amount of assets managed by Ohio-qualified investment 1934  
managers, expressed as a percentage of the total assets held by 1935  
the retirement system and as a percentage of assets managed by 1936  
investment managers with which the board has contracted; 1937

(4) The compensation paid to Ohio-qualified investment 1938  
managers, expressed as a percentage of total compensation paid to 1939  
all investment managers with which the board has contracted; 1940

(5) Any other information requested by the Ohio retirement 1941  
study council regarding the board's use of investment managers. 1942

Sec. 5701.12. (A) The effective date to which this section 1943  
refers is the effective date of this section as enacted by H.B. 1944  
510 of the 129th general assembly. 1945

(B) Any reference in Title LVII to "consolidated reports of 1946  
condition and income" or "call report" means the consolidated 1947  
reports of condition and income as those reports existed on the 1948



effective date. 1949

(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means 1950  
the FR Y-9 financial statements as those financial statements 1951  
existed on the effective date. 1952

(D) This section does not apply to any reference in Title 1953  
LVII of the Revised Code to "consolidated reports of condition and 1954  
income," "call report," "FR Y-9," or "Y-9" as of a date certain 1955  
specifying the day, month, and year. 1956

**Sec. 5703.052.** (A) There is hereby created in the state 1957  
treasury the tax refund fund, from which refunds shall be paid for 1958  
taxes illegally or erroneously assessed or collected, or for any 1959  
other reason overpaid, that are levied by Chapter 4301., 4305., 1960  
5726., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 1961  
5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 1962  
3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 1963  
5727.811 of the Revised Code. Refunds for fees illegally or 1964  
erroneously assessed or collected, or for any other reason 1965  
overpaid, that are levied by sections 3734.90 to 3734.9014 of the 1966  
Revised Code also shall be paid from the fund. Refunds for amounts 1967  
illegally or erroneously assessed or collected by the tax 1968  
commissioner, or for any other reason overpaid, that are due under 1969  
section 1509.50 of the Revised Code shall be paid from the fund. 1970  
However, refunds for taxes levied under section 5739.101 of the 1971  
Revised Code shall not be paid from the tax refund fund, but shall 1972  
be paid as provided in section 5739.104 of the Revised Code. 1973

(B)(1) Upon certification by the tax commissioner to the 1974  
treasurer of state of a tax refund, a fee refund, or an other 1975  
amount refunded, or by the superintendent of insurance of a 1976  
domestic or foreign insurance tax refund, the treasurer of state 1977  
shall place the amount certified to the credit of the fund. The 1978  
certified amount transferred shall be derived from current 1979

receipts of the same tax, fee, or other amount from which the 1980  
refund arose. If current receipts from the tax, fee, or other 1981  
amount from which the refund arose are inadequate to make the 1982  
transfer of the amount so certified, the treasurer of state shall 1983  
transfer such certified amount from current receipts of the sales 1984  
tax levied by section 5739.02 of the Revised Code. 1985

(2) When the treasurer of state provides for the payment of a 1986  
refund of a tax, fee, or other amount from the current receipts of 1987  
the sales tax, and the refund is for a tax, fee, or other amount 1988  
that is not levied by the state, the tax commissioner shall 1989  
recover the amount of that refund from the next distribution of 1990  
that tax, fee, or other amount that otherwise would be made to the 1991  
taxing jurisdiction. If the amount to be recovered would exceed 1992  
twenty-five per cent of the next distribution of that tax, fee, or 1993  
other amount, the commissioner may spread the recovery over more 1994  
than one future distribution, taking into account the amount to be 1995  
recovered and the amount of the anticipated future distributions. 1996  
In no event may the commissioner spread the recovery over a period 1997  
to exceed twenty-four months. 1998

**Sec. 5703.053.** As used in this section, "postal service" 1999  
means the United States postal service. 2000

An application to the tax commissioner for a tax refund under 2001  
section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 2002  
5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 2003  
5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the Revised Code 2004  
or division (B) of section 5703.05 of the Revised Code, or a fee 2005  
refunded under section 3734.905 of the Revised Code, that is 2006  
received after the last day for filing under such section shall be 2007  
considered to have been filed in a timely manner if: 2008

(A) The application is delivered by the postal service and 2009  
the earliest postal service postmark on the cover in which the 2010

application is enclosed is not later than the last day for filing 2011  
the application; 2012

(B) The application is delivered by the postal service, the 2013  
only postmark on the cover in which the application is enclosed 2014  
was affixed by a private postal meter, the date of that postmark 2015  
is not later than the last day for filing the application, and the 2016  
application is received within seven days of such last day; or 2017

(C) The application is delivered by the postal service, no 2018  
postmark date was affixed to the cover in which the application is 2019  
enclosed or the date of the postmark so affixed is not legible, 2020  
and the application is received within seven days of the last day 2021  
for making the application. 2022

**Sec. 5703.70.** (A) On the filing of an application for refund 2023  
under section 3734.905, 4307.05, 4307.07, 5726.30, 5727.28, 2024  
5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 2025  
5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 2026  
5743.53, 5749.08, 5751.08, or 5753.06 of the Revised Code, or an 2027  
application for compensation under section 5739.061 of the Revised 2028  
Code, if the tax commissioner determines that the amount of the 2029  
refund or compensation to which the applicant is entitled is less 2030  
than the amount claimed in the application, the commissioner shall 2031  
give the applicant written notice by ordinary mail of the amount. 2032  
The notice shall be sent to the address shown on the application 2033  
unless the applicant notifies the commissioner of a different 2034  
address. The applicant shall have sixty days from the date the 2035  
commissioner mails the notice to provide additional information to 2036  
the commissioner or request a hearing, or both. 2037

(B) If the applicant neither requests a hearing nor provides 2038  
additional information to the tax commissioner within the time 2039  
prescribed by division (A) of this section, the commissioner shall 2040  
take no further action, and the refund or compensation amount 2041

denied becomes final. 2042

(C)(1) If the applicant requests a hearing within the time 2043  
prescribed by division (A) of this section, the tax commissioner 2044  
shall assign a time and place for the hearing and notify the 2045  
applicant of such time and place, but the commissioner may 2046  
continue the hearing from time to time as necessary. After the 2047  
hearing, the commissioner may make such adjustments to the refund 2048  
or compensation as the commissioner finds proper, and shall issue 2049  
a final determination thereon. 2050

(2) If the applicant does not request a hearing, but provides 2051  
additional information, within the time prescribed by division (A) 2052  
of this section, the commissioner shall review the information, 2053  
make such adjustments to the refund or compensation as the 2054  
commissioner finds proper, and issue a final determination 2055  
thereon. 2056

(3) The commissioner shall serve a copy of the final 2057  
determination made under division (C)(1) or (2) of this section on 2058  
the applicant in the manner provided in section 5703.37 of the 2059  
Revised Code, and the decision is final, subject to appeal under 2060  
section 5717.02 of the Revised Code. 2061

(D) The tax commissioner shall certify to the director of 2062  
budget and management and treasurer of state for payment from the 2063  
tax refund fund created by section 5703.052 of the Revised Code, 2064  
the amount of the refund to be refunded under division (B) or (C) 2065  
of this section. The commissioner also shall certify to the 2066  
director and treasurer of state for payment from the general 2067  
revenue fund the amount of compensation to be paid under division 2068  
(B) or (C) of this section. 2069

**Sec. 5707.03.** Annual taxes are hereby levied on the kinds of 2070  
intangible property, enumerated in this section, on the intangible 2071  
property tax list in the office of the treasurer of state at the 2072

|  |      |
|--|------|
| following rates:   | 2073 |
| (A) On investments, five per cent of income yield or of                      | 2074 |
| income as provided by section 5711.10 of the Revised Code for the            | 2075 |
| 1983, 1984, and 1985 return years and no tax for subsequent return           | 2076 |
| years;   | 2077 |
| (B) On unproductive investments, two mills on the dollar for                 | 2078 |
| the 1983, 1984, and 1985 return years and no tax for subsequent              | 2079 |
| return years;  | 2080 |
| (C) On deposits, one and three-eighths mills on the dollar                   | 2081 |
| for the 1982 and 1983 return years and no tax for subsequent                 | 2082 |
| return years;  | 2083 |
| (D) On shares of, and capital employed by, dealers in                        | 2084 |
| intangibles, eight mills on the dollar <u>for return years prior to</u>      | 2085 |
| <u>2014 and no tax under this section for subsequent return years;</u>       | 2086 |
| (E) On money, credits, and all other taxable intangibles,                    | 2087 |
| three mills on the dollar for the 1983, 1984, and 1985 return                | 2088 |
| years and no tax for subsequent return years.                                | 2089 |
| The object and distribution of such taxes shall be as                        | 2090 |
| provided in section 5725.24 of the Revised Code.                             | 2091 |
| <b>Sec. 5709.76.</b> (A) All of the following are exempt from taxes          | 2092 |
| levied by the state and its subdivisions:                                    | 2093 |
| (1) Public obligations;  | 2094 |
| (2) Interest or interest equivalent on public obligations and                | 2095 |
| on purchase obligations;   | 2096 |
| (3) The transfer, and any profit made on the sale, exchange,                 | 2097 |
| or other disposition, of public obligations.                                 | 2098 |
| (B) The exemptions granted by division (A) of this section                   | 2099 |
| apply to public obligations and purchase obligations issued,                 | 2100 |
| incurred, or entered into before, on, or after <del>the effective date</del> | 2101 |

~~of this section March 29, 1988~~, but only for taxable years ending 2102  
on or after the later of July 1, 1988, or ~~the effective date of~~ 2103  
~~this section March 29, 1988~~. 2104

(C) This section supplements, and does not restrict, limit, 2105  
or impair, any exemption from taxation otherwise provided for in 2106  
the Ohio Constitution, the Revised Code, or other laws. 2107

(D) As used in this section: 2108

(1) "Fractionalized interests in purchase obligations" means 2109  
participations, shares, or other instruments or agreements, 2110  
separate from the purchase obligations themselves, evidencing 2111  
ownership of interests in purchase obligations or of rights to 2112  
receive payments of, or on account of, principal or interest or 2113  
their equivalents payable by or on behalf of the state or a 2114  
subdivision pursuant to purchase obligations, and does not include 2115  
interests or shares in qualified investment trusts. 2116

(2) "Interest or interest equivalent" means those payments or 2117  
portions of payments, however denominated, that constitute or 2118  
represent consideration for forbearing the collection of money, or 2119  
for deferring the receipt of payment of money to a future time, as 2120  
determined for federal income tax purposes, and includes those 2121  
portions of a qualified investment trust's distributions to its 2122  
shareholders or beneficial owners, whether distributed or deemed 2123  
distributed in cash or in trust shares or interests, that are 2124  
attributable to the trust's receipt of interest or interest 2125  
equivalent. 2126

(3) "Internal Revenue Code" has the same meaning as in 2127  
division (H) of section 5747.01 of the Revised Code. 2128

(4) "Qualified investment trust" or "trust" means a unit 2129  
investment trust, grantor trust, or regulated investment company, 2130  
if at all times at least fifty per cent of the value of the total 2131  
assets of the trust or company consists of public securities or 2132

purchase obligations, or similar obligations of other states or 2133  
their subdivisions. 2134

(5) "Public obligations" means public securities, 2135  
fractionalized interests in purchase obligations, and any 2136  
obligation or evidence of obligation to pay interest or interest 2137  
equivalent on public securities or on fractionalized interests in 2138  
purchase obligations, and does not include purchase obligations. 2139

(6) "Public securities" means bonds, notes, certificates of 2140  
indebtedness, commercial paper, and other instruments in writing 2141  
issued by the state or a subdivision, or by any nonprofit 2142  
corporation authorized to issue public securities for or on behalf 2143  
of the state or a subdivision, to evidence the obligation of the 2144  
state, subdivision, or nonprofit corporation to repay money 2145  
borrowed by, or to pay at any future time other money obligations 2146  
of, the state, subdivision, or nonprofit corporation, and does not 2147  
include purchase obligations. Public securities may be in the form 2148  
of either certificated securities or uncertificated securities, as 2149  
those terms are defined in section 1308.01 of the Revised Code. 2150

(7) "Purchase obligations" means interest-bearing obligations 2151  
of the state or a subdivision to make payments under installment 2152  
sale, lease, lease purchase, or similar types of agreements. 2153

(8) "Regulated investment company" means a regulated 2154  
investment company as defined in section 851 of the Internal 2155  
Revenue Code. 2156

(9) "State" means the state, state officers, and state 2157  
agencies, including commissions, institutions, boards, agencies, 2158  
authorities, or other instrumentalities. 2159

(10) "Subdivision" means any local taxing authority, 2160  
political or governmental subdivision, body corporate and politic, 2161  
or other local public or governmental entity in the state, any 2162  
combination or consortium of two or more of those subdivisions, 2163

and any public division, district, commission, authority, 2164  
department, board, officer, or institution of any one or more of 2165  
those subdivisions. 2166

(11) "Taxes" means any direct or indirect taxes, including 2167  
income, ad valorem, transfer, and excise taxes, and including the 2168  
tax on the net income measure of the issued and outstanding shares 2169  
of a corporation under Chapter 5733. of the Revised Code. "Taxes" 2170  
does not mean any of the following: 2171

(a) The tax on the net worth measure of the issued and 2172  
outstanding shares of corporations and financial institutions 2173  
under Chapter 5733. of the Revised Code; 2174

(b) The tax on the value of the gross estate under Chapter 2175  
5731. of the Revised Code; 2176

(c) The tax on the value of the capital and surplus of a 2177  
domestic insurance company under Chapter 5725. of the Revised 2178  
Code; 2179

(d) The tax on the shares of and capital employed by dealers 2180  
in intangibles under Chapter 5725. and section 5707.03 of the 2181  
Revised Code; 2182

(e) The tax levied on the basis of the total equity capital 2183  
of financial institutions under Chapter 5726. of the Revised Code. 2184

**Sec. 5711.22.** (A) Deposits not taxed at the source shall be 2185  
listed and assessed at their amount in dollars on the day they are 2186  
required to be listed. Moneys shall be listed and assessed at the 2187  
amount thereof in dollars on hand on the day that they are 2188  
required to be listed. In listing investments, the amount of the 2189  
income yield of each for the calendar year next preceding the date 2190  
of listing shall, except as otherwise provided in this chapter, be 2191  
stated in dollars and cents and the assessment thereof shall be at 2192  
the amount of such income yield; but any property defined as 2193



investments in either division (A) or (B) of section 5701.06 of 2194  
the Revised Code that has not been outstanding for the full 2195  
calendar year next preceding the date of listing, except shares of 2196  
stock of like kind as other shares of the same corporation 2197  
outstanding for the full calendar year next preceding the date of 2198  
listing, or which has yielded no income during such calendar year 2199  
shall be listed and assessed as unproductive investments, at their 2200  
true value in money on the day that such investments are required 2201  
to be listed. 2202

Credits and other taxable intangibles shall be listed and 2203  
assessed at their true value in money on the day as of which the 2204  
same are required to be listed. 2205

Shares of stock of a bank holding company, as defined in 2206  
Title 12 U.S.C.A., section 1841, that are required to be listed 2207  
for taxation under this division and upon which dividends were 2208  
paid during the year of their issuance, which dividends are 2209  
subject to taxation under the provisions of Chapter 5747. of the 2210  
Revised Code, shall be exempt from the intangibles tax for the 2211  
year immediately succeeding their issuance. If such shares bear 2212  
dividends the first calendar year after their issuance, which 2213  
dividends are subject to taxation under the provisions of Chapter 2214  
5747. of the Revised Code, it shall be deemed that the 2215  
nondelinquent intangible property tax pursuant to division (A) of 2216  
section 5707.04 of the Revised Code was paid on those dividends 2217  
paid that first calendar year after the issuance of the shares. 2218

(B) For tax years before tax year 2009, boilers, machinery, 2219  
equipment, and personal property the true value of which is 2220  
determined under division (B) of section 5711.21 of the Revised 2221  
Code shall be listed and assessed at an amount equal to the sum of 2222  
the products determined under divisions (B)(1), (2), and (3) of 2223  
this section: 2224

(1) Multiply the portion of the true value determined under 2225

division (B)(1) of section 5711.21 of the Revised Code by the 2226  
assessment rate for the tax year in division (G) of this section; 2227

(2) Multiply the portion of the true value determined under 2228  
division (B)(2) of section 5711.21 of the Revised Code by the 2229  
assessment rate in section 5727.111 of the Revised Code that is 2230  
applicable to the production equipment of an electric company; 2231

(3) Multiply the portion of the true value determined under 2232  
division (B)(3) of section 5711.21 of the Revised Code by the 2233  
assessment rate in section 5727.111 of the Revised Code that is 2234  
applicable to the property of an electric company that is not 2235  
production equipment. 2236

(C) For tax years before tax year 2009, personal property 2237  
leased to a public utility or interexchange telecommunications 2238  
company as defined in section 5727.01 of the Revised Code and used 2239  
directly in the rendition of a public utility service as defined 2240  
in division (P) of section 5739.01 of the Revised Code shall be 2241  
listed and assessed at the same percentage of true value in money 2242  
that such property is required to be assessed by section 5727.111 2243  
of the Revised Code if owned by the public utility or 2244  
interexchange telecommunications company. 2245

(D)(1) Merchandise or an agricultural product shipped from 2246  
outside this state and held in this state in a warehouse or a 2247  
place of storage without further manufacturing or processing and 2248  
for storage only and for shipment outside this state, but that 2249  
does not qualify as "not used in business in this state" under 2250  
division (B)(1) or (2) of section 5701.08 of the Revised Code, is 2251  
nevertheless not used in business in this state for property tax 2252  
purposes. 2253

(2) Merchandise or an agricultural product owned by a 2254  
qualified out-of-state person shipped from outside this state and 2255  
held in this state in a public warehouse without further 2256

manufacturing or processing and for temporary storage only and for 2257  
shipment inside this state, but that does not qualify as "not used 2258  
in business in this state" under division (B)(1) or (2) of section 2259  
5701.08 of the Revised Code, is nevertheless not used in business 2260  
in this state for property tax purposes. 2261

(3) As used in division (D)(2) of this section: 2262

(a) "Qualified out-of-state person" means a person that does 2263  
not own, lease, or use property, other than merchandise or an 2264  
agricultural product described in this division, in this state, 2265  
and does not have employees, agents, or representatives in this 2266  
state; 2267

(b) "Public warehouse" means a warehouse in this state that 2268  
is not subject to the control of or under the supervision of the 2269  
owner of the merchandise or agricultural product stored in it, or 2270  
staffed by the owner's employees, and from which the property is 2271  
to be shipped inside this state. 2272

(E) Personal property valued pursuant to section 5711.15 of 2273  
the Revised Code and personal property required to be listed on 2274  
the average basis by division (B) of section 5711.16 of the 2275  
Revised Code, except property described in division (D) of this 2276  
section, business fixtures, and furniture not held for sale in the 2277  
course of business, shall be listed and assessed at twenty-three 2278  
per cent of its true value in money for tax year 2005 and at the 2279  
percentage of such true value specified in division (G) of this 2280  
section for tax year 2006 and each tax year thereafter. 2281

(F) All manufacturing equipment as defined in section 5711.16 2282  
of the Revised Code shall be listed and assessed at the following 2283  
percentage of its true value in money: 2284

(1) For all such property not previously used in business in 2285  
this state by the owner thereof, or by related member or 2286  
predecessor of the owner, other than as inventory, before January 2287

|  |      |
|--|------|
| 1, 2005, zero per cent of true value;                              | 2288 |
| (2) For all other such property, at the percentage of true         | 2289 |
| value specified in division (G) of this section for tax year 2005  | 2290 |
| and each tax year thereafter.                                      | 2291 |
| (G) Unless otherwise provided by law, all other personal           | 2292 |
| property used in business that has not been legally regarded as an | 2293 |
| improvement on land and considered in arriving at the value of the | 2294 |
| real property assessed for taxation shall be listed and assessed   | 2295 |
| at the following percentages of true value in money:               | 2296 |
| (1) For tax year 2005, twenty-five per cent of true value;         | 2297 |
| (2) For tax year 2006, eighteen and three-fourths per cent of      | 2298 |
| true value;  | 2299 |
| (3) For tax year 2007, twelve and one-half per cent of true        | 2300 |
| value;   | 2301 |
| (4) For tax year 2008, six and one-fourth per cent of true         | 2302 |
| value;   | 2303 |
| (5) For tax year 2009 and each tax year thereafter, zero per       | 2304 |
| cent of true value.  | 2305 |
| (H)(1) For tax year 2007 and thereafter, all personal              | 2306 |
| property used by a telephone company, telegraph company, or        | 2307 |
| interexchange telecommunications company shall be listed as        | 2308 |
| provided in this chapter and assessed at the following percentages | 2309 |
| of true value in money:  | 2310 |
| (a) For tax year 2007, twenty per cent of true value;              | 2311 |
| (b) For tax year 2008, fifteen per cent of true value;             | 2312 |
| (c) For tax year 2009, ten per cent of true value;                 | 2313 |
| (d) For tax year 2010, five per cent of true value;                | 2314 |
| (e) For tax year 2011 and each tax year thereafter, zero per       | 2315 |
| cent of true value.  | 2316 |

(2) The property owned by a telephone, telegraph, or 2317  
telecommunications company shall be apportioned to each 2318  
appropriate taxing district as provided in section 5727.15 of the 2319  
Revised Code. 2320

(I) During and after the tax year in which the assessment 2321  
rate equals zero per cent, the property described in division (E), 2322  
(F), (G), or (H) of this section shall not be listed for taxation. 2323

(J) Divisions (E), (F), (G), and (H) of this section apply to 2324  
the property of a person described in divisions (E)(3) ~~to (10)~~, 2325  
(4), and (5) of section 5751.01 of the Revised Code. Division (J) 2326  
of this section does not prevent the application of the exemption 2327  
of property from taxation under section 5725.25 or 5725.26 of the 2328  
Revised Code. 2329

**Sec. 5725.02.** ~~The~~ For report years prior to 2014, the cashier 2330  
or other principal accounting officer of each bank, the secretary 2331  
or other principal accounting officer of each other incorporated 2332  
financial institution, and the manager or owner of each 2333  
unincorporated financial institution shall return to the 2334  
department of taxation between the first and second Mondays of 2335  
March, annually, a report exhibiting in detail, and under 2336  
appropriate heads, the resources and liabilities of such 2337  
institution at the close of business on the thirty-first day of 2338  
December next preceding. 2339

The report of each financial institution shall also show the 2340  
aggregate balances of the taxable deposits of its depositors in 2341  
each county in which the institution maintained an office for the 2342  
receipt of deposits, at the end of business on the day fixed by 2343  
the tax commissioner pursuant to section 5725.05 of the Revised 2344  
Code. The report shall show also the names and addresses of all 2345  
depositors whose deposits were wholly withdrawn from such 2346  
institution between the day so fixed and the date on which notice 2347

of the fixing was received by such institution, or if no such 2348  
notice was received, then between the day fixed and the first day 2349  
of January next following, and the amount of taxable deposits of 2350  
each such ~~depositer~~ depositor on the day fixed. 2351

**Sec. 5725.14.** (A) As used in this section and section 5725.15 2352  
of the Revised Code: 2353

(1) "Billing address" of a customer means one of the 2354  
following: 2355

(a) The customer's address as set forth in any notice, 2356  
statement, bill, or similar acknowledgment shall be presumed to be 2357  
the address where the customer is located with respect to the 2358  
transaction for which the dealer issued the notice, statement, 2359  
bill, or acknowledgment. 2360

(b) If the dealer issues any notice, statement, bill, or 2361  
similar acknowledgment electronically to an address other than a 2362  
street address or post office box address or if the dealer does 2363  
not issue such a notice, statement, bill, or acknowledgment, the 2364  
customer's street address as set forth in the records of the 2365  
dealer at the time of the transaction shall be presumed to be the 2366  
address where the customer is located. 2367

(2) "Commissions" includes but is not limited to brokerage 2368  
commissions, asset management fees, and similar fees charged in 2369  
the regular course of business to a customer for the maintenance 2370  
and management of the customer's account. 2371

(3) "Gross receipts" means one of the following: 2372

(a) In the case of a dealer in intangibles principally 2373  
engaged in the business of lending money or discounting loans, the 2374  
aggregate amount of loans effected or discounted; 2375

(b) In the case of a dealer in intangibles principally 2376  
engaged in the business of selling or buying stocks, bonds, or 2377

other similar securities either on the dealer's own account or as 2378  
agent for another, the aggregate amount of all commissions 2379  
charged. 2380

(B) Each dealer in intangibles shall return to the tax 2381  
commissioner between the first and second Mondays of March, 2382  
annually for return years prior to 2014, a report exhibiting in 2383  
detail, and under appropriate heads, the dealer's resources and 2384  
liabilities at the close of business on the thirty-first day of 2385  
December next preceding. In the case of an unincorporated dealer 2386  
in intangibles, such report shall also exhibit the amount or value 2387  
as of the date of conversion of all property within the year 2388  
preceding the date of listing, and on or after the first day of 2389  
November converted into bonds or other securities not taxed to the 2390  
extent such nontaxable bonds or securities may be shown in the 2391  
dealer's resources on such date, without deduction for 2392  
indebtedness created in the purchase of such nontaxable bonds or 2393  
securities. 2394

If a dealer in intangibles maintains separate business 2395  
offices, whether within this state only or within and without this 2396  
state, the report shall also show the gross receipts from business 2397  
done at each such office during the year ending on the 2398  
thirty-first day of December next preceding. 2399

For the purposes of this section and section 5725.15 of the 2400  
Revised Code, business is considered done at an office when it 2401  
originates at such office, but the receipts from business 2402  
originating at one office and consummated at another office shall 2403  
be divided equitably between such offices. 2404

(C) For the purposes of this section and section 5725.15 of 2405  
the Revised Code, in the case of a dealer in intangibles 2406  
principally engaged in the business of selling or buying stocks, 2407  
bonds, or other similar securities either on the dealer's own 2408  
account or as agent for another, the dealer's capital, surplus, 2409

and undivided profits employed in this state shall bear the same 2410  
ratio to the dealer's total capital, surplus, and undivided 2411  
profits employed everywhere as the amount described in division 2412  
(C)(1) of this section bears to the amount described in division 2413  
(C)(2) of this section: 2414

(1) The sum of the commissions earned during the year covered 2415  
by the report from transactions with respect to brokerage accounts 2416  
owned by customers having billing addresses in this state; 2417

(2) The sum of the commissions earned during that year from 2418  
transactions with respect to brokerage accounts owned by all of 2419  
the dealer's customers. 2420

(D) An incorporated dealer in intangibles which owns or 2421  
controls fifty-one per cent or more of the common stock of another 2422  
incorporated dealer in intangibles may, under uniform regulations 2423  
prescribed by the tax commissioner, make a consolidated return for 2424  
the purpose of sections 5725.01 to 5725.26, inclusive, of the 2425  
Revised Code. In such case the parent corporation making such 2426  
return is not required to include in its resources any of the 2427  
stocks, securities, or other obligations of its subsidiary 2428  
dealers, nor permitted to include in its liabilities any of its 2429  
own securities or other obligations belonging to its subsidiaries. 2430

**Sec. 5725.16.** On or before the first Monday of May, annually 2431  
for return years prior to 2014, the tax commissioner shall certify 2432  
to the treasurer of state the assessment of the shares or property 2433  
representing capital, or apportionment of either, of each dealer 2434  
in intangibles doing business in the state, showing separately the 2435  
amount representing capital employed in each county. 2436

The treasurer of state shall place the amounts certified on 2437  
the intangible property tax list in ~~his~~ the treasurer of state's 2438  
office in the names of the dealers represented by those 2439  
certificates. 2440



Any certificate of abatement issued pursuant to section 2441  
5703.05 of the Revised Code for the overpayment of the tax on 2442  
shares or property representing capital of a dealer in intangibles 2443  
may be tendered by the payee or transferee thereof to the 2444  
treasurer of state as payment for any taxes allocable to the 2445  
county in which the claim for overpayment arose. 2446

**Sec. 5725.26.** The real estate of a financial institution or 2447  
dealer in intangibles shall be taxed in the place where it is 2448  
located, the same as the real estate of persons is taxed, but the 2449  
taxes provided for in Chapters 5725. ~~and, 5726.,~~ 5733., ~~and 5751.~~ 2450  
of the Revised Code, shall be in lieu of all other taxes on the 2451  
other property and assets of such institution or dealer, except 2452  
personal property taxable under Chapter 5711. of the Revised Code 2453  
and leased, or held for the purpose of leasing, to others if the 2454  
owner or lessor of the property acquired it for the sole purpose 2455  
of leasing it to others. 2456

For reports required to be filed under section 5725.14 of the 2457  
Revised Code in 2003 and thereafter, nothing in this section shall 2458  
be construed to exempt the property of any dealer in intangibles 2459  
under section 5725.13 of the Revised Code from the tax imposed 2460  
under section 5707.03 of the Revised Code. 2461

**Sec. 5725.33.** (A) Except as otherwise provided in this 2462  
section, terms used in this section have the same meaning as 2463  
section 45D of the Internal Revenue Code, any related proposed, 2464  
temporary or final regulations promulgated under the Internal 2465  
Revenue Code, any rules or guidance of the internal revenue 2466  
service or the United States department of the treasury, and any 2467  
related rules or guidance issued by the community development 2468  
financial institutions fund of the United States department of the 2469  
treasury, as such law, regulations, rules, and guidance exist on 2470  
~~the effective date of the enactment of this section by H.B. 1 of~~ 2471

~~the 128th general assembly~~ October 16, 2009. 2472

As used in this section: 2473

(1) "Adjusted purchase price" means the amount paid for 2474  
qualified equity investments multiplied by the qualified 2475  
low-income community investments made by the issuer in projects 2476  
located in this state as a percentage of the total amount of 2477  
qualified low-income community investments made by the issuer in 2478  
projects located in all states on the credit allowance date during 2479  
the applicable tax year, subject to divisions (B)(1) and (2) of 2480  
this section. 2481

(2) "Applicable percentage" means zero per cent for each of 2482  
the first two credit allowance dates, seven per cent for the third 2483  
credit allowance date, and eight per cent for the four following 2484  
credit allowance dates. 2485

(3) "Credit allowance date" means the date, on or after 2486  
January 1, 2010, a qualified equity investment is made and each of 2487  
the six anniversary dates thereafter. For qualified equity 2488  
investments made after ~~the effective date of this section~~ October 2489  
16, 2009, but before January 1, 2010, the initial credit allowance 2490  
date is January 1, 2010, and each of the six anniversary dates 2491  
thereafter is on the first day of January of each year. 2492

(4) "Qualified active low-income community business" excludes 2493  
any business that derives or projects to derive fifteen per cent 2494  
or more of annual revenue from the rental or sale of real 2495  
property, except any business that is a special purpose entity 2496  
principally owned by a principal user of that property formed 2497  
solely for the purpose of renting, either directly or indirectly, 2498  
or selling real property back to such principal user if such 2499  
principal user does not derive fifteen per cent or more of its 2500  
gross annual revenue from the rental or sale of real property. 2501

(5) "Qualified community development entity" includes only 2502  
entities: 2503

(a) That have entered into an allocation agreement with the 2504  
community development financial institutions fund of the United 2505  
States department of the treasury with respect to credits 2506  
authorized by section 45D of the Internal Revenue Code; 2507

(b) Whose service area includes any portion of this state; 2508  
and 2509

(c) That will designate an equity investment in such entities 2510  
as a qualified equity investment for purposes of both section 45D 2511  
of the Internal Revenue Code and this section. 2512

(6) "Qualified equity investment" is limited to an equity 2513  
investment in a qualified community development entity that: 2514

(a) Is acquired after ~~the effective date of the enactment of~~ 2515  
~~this section~~ October 16, 2009, at its original issuance solely in 2516  
exchange for cash; 2517

(b) Has at least eighty-five per cent of its cash purchase 2518  
price used by the qualified community development entity to make 2519  
qualified low-income community investments, provided that in the 2520  
seventh year after a qualified equity investment is made, only 2521  
seventy-five per cent of such cash purchase price must be used by 2522  
the qualified community development entity to make qualified 2523  
low-income community investments; and 2524

(c) Is designated by the issuer as a qualified equity 2525  
investment. 2526

"Qualified equity investment" includes any equity investment 2527  
that would, but for division (A)(6)(a) of this section, be a 2528  
qualified equity investment in the hands of the taxpayer if such 2529  
investment was a qualified equity investment in the hands of a 2530  
prior holder. 2531

(B) There is hereby allowed a nonrefundable credit against 2532  
the tax imposed by section 5725.18 of the Revised Code for an 2533  
insurance company holding a qualified equity investment on the 2534  
credit allowance date occurring in the calendar year for which the 2535  
tax is due. The credit shall equal the applicable percentage of 2536  
the adjusted purchase price of qualified low-income community 2537  
investments, subject to divisions (B)(1) and (2) of this section: 2538

(1) For the purpose of calculating the amount of qualified 2539  
low-income community investments held by a qualified community 2540  
development entity, an investment shall be considered held by a 2541  
qualified community development entity even if the investment has 2542  
been sold or repaid, provided that, at any time before the seventh 2543  
anniversary of the issuance of the qualified equity investment, 2544  
the qualified community development entity reinvests an amount 2545  
equal to the capital returned to or received or recovered by the 2546  
qualified community development entity from the original 2547  
investment, exclusive of any profits realized and costs incurred 2548  
in the sale or repayment, in another qualified low-income 2549  
community investment within twelve months of the receipt of such 2550  
capital. If the qualified low-income community investment is sold 2551  
or repaid after the sixth anniversary of the issuance of the 2552  
qualified equity investment, the qualified low-income community 2553  
investment shall be considered held by the ~~qualified~~ qualified 2554  
community development entity through the seventh anniversary of 2555  
the qualified equity investment's issuance. 2556

(2) The qualified low-income community investment made in 2557  
this state shall equal the sum of the qualified low-income 2558  
community investments in each qualified active low-income 2559  
community business in this state, not to exceed two million five 2560  
hundred sixty-four thousand dollars, in which the qualified 2561  
community development entity invests, including such investments 2562  
in any such businesses in this state related to that qualified 2563

active low-income community business through majority ownership or 2564  
control. 2565

The credit shall be claimed in the order prescribed by 2566  
section 5725.98 of the Revised Code. If the amount of the credit 2567  
exceeds the amount of tax otherwise due after deducting all other 2568  
credits in that order, the excess may be carried forward and 2569  
applied to the tax due for not more than four ensuing years. 2570

By claiming a tax credit under this section, an insurance 2571  
company waives its rights under section 5725.222 of the Revised 2572  
Code with respect to the time limitation for the assessment of 2573  
taxes as it relates to credits claimed that later become subject 2574  
to recapture under division (E) of this section. 2575

(C) The amount of qualified equity investments on the basis 2576  
of which credits may be claimed under this section and sections 2577  
5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed 2578  
the amount, estimated by the director of development, that would 2579  
cause the total amount of credits allowed each fiscal year to 2580  
exceed ten million dollars, computed without regard to the 2581  
potential for taxpayers to carry tax credits forward to later 2582  
years. 2583

(D) If any amount of the federal tax credit allowed for a 2584  
qualified equity investment for which a credit was received under 2585  
this section is recaptured under section 45D of the Internal 2586  
Revenue Code, or if the director of development services 2587  
determines that an investment for which a tax credit is claimed 2588  
under this section is not a qualified equity investment or that 2589  
the proceeds of an investment for which a tax credit is claimed 2590  
under this section are used to make qualified low-income community 2591  
investments other than in a qualified active low-income community 2592  
business, all or a portion of the credit received on account of 2593  
that investment shall be paid by the insurance company that 2594  
received the credit to the superintendent of insurance. The amount 2595

to be recovered shall be determined by the director of development 2596  
services pursuant to rules adopted under division (E) of this 2597  
section. The director shall certify any amount due under this 2598  
division to the superintendent of insurance, and the 2599  
superintendent shall notify the treasurer of state of the amount 2600  
due. Upon notification, the treasurer shall invoice the insurance 2601  
company for the amount due. The amount due is payable not later 2602  
than thirty days after the date the treasurer invoices the 2603  
insurance company. The amount due shall be considered to be tax 2604  
due under section 5725.18 of the Revised Code, and may be 2605  
collected by assessment without regard to the time limitations 2606  
imposed under section 5725.222 of the Revised Code for the 2607  
assessment of taxes by the superintendent. All amounts collected 2608  
under this division shall be credited as revenue from the tax 2609  
levied under section 5725.18 of the Revised Code. 2610

(E) The tax credits authorized under this section and 2611  
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 2612  
be administered by the department of development services. The 2613  
director of development services, in consultation with the tax 2614  
commissioner and the superintendent of insurance, pursuant to 2615  
Chapter 119. of the Revised Code, shall adopt rules for the 2616  
administration of this section and sections 5726.54, 5729.16, and 2617  
5733.58 of the Revised Code. The rules shall provide for 2618  
determining the recovery of credits under division (D) of this 2619  
section, ~~division (D) of section~~ and under sections 5726.54, 2620  
5729.16, and ~~section~~ 5733.58 of the Revised Code, including 2621  
prorating the amount of the credit to be recovered on any 2622  
reasonable basis, the manner in which credits may be allocated 2623  
among claimants, and the amount of any application or other fees 2624  
to be charged in connection with a recovery. 2625

(F) There is hereby created in the state treasury the new 2626  
markets tax credit operating fund. The director of development 2627

services is authorized to charge reasonable application and other 2628  
fees in connection with the administration of tax credits 2629  
authorized by this section and sections 5726.54, 5729.16, and 2630  
5733.58 of the Revised Code. Any such fees collected shall be 2631  
credited to the fund. The director of development services shall 2632  
use money in the fund to pay expenses related to the 2633  
administration of tax credits authorized under sections 5725.33, 2634  
5726.54, 5729.16, and 5733.58 of the Revised Code. 2635

Sec. 5726.01. As used in this chapter: 2636

(A) "Bank organization" means any of the following: 2637

(1) A national bank organized and operating as a national 2638  
bank association pursuant to the "National Bank Act," 13 Stat. 100 2639  
(1864), 12 U.S.C. 21, et seq.; 2640

(2) A federal savings association or federal savings bank 2641  
chartered under 12 U.S.C. 1464; 2642

(3) A bank, banking association, trust company, savings and 2643  
loan association, savings bank, or other banking institution that 2644  
is organized or incorporated under the laws of the United States, 2645  
any state, or a foreign country; 2646

(4) Any corporation organized and operating pursuant to 12 2647  
U.S.C. 611, et seq.; 2648

(5) Any agency or branch of a foreign bank, as those terms 2649  
are defined in 12 U.S.C. 3101; 2650

(6) An entity licensed as a small business investment company 2651  
under the "Small Business Investment Act of 1958," 72 Stat. 689, 2652  
15 U.S.C. 661, et seq.; 2653

(7) A company chartered under the "Farm Credit Act of 1933," 2654  
48 Stat. 257, or a successor of such a company. 2655

"Bank organization" does not include an institution organized 2656

under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a 2657  
successor of such an institution, an insurance company, or a 2658  
credit union. 2659

(B) "Call report" means the consolidated reports of condition 2660  
and income prescribed by the federal financial institutions 2661  
examination council that a person is required to file with a 2662  
federal regulatory agency pursuant to 12 U.S.C. 161, 12 U.S.C. 2663  
324, or 12 U.S.C. 1817. 2664

(C) "Credit union" means a nonprofit cooperative financial 2665  
institution organized or chartered under the laws of this state, 2666  
any other state, or the United States. 2667

(D) "Document of creation" means the articles of 2668  
incorporation of a corporation, articles of organization of a 2669  
limited liability company, registration of a foreign limited 2670  
liability company, certificate of limited partnership, 2671  
registration of a foreign limited partnership, registration of a 2672  
domestic or foreign limited liability partnership, or registration 2673  
of a trade name. 2674

(E) "Financial institution" means a bank organization or a 2675  
holding company of a bank organization, except when one of the 2676  
following applies: 2677

(1) If two or more entities are consolidated for the purposes 2678  
of filing an FR Y-9, "financial institution" means a group 2679  
consisting of all entities that are included in the FR Y-9. 2680

(2) If two or more entities are consolidated for the purposes 2681  
of filing a call report, "financial institution" means a group 2682  
consisting of all entities that are included in the call report 2683  
and that are not included in a group described in division (E)(1) 2684  
of this section. 2685

"Financial institution" does not include a diversified 2686  
savings and loan holding company as defined in 12 U.S.C. 1467a, as 2687



that section existed on January 1, 2012, or a grandfathered 2688  
unitary savings and loan holding company as defined in 12 U.S.C. 2689  
1467b. 2690

(F) "FR Y-9" means the consolidated or parent-only financial 2691  
statements that a holding company is required to file with the 2692  
federal reserve board pursuant to 12 U.S.C. 1844. In the case of a 2693  
holding company required to file both consolidated and parent-only 2694  
financial statements, "FR Y-9" means the consolidated financial 2695  
statements that the holding company is required to file. 2696

(G) "Gross receipts" means all items of income, without 2697  
deduction for expenses. If the reporting person for a taxpayer is 2698  
a holding company, "gross receipts" includes all items of income 2699  
reported on the FR Y-9 filed by the holding company. If the 2700  
reporting person for a taxpayer is a bank organization, "gross 2701  
receipts" includes all items of income reported on the call report 2702  
filed by the bank organization. 2703

(H) "Insurance company" means every corporation, association, 2704  
and society engaged in the business of insurance of any character, 2705  
or engaged in the business of entering into contracts 2706  
substantially amounting to insurance of any character, or of 2707  
indemnifying or guaranteeing against loss or damage, or acting as 2708  
surety on bonds or undertakings. "Insurance company" also includes 2709  
any health insuring corporation as defined in section 1751.01 of 2710  
the Revised Code. 2711

(I) "Reporting person" means one of the following: 2712

(1) In the case of a financial institution described in 2713  
division (E)(1) of this section, the top-tier holding company 2714  
required to file an FR Y-9 unless the top-tier holding company is 2715  
a diversified savings and loan holding company, as defined in 12 2716  
U.S.C. 1467a, as that section existed on January 1, 2012, or a 2717  
grandfathered unitary savings and loan holding company as defined 2718

in 12 U.S.C. 1467b. If the top-tier holding company is such a 2719  
holding company, then the reporting person shall be the bank 2720  
organization. 2721

(2) In the case of a financial institution described in 2722  
division (E)(2) of this section, the bank organization required to 2723  
file the call report. 2724

(J) "Tax year" means the calendar year for which the tax 2725  
levied under section 5726.02 of the Revised Code is required to be 2726  
paid. 2727

(K) "Taxable year" means the calendar year preceding the year 2728  
in which an annual report is required to be filed under section 2729  
5726.03 of the Revised Code. 2730

(L) "Taxpayer" means a financial institution subject to the 2731  
tax levied under section 5726.02 of the Revised Code. 2732

(M) "Total equity capital" means the sum of the common stock 2733  
at par value, perpetual preferred stock and related surplus, other 2734  
surplus not related to perpetual preferred stock, retained 2735  
earnings, accumulated other comprehensive income, treasury stock, 2736  
unearned employee stock ownership plan shares, and other equity 2737  
components of a financial institution. "Total equity capital" 2738  
shall include any noncontrolling (minority) interests in 2739  
consolidated subsidiaries that are financial institutions, as 2740  
reported on a financial institution's FR Y-9 or call report, but 2741  
shall not include such interests in consolidated subsidiaries that 2742  
are not financial institutions. 2743

(N) "Total Ohio equity capital" means the portion of the 2744  
total equity capital of a financial institution apportioned to 2745  
Ohio pursuant to section 5726.05 of the Revised Code. 2746

(O) "Holding company" does not include a diversified savings 2747  
and loan holding company as defined in 12 U.S.C. 1467a, as that 2748  
section existed on January 1, 2012, or a grandfathered unitary 2749

savings and loan holding company as defined in 12 U.S.C. 1467b. 2750

**Sec. 5726.02.** (A) For the purpose of funding the needs of 2751  
this state and its local governments beginning with the tax year 2752  
that commences on January 1, 2014, and continuing for every tax 2753  
year thereafter, there is hereby levied a tax on each financial 2754  
institution for the privilege of doing business in this state. A 2755  
financial institution is subject to the tax imposed under this 2756  
chapter for each calendar year that the financial institution 2757  
conducts business as a financial institution in this state or 2758  
otherwise has nexus in or with this state under the Constitution 2759  
of the United States on the first day of January of that calendar 2760  
year. 2761

(B) The amount of tax a financial institution is required to 2762  
pay under this chapter shall equal the greater of the minimum tax 2763  
required under division (A)(1) of section 5726.04 of the Revised 2764  
Code or the amount by which the tax calculated under division 2765  
(A)(2) of that section exceeds any credits allowed against the 2766  
tax. 2767

**Sec. 5726.03.** (A)(1) Annually, on or before the thirty-first 2768  
day of March, or on or before a later date as extended under 2769  
division (B) of this section, the reporting person for each 2770  
taxpayer shall make a report in writing to the tax commissioner, 2771  
in such form as the commissioner prescribes, and shall remit to 2772  
the commissioner the amount of tax shown to be due on the report. 2773  
The remittance shall be made payable to the treasurer of state. 2774  
The commissioner shall make available, on the official internet 2775  
web site of the department of taxation, copies of the forms 2776  
prescribed by the commissioner for the purpose of making the 2777  
annual report. 2778

(2) An annual report shall be signed by the president, 2779

vice-president, secretary, treasurer, general manager, 2780  
superintendent, or managing agent in this state of the reporting 2781  
person. 2782

(3) An annual report shall contain the facts, figures, 2783  
computations, and attachments that result in the determination of 2784  
the amount of tax due from a taxpayer under this chapter. 2785

(B) The tax commissioner may extend the period of time for 2786  
filing an annual report to the fifteenth day of the month 2787  
following the due date, including extensions thereof, for the 2788  
filing of the federal corporate income tax return for the taxable 2789  
year. The extension of time to file an annual report shall not 2790  
extend the time for payment of the tax. Any tax not paid on or 2791  
before the due date for such payment shall be subject to penalty 2792  
and interest as provided in this chapter. 2793

(C)(1) In the case of a financial institution described in 2794  
division (E)(1) of section 5726.01 of the Revised Code, the annual 2795  
report filed for a taxable year shall list, and include 2796  
information related to, each person includable in an FR Y-9 filed 2797  
by the reporting person for that taxable year. 2798

(2) In the case of a financial institution described in 2799  
division (E)(2) of section 5726.01 of the Revised Code, the annual 2800  
report for a taxable year shall list, and include information 2801  
related to, each person includable in a call report filed by the 2802  
reporting person for that taxable year. 2803

(D)(1) The reporting person for a taxpayer shall remit each 2804  
tax payment and, if required by the commissioner, file each annual 2805  
or estimated tax report electronically. The commissioner may 2806  
require reporting persons to use the Ohio business gateway as 2807  
defined in section 718.051 of the Revised Code to file reports and 2808  
remit the tax, or may provide another means for reporting persons 2809  
to file and remit the tax electronically. 2810

(2) The payment of taxes as provided in division (D) of this 2811  
section shall not affect a taxpayer's obligation to file an annual 2812  
report required under division (A) of this section. 2813

(3) The reporting person for a taxpayer that is required to 2814  
remit tax payments electronically under this section may apply to 2815  
the tax commissioner, in the manner prescribed by the 2816  
commissioner, to be excused from that requirement. The 2817  
commissioner may excuse the taxpayer from the requirements of 2818  
division (D) of this section for good cause. 2819

(4) If the reporting person for a taxpayer that is required 2820  
to remit tax payments or file reports electronically under this 2821  
section fails to do so, the commissioner may impose a penalty not 2822  
to exceed the following: 2823

(a) For either of the first two reports the person so fails, 2824  
five per cent of the amount of the payment that was required to be 2825  
remitted; 2826

(b) For the third and any subsequent reports the person so 2827  
fails, ten per cent of the amount of the payment that was required 2828  
to be remitted. 2829

The penalty imposed under this section is in addition to any 2830  
other penalty or charge imposed under this chapter and shall be 2831  
considered as revenue arising from the tax levied under this 2832  
chapter. A penalty may be collected by assessment in the manner 2833  
prescribed by section 5726.20 of the Revised Code. The tax 2834  
commissioner may abate all or a portion of such a penalty and may 2835  
adopt rules governing such abatements. 2836

**Sec. 5726.04.** (A) The tax levied on a financial institution 2837  
under this chapter shall be the greater of the following: 2838

(1) A minimum tax equal to one thousand dollars; 2839

(2) The product of the total Ohio equity capital of the 2840

financial institution, as determined under this section, 2841  
multiplied by eight mills for each dollar of the first two hundred 2842  
million dollars of total Ohio equity capital, by four mills for 2843  
each dollar of total Ohio equity capital greater than two hundred 2844  
million and less than one billion three hundred million one 2845  
dollars, and by two and one-half mills for each dollar of total 2846  
Ohio equity capital in excess of one billion three hundred million 2847  
dollars. 2848

(B) The total equity capital of a financial institution shall 2849  
equal the total equity capital shown on the reporting person's FR 2850  
Y-9 or call report as of the end of the taxable year. 2851

(C) For the purposes of this section, "total Ohio equity 2852  
capital" means the product of the total equity capital of a 2853  
financial institution as of the end of a taxable year multiplied 2854  
by the Ohio apportionment ratio calculated for the financial 2855  
institution under section 5726.05 of the Revised Code. 2856

(D) All payments received from the tax levied under this 2857  
chapter shall be credited to the general revenue fund. 2858

(E)(1) As used in this division: 2859

(a) "First target tax amount" means two hundred million 2860  
dollars. 2861

(b) "Second target tax amount" means one hundred six per cent 2862  
of the first target tax amount or, if applicable, the first target 2863  
tax amount as adjusted under division (E)(2) or (3) of this 2864  
section. 2865

(c) "Amount of taxes collected" means the amount of taxes 2866  
received by the tax commissioner from the tax levied under this 2867  
chapter for a tax year, less any amounts refunded to taxpayers for 2868  
the same tax year. 2869

(2) If, for the tax year beginning on January 1, 2014, the 2870

total amount of taxes collected from all taxpayers under this 2871  
chapter is greater than one hundred ten per cent of the first 2872  
target tax amount, the tax commissioner shall decrease each tax 2873  
rate provided in division (A)(2) of this section by a percentage 2874  
equal to the percentage by which the amount of taxes collected 2875  
exceeded the first target tax amount. 2876

(3) If, for the tax year beginning on January 1, 2014, the 2877  
total amount of taxes collected from all taxpayers under this 2878  
chapter is less than ninety per cent of the target tax amount, the 2879  
tax commissioner shall increase the tax rate for each dollar of 2880  
total Ohio equity capital in excess of one billion three hundred 2881  
million dollars as provided in division (A)(2) of this section by 2882  
a percentage equal to the difference of (a) the percentage by 2883  
which the first target tax amount exceeded the amount of taxes 2884  
collected minus (b) ten per cent of the first target tax amount. 2885

(4) If, for the tax year beginning on January 1, 2016, the 2886  
total amount of taxes collected from all taxpayers under this 2887  
chapter is greater than one hundred ten per cent of the second 2888  
target tax amount, the tax commissioner shall decrease each tax 2889  
rate in effect on January 1, 2016, by a percentage equal to the 2890  
percentage by which the amount of taxes collected exceeded the 2891  
second target tax amount. 2892

(5) If, for the tax year beginning on January 1, 2016, the 2893  
total amount of taxes collected from all taxpayers under this 2894  
chapter is less than ninety per cent of the second target tax 2895  
amount, the tax commissioner shall increase the tax rate for each 2896  
dollar of total Ohio equity capital in excess of one billion three 2897  
hundred million dollars as provided in division (A)(2) of this 2898  
section by a percentage equal to the difference of (a) the 2899  
percentage by which the second target tax amount exceeded the 2900  
amount of taxes collected minus (b) ten per cent of the second 2901  
target tax amount. 2902

(6) Tax rates adjusted pursuant to division (E)(2), (3), (4), 2903  
or (5) of this section shall be rounded to the nearest one-tenth 2904  
of one mill per dollar. The tax commissioner shall publish the new 2905  
tax rates by journal entry and provide notice of the new tax rates 2906  
to taxpayers. The new tax rates adjusted pursuant to division 2907  
(E)(2) or (3) of this section shall apply to tax years beginning 2908  
on or after January 1, 2015. The new tax rates adjusted pursuant 2909  
to division (E)(4) or (5) of this section shall apply to tax years 2910  
beginning on or after January 1, 2017. 2911

**Sec. 5726.05.** (A) An apportionment factor shall be used to 2912  
determine the total Ohio equity capital of a financial 2913  
institution. The factor shall be based upon the gross receipts 2914  
generated by the financial institution and reported in the same 2915  
manner as provided for the determination of the financial 2916  
institution's total equity capital for a tax year under division 2917  
(B) of section 5726.04 of the Revised Code. 2918

(B) The apportionment factor is a fraction, the numerator of 2919  
which is the total gross receipts of the financial institution in 2920  
this state during the taxable year and the denominator of which is 2921  
the total gross receipts of the financial institution everywhere 2922  
during the taxable year. Gross receipts generated by a financial 2923  
institution shall be situated to this state in the proportion that 2924  
the customers' benefit in this state with respect to the services 2925  
received bears to the customers' benefit everywhere with respect 2926  
to the services received. The physical location where the customer 2927  
ultimately uses or receives the benefit of what was received shall 2928  
be paramount in determining the proportion of the benefit in this 2929  
state to the benefit everywhere. The method of calculating gross 2930  
receipts for purposes of the denominator shall be the same as the 2931  
method used in determining gross receipts for purposes of the 2932  
numerator. 2933



|   |      |
|---|------|
| <u>(C) The following are examples of gross receipts to be</u>             | 2934 |
| <u>included in the numerator of the apportionment factor:</u>             | 2935 |
| <u>(1) Receipts from the lease, sublease, rental, or subrental</u>        | 2936 |
| <u>of real property located in this state;</u>                            | 2937 |
| <u>(2) Receipts from the lease, sublease, rental, or subrental</u>        | 2938 |
| <u>of tangible personal property to the extent such property is used</u>  | 2939 |
| <u>in this state;</u>   | 2940 |
| <u>(3) Interest, fees, penalties, or any other charge received</u>        | 2941 |
| <u>from loans secured by real property located within this state;</u>     | 2942 |
| <u>(4) Interest, fees, penalties, or any other charge received</u>        | 2943 |
| <u>from loans not secured by real property if the borrower is located</u> | 2944 |
| <u>in this state;</u>   | 2945 |
| <u>(5) The amount of positive net gains from the sale of loans</u>        | 2946 |
| <u>secured by real property located in this state;</u>                    | 2947 |
| <u>(6) The amount of positive net gains from the sale of loans</u>        | 2948 |
| <u>not secured by real property if the borrower is located in this</u>    | 2949 |
| <u>state;</u>   | 2950 |
| <u>(7) Interest, annual fees, penalties, or any other charges</u>         | 2951 |
| <u>received from credit card receivables and from cardholders if the</u>  | 2952 |
| <u>billing address of the cardholder is located in this state;</u>        | 2953 |
| <u>(8) The amount of positive net gains from the sale of credit</u>       | 2954 |
| <u>card receivables if the billing address of the cardholder is</u>       | 2955 |
| <u>located in this state;</u>   | 2956 |
| <u>(9) Reimbursement fees of a credit card issuer if the billing</u>      | 2957 |
| <u>address of the cardholder is located in this state;</u>                | 2958 |
| <u>(10) Receipts from merchant discounts if the merchant is</u>           | 2959 |
| <u>located in this state;</u>   | 2960 |
| <u>(11) Loan servicing fees derived from loans secured by real</u>        | 2961 |
| <u>property located in this state;</u>                                    | 2962 |

(12) Loan servicing fees derived from loans not secured by 2963  
real property if the borrower is located in this state; 2964

(13) Loan servicing fees derived from servicing loans from 2965  
other financial institutions if the borrower is located in this 2966  
state; 2967

(14) Receipts not otherwise listed herein if the payor of 2968  
those receipts is located in this state. 2969

(D) Receipts from investment assets and activities and 2970  
trading assets and activities, including interest and dividends, 2971  
are in this state to the extent the financial institution's 2972  
customers are in this state. This shall be determined by applying 2973  
the gross receipts factor calculated in division (B) of this 2974  
section to the investment assets and activities and trading assets 2975  
and activities. "Investment assets and activities and trading 2976  
assets and activities" includes interest, dividends, and other 2977  
income from assets and activities, including, but not limited to: 2978  
investment securities; trading account assets; federal funds; 2979  
securities purchased and sold under agreements to resell or 2980  
repurchase; options; futures contracts; forward contracts; 2981  
notional principal contracts such as swaps; equities; foreign 2982  
currency transactions; amounts in the matched book and in the 2983  
arbitrage book, but excluding amounts otherwise sourced in this 2984  
section. 2985

(E) If the apportionment provisions of this section do not 2986  
fairly represent the extent of the taxpayer's business activity in 2987  
this state, the taxpayer may request, or the tax commissioner may 2988  
require or permit, an alternative method. Such a request must be 2989  
made within any applicable statute of limitations set forth in 2990  
this chapter. 2991

(F) A financial institution's "gross receipts" for purposes 2992  
of the calculation required by division (B) of this section shall 2993

be determined using the financial institution's method of 2994  
accounting for income tax purposes. If a financial institution's 2995  
method of accounting is changed for income tax purposes, its 2996  
method of accounting for purposes of the calculation required by 2997  
division (B) of this section shall be changed accordingly. 2998

(G) The tax commissioner shall adopt administrative rules to 2999  
provide additional guidance for the application of this section. 3000

**Sec. 5726.06.** (A) The reporting person for a taxpayer shall 3001  
file estimated tax reports and remit the amount of tax estimated 3002  
to be due for a tax year to the tax commissioner as follows: 3003

(1) The minimum tax required under division (A)(1) of section 3004  
5726.04 of the Revised Code or one-third of the estimated tax, 3005  
whichever is greater, on or before the thirty-first day of January 3006  
of the tax year; 3007

(2) One-half of the amount by which the estimated tax exceeds 3008  
the amount paid under division (A)(1) of this section on or before 3009  
the thirty-first day of March of the tax year; 3010

(3) One-half of the amount by which the estimated tax exceeds 3011  
the amount paid under division (A)(1) of this section on or before 3012  
the thirty-first day of May of the tax year. 3013

(B)(1) The reporting person for a taxpayer shall remit the 3014  
estimated tax electronically as provided in division (D) of 3015  
section 5726.03 of the Revised Code. Remittance shall be made 3016  
payable to the treasurer of state. 3017

(2) The tax commissioner shall immediately forward to the 3018  
treasurer of state all amounts received under this section, and 3019  
the treasurer of state shall credit all payments of such estimated 3020  
tax as provided in division (D) of section 5726.04 of the Revised 3021  
Code. 3022

(C)(1) If a taxpayer was not subject to the tax imposed by 3023

section 5726.02 of the Revised Code for the preceding tax year, 3024  
"estimated tax" for purposes of division (A)(1) of this section 3025  
means ninety per cent of the qualifying net tax for the tax year. 3026  
If a taxpayer was subject to the tax for the preceding tax year, 3027  
"estimated tax" for purposes of division (A)(1) of this section 3028  
means the lesser of one hundred per cent of the taxpayer's 3029  
qualifying net tax for the preceding tax year or ninety per cent 3030  
of the qualifying net tax for the tax year. 3031

(2) If the taxpayer did not file a report under section 3032  
5726.02 of the Revised Code for the tax year or failed to prepare 3033  
and file the report in good faith for the tax year, "qualifying 3034  
net tax" as used in division (C)(1) of this section for that tax 3035  
year means the amount described in division (C)(2)(a) of this 3036  
section. Otherwise, "qualifying net tax" as used in division 3037  
(C)(1) of this section for that tax year means the lesser of the 3038  
amount described in division (C)(2)(a) or (b) of this section. 3039

(a) The tax imposed by section 5726.02 of the Revised Code 3040  
for that tax year reduced by the credits listed in section 5726.98 3041  
of the Revised Code. If the credits exceed the total tax, the 3042  
qualifying net tax is the minimum tax. 3043

(b) The lesser of the tax shown on the report, prepared and 3044  
filed in good faith, reduced by the credits shown on that report, 3045  
or the tax shown on an amended report, prepared and filed in good 3046  
faith, reduced by the credits shown on that amended report. If the 3047  
credits shown exceed the total tax shown, the qualifying net tax 3048  
is the minimum tax. 3049

**Sec. 5726.07.** (A) In the case of an underpayment of estimated 3050  
taxes required to be paid under section 5726.06 of the Revised 3051  
Code, interest upon the amount of underpayment, calculated at the 3052  
rate per annum prescribed by section 5703.47 of the Revised Code 3053  
for the period of underpayment, shall be added to the tax due for 3054

the tax year for which the estimated tax is paid. 3055

(B) The amount of underpayment upon which such interest is 3056  
computed equals the amount by which division (B)(1) of this 3057  
section exceeds division (B)(2) of this section. 3058

(1) The amount of the estimated tax payment that would be 3059  
required to be paid if the total estimated tax due were equal to 3060  
the amount of tax shown to be due on the annual report filed for 3061  
the tax year or, if no report was filed, the total amount of tax 3062  
due for the tax year; 3063

(2) The amount, if any, of the estimated tax that has been 3064  
paid on or before the last day prescribed for such payment. 3065

(C) The period of underpayment for which such interest is 3066  
computed shall run from the date the estimated tax payment was 3067  
required to be made to the date the payment is made. 3068

For purposes of this section, a payment of estimated tax on 3069  
any payment date shall be considered a payment of any previous 3070  
underpayment only to the extent that such payment exceeds the 3071  
amount of payment currently due. 3072

**Sec. 5726.08.** Except as otherwise provided in this section, 3073  
if any report, claim, statement, or other document required to be 3074  
filed, or any payment required to be made, within a prescribed 3075  
period or on or before a prescribed date under this chapter is, 3076  
after such period or date, delivered by United States mail to the 3077  
agency, officer, or office with which such report, claim, 3078  
statement, or other document is required to be filed, or to which 3079  
such payment is required to be made, the date of the postmark 3080  
stamped on the cover in which such report, claim, statement, or 3081  
other document, or payment is mailed shall be deemed the date of 3082  
delivery or the date of payment. 3083

If a payment is made electronically, the payment is 3084

considered to be made when the payment is received by the 3085  
treasurer of state or credited to an account designated by the 3086  
treasurer of state for the receipt of tax payments. 3087

As used in this section, "the date of the postmark" means, in 3088  
the event there is more than one date on the cover, the earliest 3089  
date imprinted on the cover by the post office. 3090

**Sec. 5726.10.** The tax commissioner shall enforce and 3091  
administer this chapter. In addition to any other powers conferred 3092  
upon the commissioner by law, the commissioner may do any of the 3093  
following: 3094

(A) Prescribe all forms required to be filed pursuant to this 3095  
chapter; 3096

(B) Promulgate such rules and regulations as the commissioner 3097  
finds necessary to carry out this chapter; 3098

(C) Appoint and employ such personnel as are necessary to 3099  
carry out the duties imposed upon the commissioner by this 3100  
chapter. 3101

**Sec. 5726.20.** (A) The tax commissioner may make an 3102  
assessment, based on any information in the commissioner's 3103  
possession, against any person that fails to file a return or 3104  
report or pay any tax as required by this chapter. The reporting 3105  
person for a taxpayer shall file the annual report required under 3106  
section 5726.02 of the Revised Code and remit the tax imposed by 3107  
this chapter. Each person included in the annual report of the 3108  
taxpayer is jointly and severally liable for the tax imposed by 3109  
this chapter and any penalties and interest thereon. If the 3110  
reporting person fails, for any reason, to file and remit any tax, 3111  
the amount due may be collected by assessment against the 3112  
reporting person and against any or all other persons required to 3113  
be included in the annual report of the taxpayer in the manner 3114

provided by this section. The commissioner shall give the person 3115  
assessed written notice of the assessment as provided in section 3116  
5703.37 of the Revised Code. With the notice, the commissioner 3117  
shall provide instructions on the manner in which to petition for 3118  
reassessment and request a hearing with respect to the petition. 3119

(B) No assessment shall be made or issued against a person 3120  
under this section more than four years after the later of the 3121  
final date the report subject to assessment was required to be 3122  
filed or the date such report was filed. Such time limit may be 3123  
extended if both the person and the commissioner consent in 3124  
writing to the extension or if an agreement waiving or extending 3125  
the time limit has been entered into pursuant to section 122.171 3126  
of the Revised Code. Any such extension shall extend the four-year 3127  
time limit prescribed in division (A) of section 5726.30 of the 3128  
Revised Code for the same period of time. There shall be no bar or 3129  
limit to an assessment against a person that fails to file a 3130  
report subject to assessment as required by this chapter, or that 3131  
files a fraudulent report. 3132

(C) Unless the person assessed, within sixty days after 3133  
service of the notice of assessment, files with the tax 3134  
commissioner, either in person or by certified mail, a written 3135  
petition for reassessment signed by the person or the person's 3136  
authorized agent having knowledge of the facts, the assessment 3137  
shall become final, and the amount of the assessment is due and 3138  
payable from the person assessed to the treasurer of state. A 3139  
petition shall indicate the objections of the person assessed, but 3140  
additional objections may be raised in writing if received by the 3141  
commissioner prior to the date shown on the final determination. 3142  
If a petition for reassessment has been properly filed, the 3143  
commissioner shall proceed under section 5703.60 of the Revised 3144  
Code. 3145

(D)(1) After an assessment becomes final, if any portion of 3146  
the assessment, including any accrued interest, remains unpaid, a 3147  
certified copy of the tax commissioner's entry making the 3148  
assessment final may be filed in the office of the clerk of the 3149  
court of common pleas in the county in which the person resides or 3150  
has its principal place of business in this state, or in the 3151  
office of the clerk of court of common pleas of Franklin county. 3152

(2) Immediately upon the filing of the entry, the clerk shall 3153  
enter judgment for the state against the person assessed in the 3154  
amount shown on the entry. The judgment may be filed by the clerk 3155  
in a loose-leaf book entitled, "special judgments for the 3156  
financial institution tax" and shall have the same effect as other 3157  
judgments. Execution shall issue upon the judgment at the request 3158  
of the tax commissioner, and all laws applicable to sales on 3159  
execution shall apply to sales made under the judgment. 3160

(3) The portion of the assessment not paid within sixty days 3161  
after the day the assessment was issued shall bear interest at the 3162  
rate per annum prescribed by section 5703.47 of the Revised Code 3163  
from the date the tax commissioner issues the assessment until the 3164  
date the assessment is paid. Interest shall be paid in the same 3165  
manner as the tax and may be collected by the issuance of an 3166  
assessment under this section. 3167

(E) If the tax commissioner believes that collection of the 3168  
tax imposed by this chapter will be jeopardized unless proceedings 3169  
to collect or secure collection of the tax are instituted without 3170  
delay, the commissioner may issue a jeopardy assessment against 3171  
the person liable for the tax. Immediately upon the issuance of 3172  
the jeopardy assessment, the commissioner shall file an entry with 3173  
the clerk of the court of common pleas in the manner prescribed by 3174  
division (D) of this section. Notice of the jeopardy assessment 3175  
shall be served on the person assessed or the person's authorized 3176  
agent in the manner provided in section 5703.37 of the Revised 3177



Code within five days of the filing of the entry with the clerk. 3178  
The total amount assessed shall be immediately due and payable, 3179  
unless the person assessed files a petition for reassessment in 3180  
accordance with division (C) of this section and provides security 3181  
in a form satisfactory to the commissioner and in an amount 3182  
sufficient to satisfy the unpaid balance of the assessment. Full 3183  
or partial payment of the assessment shall not prejudice the 3184  
commissioner's consideration of the petition for reassessment. 3185

(F) The tax commissioner shall immediately forward to the 3186  
treasurer of state all amounts the commissioner receives under 3187  
this section. Such amounts shall be considered as revenue arising 3188  
from the tax imposed by this chapter. 3189

(G) If the tax commissioner possesses information indicating 3190  
that the amount of tax a taxpayer is required to pay under this 3191  
chapter exceeds the amount the reporting person for the taxpayer 3192  
paid, the tax commissioner may audit a sample of the taxpayer's 3193  
gross receipts over a representative period of time to ascertain 3194  
the amount of tax due, and may issue an assessment based on the 3195  
audit. The tax commissioner shall make a good faith effort to 3196  
reach agreement with the taxpayer in selecting a representative 3197  
sample. The tax commissioner may apply a sampling method only if 3198  
the commissioner has prescribed the method by rule. 3199

(H) If the whereabouts of a person subject to this chapter is 3200  
not known to the tax commissioner, the secretary of state is 3201  
hereby deemed to be that person's agent for purposes of service of 3202  
process or notice of any assessment, action, or proceedings 3203  
instituted in this state against the person under this chapter. 3204  
Such process or notice shall be served on such person by the 3205  
commissioner or by an agent of the commissioner by leaving a true 3206  
and attested copy of the process or notice at the office of the 3207  
secretary of state at least fifteen days before the return day of 3208  
such process or notice, and by sending a copy of the process or 3209

notice to such person by ordinary mail, with an endorsement 3210  
thereon of the service upon the secretary of state, addressed to 3211  
such person at the person's last known address. 3212

Sec. 5726.21. (A) In addition to any other penalty imposed by 3213  
this chapter or Chapter 5703. of the Revised Code, the following 3214  
penalties shall apply: 3215

(1) If a taxpayer required to file any report under this 3216  
chapter fails to make and file the report within the time 3217  
prescribed, including any extensions of time granted by the tax 3218  
commissioner, a penalty may be imposed not exceeding the greater 3219  
of fifty dollars per month or fraction of a month, not to exceed 3220  
five hundred dollars, or five per cent per month or fraction of a 3221  
month, not to exceed fifty per cent of the tax required to be 3222  
shown on the report, for each month or fraction of a month 3223  
elapsing between the due date, including extensions of the due 3224  
date, and the date on which the report is filed. 3225

(2) If a taxpayer fails to pay the amount of tax required to 3226  
be paid under this chapter, except for estimated tax under section 3227  
5726.06 of the Revised Code, by the dates prescribed in this 3228  
chapter for payment, a penalty may be imposed not exceeding 3229  
fifteen per cent of the delinquent payment. 3230

(3) If a taxpayer files what purports to be a report required 3231  
by this chapter that does not contain information upon which the 3232  
substantial correctness of the report may be judged or contains 3233  
information that on its face indicates that the report is 3234  
substantially incorrect, and the filing of the report in that 3235  
manner is due to a position that is frivolous or a desire that is 3236  
apparent from the report to delay or impede the administration of 3237  
the tax levied under this chapter, a penalty of up to five hundred 3238  
dollars may be imposed. 3239

(4) If a taxpayer makes a fraudulent attempt to evade the 3240

reporting or payment of the tax required to be shown on any report 3241  
required under this chapter, a penalty may be imposed not 3242  
exceeding the greater of one thousand dollars or one hundred per 3243  
cent of the tax required to be shown on the report. 3244

(5) If a taxpayer makes a false or fraudulent claim for a 3245  
refund under this chapter, a penalty may be imposed not exceeding 3246  
the greater of one thousand dollars or one hundred per cent of the 3247  
claim. 3248

(B) The tax commissioner may collect any penalty imposed by 3249  
this section in the same manner as the tax levied under this 3250  
chapter. Penalties so collected shall be considered as revenue 3251  
arising from the tax levied under this chapter. 3252

(C) For purposes of this section, the tax required to be 3253  
shown on the report shall be reduced by the amount of any part of 3254  
the tax paid on or before the date, including extensions of the 3255  
date, prescribed for filing the report. 3256

(D) The tax commissioner may abate all or a portion of any 3257  
penalties imposed under this section and may adopt rules governing 3258  
such abatements. 3259

**Sec. 5726.30.** (A) The tax commissioner shall refund the 3260  
amount of taxes imposed under this chapter that a person overpaid, 3261  
paid illegally or erroneously, or paid on an illegal or erroneous 3262  
assessment. The person shall file an application for refund with 3263  
the tax commissioner, on the form prescribed by the commissioner, 3264  
within four years after the date of the illegal or erroneous 3265  
payment of the tax, or within any additional period allowed under 3266  
division (B) of section 5726.20 of the Revised Code. The applicant 3267  
shall provide the amount of the requested refund along with the 3268  
claimed reasons for, and documentation to support, the issuance of 3269  
a refund. 3270

For purposes of this division, a payment that an applicant 3271  
made before the due date or extended due date for filing the 3272  
report to which the payment relates shall be deemed to have been 3273  
made on the due date or extended due date of the report. 3274

(B) Upon the filing of a refund application, the tax 3275  
commissioner shall determine the amount of refund to which the 3276  
applicant is entitled. If the amount is not less than that 3277  
claimed, the commissioner shall certify the amount to the director 3278  
of budget and management and treasurer of state for payment from 3279  
the tax refund fund created under section 5703.052 of the Revised 3280  
Code. If the amount is less than that claimed, the commissioner 3281  
shall proceed in accordance with section 5703.70 of the Revised 3282  
Code. 3283

(C)(1) Except as provided in division (C)(2) of this section, 3284  
interest on a refund applied for under this section, computed at 3285  
the rate provided for in section 5703.47 of the Revised Code, 3286  
shall be allowed from the later of the date the tax was paid or 3287  
the date the tax payment was due until the refund is paid. 3288

(2) No interest shall be allowed under this section on an 3289  
amount refunded to a person to the extent that the refund results 3290  
from the allowance of a refundable credit against the tax imposed 3291  
by section 5726.02 of the Revised Code. 3292

**Sec. 5726.31.** As used in this section, "debt to this state" 3293  
means unpaid taxes due the state, unpaid workers' compensation 3294  
premiums due under section 4123.35 of the Revised Code, unpaid 3295  
unemployment compensation contributions due under section 4141.25 3296  
of the Revised Code, unpaid unemployment compensation payments in 3297  
lieu of contributions due under section 4141.241 of the Revised 3298  
Code, unpaid claims certified under section 131.02 or 131.021 of 3299  
the Revised Code, unpaid fees payable to the state or to the clerk 3300  
of courts pursuant to section 4505.06 of the Revised Code or any 3301

unpaid charge, penalty, or interest arising from any of the 3302  
foregoing. 3303

If a person entitled to a refund under section 5726.30 of the 3304  
Revised Code owes any debt to this state, the amount refundable 3305  
may be applied in satisfaction of the debt. If the amount 3306  
refundable is less than the amount of the debt, it may be applied 3307  
in partial satisfaction of the debt. If the amount refundable is 3308  
greater than the amount of the debt, the amount remaining after 3309  
satisfaction of the debt shall be refunded. If the taxpayer has 3310  
more than one such debt, any debt subject to section 5739.33 or 3311  
division (G) of section 5747.07 of the Revised Code shall be 3312  
satisfied first. 3313

Except as provided in section 131.021 of the Revised Code, 3314  
this section applies only to debts that have become final. For the 3315  
purposes of this section, a debt becomes final when, under the 3316  
applicable law, any time provided for petition for reassessment, 3317  
request for reconsideration, or other appeal of the legality or 3318  
validity of the amount giving rise to the debt expires without an 3319  
appeal having been filed in the manner provided by law. 3320

The tax commissioner may charge each respective agency of the 3321  
state for the commissioner's cost in applying refunds to debts due 3322  
to the state and may charge the attorney general for the 3323  
commissioner's cost in applying refunds to certified claims. The 3324  
commissioner may promulgate rules to implement this section. 3325

The commissioner may, with the consent of the reporting 3326  
person for a taxpayer, provide for the crediting of the amount of 3327  
any refund due to the taxpayer under this chapter for a tax year 3328  
against the tax due for any succeeding tax year. 3329

**Sec. 5726.32.** If any tax due under this chapter is not paid 3330  
on or before the date prescribed for its payment, interest shall 3331

be assessed, collected, and paid, in the same manner as the tax, 3332  
upon such unpaid amount at the rate per annum prescribed by 3333  
section 5703.47 of the Revised Code from the date prescribed for 3334  
the payment of the tax until the date the tax is paid or the date 3335  
an assessment is issued under section 5726.20 of the Revised Code, 3336  
whichever is earlier. Interest so collected shall be considered as 3337  
revenue arising from the tax imposed by this chapter. 3338

**Sec. 5726.33.** (A) As used in this section, "qualifying refund 3339  
overpayment" means an amount received by a taxpayer in excess of a 3340  
refund claimed or a request for payment made by the reporting 3341  
person for the taxpayer on a return, report, or other document 3342  
filed with the tax commissioner. 3343

(B) A taxpayer is not liable for any interest or penalty with 3344  
respect to the repayment of a qualifying refund overpayment if the 3345  
reporting person for the taxpayer pays the entire amount of the 3346  
qualifying refund overpayment to the commissioner not later than 3347  
thirty days after the taxpayer receives an assessment for the 3348  
amount. If the reporting person does not pay the entire amount of 3349  
the overpayment to the commissioner within the time prescribed by 3350  
this section, interest shall accrue on the amount of the 3351  
deficiency pursuant to section 5726.32 of the Revised Code from 3352  
the date the commissioner issues the assessment until the date the 3353  
deficiency is paid. 3354

**Sec. 5726.36.** (A) A person shall notify the tax commissioner 3355  
when the person is no longer subject to the tax imposed by this 3356  
chapter. 3357

(B) If the ownership structure of a financial institution 3358  
changes such that a person is no longer includable in the annual 3359  
report of the financial institution, the reporting person for the 3360  
financial institution shall notify the commissioner of the change 3361

when the reporting person files its next annual report or in 3362  
writing prior to the due date of that report. 3363

Sec. 5726.40. If a person, wherever organized, doing business 3364  
in this state or owning or issuing all or part of the entity's 3365  
capital or property in this state, and required by law to file any 3366  
report or return or to pay any tax or fee under Title LVII of the 3367  
Revised Code, fails or neglects to make such report or return or 3368  
to pay any such tax or fee for ninety days after the time 3369  
prescribed by law for making such report or return or for paying 3370  
such tax or fee, the tax commissioner shall certify such fact to 3371  
the secretary of state. The secretary of state shall thereupon 3372  
cancel the document of creation authorizing the person to do 3373  
business in this state. Upon such cancellation, all of the powers, 3374  
privileges, and franchises conferred upon that person by its 3375  
document of creation shall cease, subject to section 1701.88 of 3376  
the Revised Code. The secretary of state shall immediately notify 3377  
the person of the action taken by the secretary, and shall also 3378  
forward for filing a certificate of the action so taken to the 3379  
county recorder of the county in which the principal place of 3380  
business of the person in this state is located. No fee shall be 3381  
charged for the filing. 3382

Sec. 5726.41. No person shall exercise, or attempt to 3383  
exercise, any powers, privileges, or franchises under the person's 3384  
document of creation after the document is canceled pursuant to 3385  
section 5726.40 of the Revised Code. A penalty of one hundred 3386  
dollars shall be imposed for each day a violation of this section 3387  
occurs, up to a maximum penalty of five thousand dollars. 3388

Sec. 5726.42. (A)(1) A person whose document of creation has 3389  
been canceled by the secretary of state pursuant to section 3390  
5726.40 the Revised Code shall be reinstated and again entitled to 3391

exercise its rights, privileges, and franchises in this state upon 3392  
compliance with all of the following: 3393

(a) Filing with the secretary of state a certificate from the 3394  
tax commissioner that the person has complied with all the 3395  
requirements of law as to tax reports and paid all taxes, fees, or 3396  
penalties due thereon for every year of delinquency; 3397

(b) Payment to the secretary of state of any additional fees 3398  
and penalties required to be paid to the secretary of state; 3399

(c) Payment to the secretary of state of an additional fee of 3400  
ten dollars. 3401

Upon the person's compliance with this division, the 3402  
secretary of state shall cancel the entry of cancellation filed 3403  
under section 5726.40 of the Revised Code. 3404

(2) If a reinstatement is not made within one year from the 3405  
date of cancellation of the document of creation, and if it 3406  
appears that a document of creation has been issued to a person of 3407  
the same or similar name as the applicant for reinstatement, the 3408  
secretary of state shall require, as a condition prerequisite to 3409  
such reinstatement, that the applicant amend its document of 3410  
creation by changing the applicant's name. 3411

(B) Any officer, shareholder, creditor, or receiver of a 3412  
person may at any time take all steps required by this section to 3413  
effect a reinstatement. 3414

(C) The rights, privileges, and franchises of a person whose 3415  
document of creation has been reinstated in accordance with this 3416  
section are subject to section 1701.922 of the Revised Code. 3417

(D) Notwithstanding a violation of section 5726.41 of the 3418  
Revised Code, upon reinstatement of a person's document of 3419  
creation in accordance with this section, neither section 5726.40 3420  
nor section 5726.41 of the Revised Code shall be applied to 3421



invalidate the exercise or attempt to exercise any right, 3422  
privilege, or franchise on behalf of the person by an officer, 3423  
agent, or employee of the person after cancellation and prior to 3424  
the reinstatement of the document of creation, if the conditions 3425  
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 3426  
the Revised Code are met. 3427

**Sec. 5726.43.** If any financial institution fails to make and 3428  
file any return or report required under this chapter, or to pay 3429  
the penalties provided by law for failure to make and file such 3430  
reports or returns, for a period of ninety days after the time 3431  
prescribed by law, the attorney general, on the request of the tax 3432  
commissioner, shall commence an action in quo warranto in the 3433  
court of appeals of the county in which the reporting person for 3434  
the financial institution has its principal place of business in 3435  
this state to forfeit and annul the privileges and franchises of 3436  
each person included in the annual report of the financial 3437  
institution. If the court is satisfied that any such financial 3438  
institution is in default, it shall render judgment ousting each 3439  
person included in the annual report of the financial institution 3440  
from the exercise of its privileges and franchises within this 3441  
state, and shall otherwise proceed as provided in sections 2733.01 3442  
to 2733.39 of the Revised Code. 3443

**Sec. 5726.50.** (A) A taxpayer may claim a refundable tax 3444  
credit against the tax imposed under this chapter for each person 3445  
included in the annual report of the taxpayer that is granted a 3446  
credit by the tax credit authority under section 122.17 or 3447  
division (B)(2) or (3) of section 122.171 of the Revised Code. 3448  
Such a credit shall not be claimed for any tax year following the 3449  
calendar year in which a relocation of employment positions occurs 3450  
in violation of an agreement entered into under section 122.171 of 3451  
the Revised Code. For the purpose of making tax payments under 3452

this chapter, taxes equal to the amount of the refundable credit 3453  
shall be considered to be paid on the first day of the tax year. 3454

(B) A taxpayer may claim a nonrefundable tax credit against 3455  
the tax imposed under this chapter for each person included in the 3456  
annual report of the taxpayer that is granted a credit by the tax 3457  
credit authority under division (B)(1) of section 122.171 of the 3458  
Revised Code. A taxpayer may claim against the tax imposed by this 3459  
chapter any unused portion of the credits authorized under 3460  
division (B) of section 5733.0610 of the Revised Code. 3461

(C) The credits authorized in divisions (A) and (B) of this 3462  
section shall be claimed in the order required under section 3463  
5726.98 of the Revised Code. If the amount of a credit authorized 3464  
in division (A) of this section exceeds the tax otherwise due 3465  
under section 5726.02 of the Revised Code after deducting all 3466  
other credits preceding the credit in the order prescribed in 3467  
section 5726.98 of the Revised Code, the excess shall be refunded 3468  
to the taxpayer. 3469

**Sec. 5726.51.** A taxpayer may claim a nonrefundable credit 3470  
against the tax imposed under this chapter for each bank 3471  
organization that is organized under Title XI of the Revised Code 3472  
and included in the annual report of the taxpayer. The credit 3473  
shall equal the sum of the annual assessments such bank 3474  
organizations paid during the taxable year to the division of 3475  
financial institutions pursuant to Title XI of the Revised Code 3476  
and the schedule of fees published by the division. A taxpayer may 3477  
claim against the tax imposed by this chapter any unused portion 3478  
of the credits authorized under section 5733.063 of the Revised 3479  
Code. 3480

The credit authorized by this section shall be claimed in the 3481  
order required under section 5726.98 of the Revised Code. The 3482

credit shall not be allowed unless there is filed with the 3483  
taxpayer's annual report a document certified by the division of 3484  
financial institutions verifying the amount of state annual 3485  
assessment fees and federal supervisory fees paid by the bank 3486  
organizations during the taxable year. 3487

**Sec. 5726.52.** (A) As used in this section, "certificate 3488  
owner" has the same meaning as in section 149.311 of the Revised 3489  
Code. 3490

(B) A taxpayer may claim a refundable credit against the tax 3491  
imposed by this chapter for each person included in the annual 3492  
report of a taxpayer that is a certificate owner of a 3493  
rehabilitation tax credit certificate issued under section 149.311 3494  
of the Revised Code. The credit shall equal twenty-five per cent 3495  
of the dollar amount indicated on each certificate, but shall not 3496  
exceed five million dollars for each certificate. 3497

The credit shall be claimed for the calendar year specified 3498  
in the certificate and in the order required under section 5726.98 3499  
of the Revised Code. If the credit exceeds the amount of tax 3500  
otherwise due in that year, the excess shall be refunded to the 3501  
taxpayer, provided that, if any amount of the credit is refunded, 3502  
the sum of the amount refunded and the amount applied to reduce 3503  
the tax otherwise due in that year shall not exceed three million 3504  
dollars. The taxpayer may carry forward any balance of the credit 3505  
in excess of the amount claimed in that year for not more than 3506  
five ensuing years, and shall deduct any amount claimed in any 3507  
such year from the amount claimed in an ensuing year. A taxpayer 3508  
may claim against the tax imposed by this chapter any unused 3509  
portion of the credit authorized under section 5725.151 of the 3510  
Revised Code, but only to the extent of the five-year carry 3511  
forward period authorized by that section. 3512

(C) A taxpayer claiming a credit under this section shall 3513

retain the rehabilitation tax credit certificate for four years 3514  
following the end of the year to which the credit was applied, and 3515  
shall make the certificate available for inspection by the tax 3516  
commissioner upon the request of the commissioner during that 3517  
period. 3518

**Sec. 5726.53.** A taxpayer may claim a refundable credit 3519  
against the tax imposed by this chapter for each person included 3520  
in the annual report of the taxpayer that was issued a tax credit 3521  
certificate by the Ohio venture capital authority under section 3522  
150.07 of the Revised Code. The amount of the credit shall equal 3523  
the amount specified in the tax credit certificate. The credit 3524  
shall be claimed for the tax year specified in the tax credit 3525  
certificate. The taxpayer shall claim the credit in the order 3526  
required under section 5726.98 of the Revised Code. If the credit 3527  
amount exceeds the tax otherwise due under section 5726.02 of the 3528  
Revised Code after deducting all other credits preceding the 3529  
credit in the order prescribed in section 5726.98 of the Revised 3530  
Code, the excess shall be refunded to the taxpayer. 3531

**Sec. 5726.54.** (A) Any term used in this section has the same 3532  
meaning as in section 5725.33 of the Revised Code. 3533

(B) A taxpayer may claim a nonrefundable credit against the 3534  
tax imposed by this chapter for each person included in the annual 3535  
report of the taxpayer that holds a qualified equity investment on 3536  
a credit allowance date occurring in the calendar year immediately 3537  
preceding the tax year for which the tax is due. The credit shall 3538  
be computed in the same manner prescribed for the computation of 3539  
credits allowed under section 5725.33 of the Revised Code. 3540

By claiming a tax credit under this section, a taxpayer 3541  
waives its rights under section 5726.20 of the Revised Code with 3542  
respect to the time limitation for the assessment of taxes as it 3543

relates to credits claimed under this section that later become 3544  
subject to recapture under division (D) of this section. 3545

A taxpayer may claim against the tax imposed by this chapter 3546  
any unused portion of the credits authorized under sections 3547  
5725.33 and 5733.58 of the Revised Code, but only to the extent of 3548  
the remaining carry forward period authorized by those sections. 3549

The credit shall be claimed in the order prescribed by 3550  
section 5726.98 of the Revised Code. If the amount of the credit 3551  
exceeds the amount of tax otherwise due after deducting all other 3552  
credits preceding the credit in the order prescribed in section 3553  
5726.98 of the Revised Code, the excess may be carried forward for 3554  
not more than four ensuing tax years. 3555

(C) The total amount of qualified equity investments on the 3556  
basis of which credits may be claimed under this section and 3557  
sections 5725.33, 5729.16, and 5733.58 of the Revised Code is 3558  
subject to the limitation of division (C) of section 5725.33 of 3559  
the Revised Code. 3560

(D) If any amount of the federal tax credit allowed for a 3561  
qualified equity investment for which a credit was received under 3562  
this section is recaptured under section 45D of the Internal 3563  
Revenue Code, or if the director of development services 3564  
determines that an investment for which a tax credit is claimed 3565  
under this section is not a qualified equity investment or that 3566  
the proceeds of an investment for which a tax credit is claimed 3567  
under this section are used to make qualified low-income community 3568  
investments other than in a qualified active low-income community 3569  
business, all or a portion of the credit received on account of 3570  
that investment shall be paid by the taxpayer that received the 3571  
credit to the tax commissioner. The amount to be recovered shall 3572  
be determined by the director pursuant to rules adopted under 3573  
section 5725.33 of the Revised Code. The director shall certify 3574  
any amount due under this division to the tax commissioner, and 3575

the commissioner shall notify the taxpayer of the amount due. The 3576  
amount due is payable not later than thirty days after the day the 3577  
commissioner issues the notice. The amount due shall be considered 3578  
to be tax due under section 5726.02 of the Revised Code, and may 3579  
be collected by assessment without regard to the limitations 3580  
imposed under section 5726.20 of the Revised Code for the 3581  
assessment of taxes by the commissioner. All amounts collected 3582  
under this division shall be credited as revenue from the tax 3583  
levied under section 5726.02 of the Revised Code. 3584

**Sec. 5726.55.** (A) Any term used in this section has the same 3585  
meaning as in section 122.85 of the Revised Code. 3586

(B) A taxpayer may claim a refundable credit against the tax 3587  
imposed under this chapter for each person included in the annual 3588  
report of the taxpayer that is a certificate owner of a tax credit 3589  
certificate issued under section 122.85 of the Revised Code. The 3590  
credit shall be claimed for the taxable year in which the 3591  
certificate is issued by the director of development services. The 3592  
credit amount equals the amount stated in the certificate. The 3593  
credit shall be claimed in the order required under section 3594  
5726.98 of the Revised Code. If the credit amount exceeds the tax 3595  
otherwise due under section 5726.02 of the Revised Code after 3596  
deducting all other credits preceding the credit in the order 3597  
prescribed in section 5726.98 of the Revised Code, the excess 3598  
shall be refunded to the taxpayer. 3599

(C) Nothing in this section shall allow a taxpayer to claim 3600  
more than one credit per tax credit-eligible production. 3601

**Sec. 5726.56.** (A) As used in this section, "qualified 3602  
research expenses" has the same meaning as in section 41 of the 3603  
Internal Revenue Code. 3604

(B) A taxpayer may claim a nonrefundable credit against the 3605

tax imposed under this chapter equal to seven per cent of the 3606  
excess of (1) the qualified research expenses incurred by the 3607  
taxpayer in this state in a taxable year over (2) the average 3608  
annual qualified research expenses incurred by the taxpayer in 3609  
this state in the three previous taxable years. For the purposes 3610  
of this division, "qualified research expenses incurred by the 3611  
taxpayer" includes the qualified research expenses incurred by all 3612  
persons included in the annual report of the taxpayer and by any 3613  
insurance company subject to the tax levied under section 5725.18 3614  
or Chapter 5729. of the Revised Code that has more than fifty per 3615  
cent of its ownership interests directly or indirectly owned or 3616  
controlled by a person included in the annual report of the 3617  
taxpayer, even though such an insurance company is not subject to 3618  
the tax imposed under this chapter. 3619

(C) A taxpayer shall claim the credit allowed under this 3620  
section in the order prescribed by section 5726.98 of the Revised 3621  
Code. If the amount of the credit exceeds the amount of tax 3622  
otherwise due after deducting all other credits preceding the 3623  
credit in the order prescribed in section 5726.98 of the Revised 3624  
Code, the excess may be carried forward for not more than seven 3625  
ensuing tax years. The amount of the excess credit claimed in any 3626  
such year shall be deducted from the balance carried forward to 3627  
the next tax year. 3628

(D) A taxpayer may claim against the tax imposed under this 3629  
chapter any unused portion of a credit authorized under section 3630  
5733.351 of the Revised Code but only to the extent of the 3631  
remaining portion of the seven-year carry-forward period 3632  
authorized by that section. 3633

**Sec. 5726.57.** (A) As used in this section, "qualifying dealer 3634  
in intangibles" means a dealer in intangibles that is a member of 3635  
a qualifying controlled group of which a financial institution is 3636

also a member on the first day of the financial institution's tax 3637  
year. 3638

(B) For tax year 2014 there is hereby allowed to each 3639  
financial institution a nonrefundable credit against the tax 3640  
imposed by section 5726.02 of the Revised Code. The amount of the 3641  
credit shall be computed in accordance with division (C) of this 3642  
section. The credit shall be claimed in the order prescribed by 3643  
section 5726.98 of the Revised Code. The credit shall not exceed 3644  
the amount of tax otherwise due under section 5726.02 of the 3645  
Revised Code after deducting any other credits that precede the 3646  
credit claimed under this section in that order. 3647

(C) Subject to division (D) of this section, the amount of 3648  
the credit equals the lesser of the amount described in division 3649  
(C)(1) of this section or in division (C)(2) of this section. 3650

(1) The amount of tax that a qualifying dealer in intangibles 3651  
paid under Chapter 5707. of the Revised Code during the calendar 3652  
year immediately preceding the financial institution's tax year. 3653  
Such amount shall be reduced, but not below zero, by any refunds 3654  
of such tax received by the qualifying dealer in intangibles under 3655  
Chapter 5703. of the Revised Code during that calendar year. 3656

(2) The product of the amounts described in divisions 3657  
(C)(2)(a) to (c) of this section. 3658

(a) The cost of the financial institution's direct investment 3659  
in the capital stock of the qualifying dealer in intangibles 3660  
calculated on the last day of the financial institution's taxable 3661  
year immediately preceding the tax year; 3662

(b) The ratio described in section 5725.15 of the Revised 3663  
Code for the calendar year immediately preceding the financial 3664  
institution's tax year; 3665

(c) The tax rate imposed under division (D) of section 3666  
5707.03 of the Revised Code for the calendar year immediately 3667



preceding the financial institution's tax year. 3668

(D)(1) The principles and concepts described in section 3669  
5733.057 of the Revised Code shall apply in determining whether a 3670  
dealer in intangibles is a member of a qualifying controlled group 3671  
of which the financial institution also is a member and to 3672  
ascertain the cost of the financial institution's direct 3673  
investment in the capital stock of the qualifying dealer in 3674  
intangibles. 3675

(2) Notwithstanding section 5703.56 of the Revised Code to 3676  
the contrary, a financial institution claiming the credit provided 3677  
by this section has the burden to establish by a preponderance of 3678  
the evidence that the doctrines enumerated in that section would 3679  
not apply to deny to the financial institution all or a part of 3680  
the credit otherwise provided by this section. 3681

**Sec. 5726.98.** (A) To provide a uniform procedure for 3682  
calculating the amount of tax due under section 5726.02 of the 3683  
Revised Code, a taxpayer shall claim any credits to which the 3684  
taxpayer is entitled under this chapter in the following order: 3685

(1) The bank organization assessment credit under section 3686  
5726.51 of the Revised Code; 3687

(2) The nonrefundable job retention credit under division (B) 3688  
of section 5726.50 of the Revised Code; 3689

(3) The nonrefundable credit for purchases of qualified 3690  
low-income community investments under section 5726.54 of the 3691  
Revised Code; 3692

(4) The nonrefundable credit for qualified research expenses 3693  
under section 5726.56 of the Revised Code; 3694

(5) The nonrefundable credit for qualifying dealer in 3695  
intangibles taxes under section 5726.57 of the Revised Code. 3696

(6) The refundable credit for rehabilitating an historic 3697

building under section 5726.52 of the Revised Code; 3698

(7) The refundable job retention or job creation credit under 3699  
division (A) of section 5726.50 of the Revised Code; 3700

(8) The refundable credit under section 5726.53 of the 3701  
Revised Code for losses on loans made under the Ohio venture 3702  
capital program under sections 150.01 to 150.10 of the Revised 3703  
Code; 3704

(9) The refundable motion picture production credit under 3705  
section 5726.55 of the Revised Code. 3706

(B) For any credit except the refundable credits enumerated 3707  
in this section, the amount of the credit for a taxable year shall 3708  
not exceed the tax due after allowing for any other credit that 3709  
precedes it in the order required under this section. Any excess 3710  
amount of a particular credit may be carried forward if authorized 3711  
under the section creating that credit. Nothing in this chapter 3712  
shall be construed to allow a taxpayer to claim, directly or 3713  
indirectly, a credit more than once for a taxable year. 3714

**Sec. 5726.99.** Whoever violates section 5726.41 of the Revised 3715  
Code shall be fined not less than one hundred dollars or more than 3716  
one thousand dollars. 3717

**Sec. 5733.01.** (A) The tax provided by this chapter for 3718  
domestic corporations shall be the amount charged against each 3719  
corporation organized for profit under the laws of this state and 3720  
each nonprofit corporation organized pursuant to Chapter 1729. of 3721  
the Revised Code, except as provided in sections 5733.09 and 3722  
5733.10 of the Revised Code, for the privilege of exercising its 3723  
franchise during the calendar year in which that amount is 3724  
payable, and the tax provided by this chapter for foreign 3725  
corporations shall be the amount charged against each corporation 3726  
organized for profit and each nonprofit corporation organized or 3727

operating in the same or similar manner as nonprofit corporations 3728  
organized under Chapter 1729. of the Revised Code, under the laws 3729  
of any state or country other than this state, except as provided 3730  
in sections 5733.09 and 5733.10 of the Revised Code, for the 3731  
privilege of doing business in this state, owning or using a part 3732  
or all of its capital or property in this state, holding a 3733  
certificate of compliance with the laws of this state authorizing 3734  
it to do business in this state, or otherwise having nexus in or 3735  
with this state under the Constitution of the United States, 3736  
during the calendar year in which that amount is payable. 3737

(B) A corporation is subject to the tax imposed by section 3738  
5733.06 of the Revised Code for each calendar year prior to 2014 3739  
that it is so organized, doing business, owning or using a part or 3740  
all of its capital or property, holding a certificate of 3741  
compliance, or otherwise having nexus in or with this state under 3742  
the Constitution of the United States, on the first day of January 3743  
of that calendar year. No credit authorized by this chapter may be 3744  
claimed for tax year 2014 or any tax year thereafter. 3745

(C) Any corporation subject to this chapter that is not 3746  
subject to the federal income tax shall file its returns and 3747  
compute its tax liability as required by this chapter in the same 3748  
manner as if that corporation were subject to the federal income 3749  
tax. 3750

(D) For purposes of this chapter, a federally chartered 3751  
financial institution shall be deemed to be organized under the 3752  
laws of the state within which its principal office is located. 3753

(E) For purposes of this chapter, any person, as defined in 3754  
section 5701.01 of the Revised Code, shall be treated as a 3755  
corporation if the person is classified for federal income tax 3756  
purposes as an association taxable as a corporation, and an equity 3757  
interest in the person shall be treated as capital stock of the 3758  
person. 3759

(F) For the purposes of this chapter, "disregarded entity" 3760  
has the same meaning as in division (D) of section 5745.01 of the 3761  
Revised Code. 3762

(1) A person's interest in a disregarded entity, whether held 3763  
directly or indirectly, shall be treated as the person's ownership 3764  
of the assets and liabilities of the disregarded entity, and the 3765  
income, including gain or loss, shall be included in the person's 3766  
net income under this chapter. 3767

(2) Any sale, exchange, or other disposition of the person's 3768  
interest in the disregarded entity, whether held directly or 3769  
indirectly, shall be treated as a sale, exchange, or other 3770  
disposition of the person's share of the disregarded entity's 3771  
underlying assets or liabilities, and the gain or loss from such 3772  
sale, exchange, or disposition shall be included in the person's 3773  
net income under this chapter. 3774

(3) The disregarded entity's payroll, property, and sales 3775  
factors shall be included in the person's factors. 3776

(G) The tax a corporation is required to pay under this 3777  
chapter shall be as follows: 3778

(1)(a) For financial institutions, the greater of the minimum 3779  
payment required under division (E) of section 5733.06 of the 3780  
Revised Code or the difference between all taxes charged the 3781  
financial institution under this chapter, without regard to 3782  
division (G)(2) of this section, less any credits allowable 3783  
against such tax. 3784

(b) A corporation satisfying the description in division 3785  
(E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised 3786  
Code, as that section existed before its amendment by H.B. 510 of 3787  
the 129th general assembly, that is not a financial institution, 3788  
insurance company, or dealer in intangibles is subject to the 3789  
taxes imposed under this chapter as a corporation and not subject 3790

to tax as a financial institution, and shall pay the greater of 3791  
the minimum payment required under division (E) of section 5733.06 3792  
of the Revised Code or the difference between all the taxes 3793  
charged under this chapter, without regard to division (G)(2) of 3794  
this section, less any credits allowable against such tax. 3795

(2) For all corporations other than those persons described 3796  
in division (G)(1)(a) or (b) of this section, the amount under 3797  
division (G)(2)(a) of this section applicable to the tax year 3798  
specified less the amount under division (G)(2)(b) of this 3799  
section: 3800

(a)(i) For tax year 2005, the greater of the minimum payment 3801  
required under division (E) of section 5733.06 of the Revised Code 3802  
or the difference between all taxes charged the corporation under 3803  
this chapter and any credits allowable against such tax; 3804

(ii) For tax year 2006, the greater of the minimum payment 3805  
required under division (E) of section 5733.06 of the Revised Code 3806  
or four-fifths of the difference between all taxes charged the 3807  
corporation under this chapter and any credits allowable against 3808  
such tax, except the qualifying pass-through entity tax credit 3809  
described in division (A)(30) and the refundable credits described 3810  
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3811  
Code; 3812

(iii) For tax year 2007, the greater of the minimum payment 3813  
required under division (E) of section 5733.06 of the Revised Code 3814  
or three-fifths of the difference between all taxes charged the 3815  
corporation under this chapter and any credits allowable against 3816  
such tax, except the qualifying pass-through entity tax credit 3817  
described in division (A)(30) and the refundable credits described 3818  
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3819  
Code; 3820

(iv) For tax year 2008, the greater of the minimum payment 3821

required under division (E) of section 5733.06 of the Revised Code 3822  
or two-fifths of the difference between all taxes charged the 3823  
corporation under this chapter and any credits allowable against 3824  
such tax, except the qualifying pass-through entity tax credit 3825  
described in division (A)(30) and the refundable credits described 3826  
in divisions (A)(31) to (35) of section 5733.98 of the Revised 3827  
Code; 3828

(v) For tax year 2009, the greater of the minimum payment 3829  
required under division (E) of section 5733.06 of the Revised Code 3830  
or one-fifth of the difference between all taxes charged the 3831  
corporation under this chapter and any credits allowable against 3832  
such tax, except the qualifying pass-through entity tax credit 3833  
described in division (A)(30) and the refundable credits described 3834  
in divisions (A)(31), (32), (33), and (34) of section 5733.98 of 3835  
the Revised Code; 3836

(vi) For tax year 2010 and each tax year thereafter, no tax. 3837

(b) A corporation shall subtract from the amount calculated 3838  
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 3839  
any qualifying pass-through entity tax credit described in 3840  
division (A)(30) and any refundable credits described in divisions 3841  
(A)(31) to (35) of section 5733.98 of the Revised Code to which 3842  
the corporation is entitled. Any unused qualifying pass-through 3843  
entity tax credit is not refundable. 3844

(c) For the purposes of computing the amount of a credit that 3845  
may be carried forward to a subsequent tax year under division 3846  
(G)(2) of this section, a credit is utilized against the tax for a 3847  
tax year to the extent the credit applies against the tax for that 3848  
tax year, even if the difference is then multiplied by the 3849  
applicable fraction under division (G)(2)(a) of this section. 3850

(3) Nothing in division (G) of this section eliminates or 3851  
reduces the tax imposed by section 5733.41 of the Revised Code on 3852

a qualifying pass-through entity. 3853

**Sec. 5733.02.** Annually, for tax years prior to tax year 2014, 3854  
between the first day of January and the thirty-first day of March 3855  
or on or before the date as extended under section 5733.13 of the 3856  
Revised Code, each taxpayer shall make a report in writing to the 3857  
tax commissioner in such form as the tax commissioner prescribes, 3858  
and shall remit to the commissioner, with the remittance made 3859  
payable to the treasurer of state, the amount of the tax as shown 3860  
to be due by such report less the amount paid for the year on a 3861  
declaration of estimated tax report filed by the taxpayer as 3862  
provided by section 5733.021 of the Revised Code. Remittance shall 3863  
be made in the form prescribed by the commissioner, including 3864  
electronic funds transfer if required by section 5733.022 of the 3865  
Revised Code. 3866

The commissioner shall furnish corporations, on request, 3867  
copies of the forms prescribed by the commissioner for the purpose 3868  
of making such report. A domestic corporation shall not dissolve, 3869  
and a foreign corporation shall not withdraw or retire from 3870  
business in Ohio, on or after the first day of January in any year 3871  
prior to 2014 without making a franchise tax report to the 3872  
commissioner and paying or securing the tax charged for the year 3873  
in which such dissolution or withdrawal occurs. 3874

The annual corporation report shall be signed by the 3875  
president, vice-president, secretary, treasurer, general manager, 3876  
superintendent, or managing agent in this state of such 3877  
corporation. If a domestic corporation has not completed its 3878  
organization, its annual report shall be signed by one of its 3879  
incorporators. 3880

The report shall contain the facts, figures, computations, 3881  
and attachments that result in the tax charged by this chapter and 3882  
determined in the manner provided within the chapter. 3883

**Sec. 5733.021.** (A) Each taxpayer that does not in January of 3884  
any year prior to 2014 file the report and make the payment 3885  
required by section 5733.02 of the Revised Code shall make and 3886  
file a declaration of estimated tax report for the tax year. 3887

The declaration of estimated tax report shall be filed with 3888  
the tax commissioner on or before the last day of January in such 3889  
form as prescribed by the tax commissioner, and shall reflect an 3890  
estimate of the total amount due under this chapter for the tax 3891  
year. 3892

(B) A taxpayer required to file a declaration of estimated 3893  
tax report shall make remittance of such estimated tax to the tax 3894  
commissioner as follows: 3895

(1) The entire estimated tax at the time of filing the 3896  
declaration of estimated tax report, if such estimated tax is not 3897  
in excess of the minimum tax as provided in section 5733.06 of the 3898  
Revised Code; 3899

(2) If the estimated tax is in excess of the minimum tax: 3900

(a) One-third of the estimated tax at the time of filing the 3901  
declaration of estimated tax report; 3902

(b) Two-thirds of the estimated tax on or before the last day 3903  
of March of the tax year, if the report required by section 3904  
5733.02 of the Revised Code is filed on or before the last day of 3905  
March of the tax year. 3906

(3) If the estimated tax is in excess of the minimum tax, and 3907  
an extension of time for filing the report required by section 3908  
5733.02 of the Revised Code has been granted pursuant to section 3909  
5733.13 of the Revised Code: 3910

(a) One-third of the estimated tax at the time of filing the 3911  
declaration of estimated tax report; 3912

(b) One-third of the estimated tax on or before the last day 3913



of March of the tax year; 3914

(c) One-third of the estimated tax on or before the last day 3915  
of May of the tax year. 3916

Remittance of the estimated tax shall be made payable to the 3917  
treasurer of state and shall be made in the form prescribed by the 3918  
tax commissioner, including electronic funds transfer if required 3919  
by section 5733.022 of the Revised Code. 3920

The tax commissioner shall immediately forward to the 3921  
treasurer of state all amounts received under this section, and 3922  
the treasurer of state shall credit all payments of such estimated 3923  
tax as provided in section 5733.12 of the Revised Code. 3924

(C)(1)(a) For any period of delinquency ending prior to the 3925  
first day of June of the tax year, the penalty under division 3926  
(A)(2) of section 5733.28 of the Revised Code may be imposed only 3927  
on the delinquent portion of the estimated tax required to be paid 3928  
under divisions (B)(2)(a) and (b) and (B)(3)(a) and (b) of this 3929  
section. 3930

(b) If the taxpayer was not subject to tax for the 3931  
immediately preceding tax year, "estimated tax" for purposes of 3932  
division (C)(1) of this section is ninety per cent of the 3933  
qualifying net tax for the tax year. If the taxpayer was subject 3934  
to the tax for the immediately preceding tax year, "estimated tax" 3935  
for purposes of division (C)(1) of this section is the lesser of 3936  
one hundred per cent of the qualifying net tax for the immediately 3937  
preceding tax year or ninety per cent of the qualifying net tax 3938  
for the tax year. 3939

(2)(a) For any period of delinquency commencing the first day 3940  
of June of the tax year and concluding on the extended due date 3941  
pursuant to section 5733.13 of the Revised Code, the penalty under 3942  
division (A)(2) of section 5733.28 of the Revised Code may be 3943  
imposed only on the delinquent portion of the estimated tax 3944

required to be paid under division (B)(3)(c) of this section. 3945

(b) For purposes of division (C)(2) of this section, 3946  
"estimated tax" is ninety per cent of the qualifying net tax for 3947  
the tax year. 3948

(3) If the taxpayer did not file a report under section 3949  
5733.02 of the Revised Code for the tax year or failed to prepare 3950  
and file the report in good faith for the tax year, "qualifying 3951  
net tax" as used in division (C) of this section for that tax year 3952  
means the amount described in division (C)(3)(a) of this section. 3953  
Otherwise, "qualifying net tax" as used in division (C) of this 3954  
section for that tax year means the lesser of the amount described 3955  
in division (C)(3)(a) or (b) of this section: 3956

(a) The tax imposed by sections 5733.06, 5733.065, and 3957  
5733.066 of the Revised Code for that tax year reduced by the 3958  
credits listed in section 5733.98 of the Revised Code. If the 3959  
credits exceed the total tax, the qualifying net tax is the 3960  
minimum tax. 3961

(b) The lesser of the tax shown on the report, prepared and 3962  
filed in good faith, reduced by the credits shown on that report, 3963  
or the tax shown on an amended report, prepared and filed in good 3964  
faith, reduced by the credits shown on that amended report. If the 3965  
credits shown exceed the total tax shown, the qualifying net tax 3966  
is the minimum tax. 3967

**Sec. 5733.06.** The For tax years prior to tax year 2014, the 3968  
tax hereby charged each corporation subject to this chapter shall 3969  
be the greater of the sum of divisions (A) and (B) of this 3970  
section, after the reduction, if any, provided by division (J) of 3971  
this section, or division (C) of this section, after the 3972  
reduction, if any, provided by division (J) of this section, 3973  
except that the tax hereby charged each financial institution 3974  
subject to this chapter shall be the amount computed under 3975

division (D) of this section: 3976

(A) Except as set forth in division (F) of this section, five 3977  
and one-tenth per cent upon the first fifty thousand dollars of 3978  
the value of the taxpayer's issued and outstanding shares of stock 3979  
as determined under division (B) of section 5733.05 of the Revised 3980  
Code; 3981

(B) Except as set forth in division (F) of this section, 3982  
eight and one-half per cent upon the value so determined in excess 3983  
of fifty thousand dollars; or 3984

(C)(1) Except as otherwise provided under division (G) of 3985  
this section, four mills times that portion of the value of the 3986  
issued and outstanding shares of stock as determined under 3987  
division (C) of section 5733.05 of the Revised Code. For the 3988  
purposes of division (C) of this section, division (C)(2) of 3989  
section 5733.065, and division (C) of section 5733.066 of the 3990  
Revised Code, the value of the issued and outstanding shares of 3991  
stock of an eligible corporation for tax year 2003 through tax 3992  
year 2007, or of a ~~qualified~~ qualifying holding company, is zero. 3993

(2) As used in division (C) of this section, "eligible 3994  
corporation" means a person treated as a corporation for federal 3995  
income tax purposes that meets all of the following criteria: 3996

(a) The corporation conducts business for an entire taxable 3997  
year as a qualified trade or business as defined by division (C) 3998  
of section 122.15 of the Revised Code. 3999

(b) The corporation uses more than fifty per cent of the 4000  
corporation's assets, based on net book value, that are located in 4001  
Ohio solely to conduct activities that constitute a qualified 4002  
trade or business as defined by section 122.15 of the Revised 4003  
Code. 4004

(c) The corporation has been formed or organized not more 4005

than three years before the report required to be filed by section 4006  
5733.02 of the Revised Code is due, without regard to any 4007  
extensions. 4008

(d) The corporation is not a related member, as defined in 4009  
section 5733.042 of the Revised Code, at any time during the 4010  
taxable year with respect to another person treated as a 4011  
corporation for federal income tax purposes. A corporation is not 4012  
a related member if during the entire taxable year at least 4013  
seventy-five per cent of the corporation's stock is owned directly 4014  
or through a pass-through entity by individuals, estates, and 4015  
grantor trusts, and the individuals, estates, and grantor trusts 4016  
do not directly or indirectly own more than twenty per cent of the 4017  
value of another person treated as a corporation for federal 4018  
income tax purposes that is conducting a qualified trade or 4019  
business. 4020

(D) The tax charged each financial institution subject to 4021  
this chapter shall be that portion of the value of the issued and 4022  
outstanding shares of stock as determined under division (A) of 4023  
section 5733.05 of the Revised Code, multiplied by the following 4024  
amounts: 4025

(1) For tax years prior to the 1999 tax year, fifteen mills; 4026

(2) For the 1999 tax year, fourteen mills; 4027

(3) For tax year 2000 and thereafter, thirteen mills. 4028

(E) No tax shall be charged from any corporation that has 4029  
been adjudicated bankrupt, or for which a receiver has been 4030  
appointed, or that has made a general assignment for the benefit 4031  
of creditors, except for the portion of the then current tax year 4032  
during which the tax commissioner finds such corporation had the 4033  
power to exercise its corporate franchise unimpaired by such 4034  
proceedings or act. The minimum payment for each corporation shall 4035  
be as follows: 4036

(1) One thousand dollars in the case of a corporation having 4037  
gross receipts for the taxable year equal to at least five million 4038  
dollars from activities within or outside this state or in the 4039  
case of a corporation employing at least three hundred employees 4040  
at some time during the taxable year within or outside this state; 4041

(2) Fifty dollars in the case of any other corporation. 4042

The tax charged to corporations under this chapter for the 4043  
privilege of engaging in business in this state, which is an 4044  
excise tax levied on the value of the issued and outstanding 4045  
shares of stock, shall in no manner be construed as prohibiting or 4046  
otherwise limiting the powers of municipal corporations, joint 4047  
economic development zones created under section 715.691 of the 4048  
Revised Code, and joint economic development districts created 4049  
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 4050  
Revised Code in this state to impose an income tax on the income 4051  
of such corporations. 4052

(F) If two or more taxpayers satisfy the ownership or control 4053  
requirements of division (A) of section 5733.052 of the Revised 4054  
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 4055  
amount" for "fifty thousand dollars" in divisions (A) and (B) of 4056  
this section. For purposes of this division, "the taxpayer's 4057  
pro-rata amount" is an amount that, when added to the other such 4058  
taxpayers' pro-rata amounts, does not exceed fifty thousand 4059  
dollars. For the purpose of making that computation, the 4060  
taxpayer's pro-rata amount shall not be less than zero. Nothing in 4061  
this division derogates from or eliminates the requirement to make 4062  
the alternative computation of tax under division (C) of this 4063  
section. 4064

(G) The tax liability of any corporation under division (C) 4065  
of this section shall not exceed one hundred fifty thousand 4066  
dollars. 4067

(H)(1) For the purposes of division (H) of this section, 4068  
"exiting corporation" means a corporation that satisfies all of 4069  
the following conditions: 4070

(a) The corporation had nexus with or in this state under the 4071  
Constitution of the United States during any portion of a calendar 4072  
year; 4073

(b) The corporation was not a corporation described in 4074  
division (A) of section 5733.01 of the Revised Code on the first 4075  
day of January immediately following that calendar year; 4076

(c) The corporation was not a financial institution on the 4077  
first day of January immediately following that calendar year; 4078

(d) If the corporation was a transferor as defined in section 4079  
5733.053 of the Revised Code, the corporation's transferee was not 4080  
required to add to the transferee's net income the income of the 4081  
transferor pursuant to division (B) of that section; 4082

(e) During any portion of that calendar year, or any portion 4083  
of the immediately preceding calendar year, the corporation had 4084  
net income that was not included in a report filed by the 4085  
corporation or its transferee pursuant to section 5733.02, 4086  
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 4087

(f) The corporation would have been subject to the tax 4088  
computed under divisions (A), (B), (C), (F), and (G) of this 4089  
section if the corporation is assumed to be a corporation 4090  
described in division (A) of section 5733.01 of the Revised Code 4091  
on the first day of January immediately following the calendar 4092  
year to which division (H)(1)(a) of this section refers. 4093

(2) For the purposes of division (H) of this section, 4094  
"unreported net income" means net income that was not previously 4095  
included in a report filed pursuant to section 5733.02, 5733.021, 4096  
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 4097  
realized or recognized during the calendar year to which division 4098

(H)(1) of this section refers or the immediately preceding 4099  
calendar year. 4100

(3) Each exiting corporation shall pay a tax computed by 4101  
first allocating and apportioning the unreported net income 4102  
pursuant to division (B) of section 5733.05 and section 5733.051 4103  
and, if applicable, section 5733.052 of the Revised Code. The 4104  
exiting corporation then shall compute the tax due on its 4105  
unreported net income allocated and apportioned to this state by 4106  
applying divisions (A), (B), and (F) of this section to that 4107  
income. 4108

(4) Divisions (C) and (G) of this section, division (D)(2) of 4109  
section 5733.065, and division (C) of section 5733.066 of the 4110  
Revised Code do not apply to an exiting corporation, but exiting 4111  
corporations are subject to every other provision of this chapter. 4112

(5) Notwithstanding division (B) of section 5733.01 or 4113  
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 4114  
contrary, each exiting corporation shall report and pay the tax 4115  
due under division (H) of this section on or before the 4116  
thirty-first day of May immediately following the calendar year to 4117  
which division (H)(1)(a) of this section refers. The exiting 4118  
corporation shall file that report on the form most recently 4119  
prescribed by the tax commissioner for the purposes of complying 4120  
with sections 5733.02 and 5733.03 of the Revised Code. Upon 4121  
request by the corporation, the tax commissioner may extend the 4122  
date for filing the report. 4123

(6) If, on account of the application of section 5733.053 of 4124  
the Revised Code, net income is subject to the tax imposed by 4125  
divisions (A) and (B) of this section, such income shall not be 4126  
subject to the tax imposed by division (H)(3) of this section. 4127

(7) The amendments made to division (H) of this section by 4128  
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 4129

any transfer, as defined in section 5733.053 of the Revised Code, 4130  
for which negotiations began prior to January 1, 2001, and that 4131  
was commenced in and completed during calendar year 2001, unless 4132  
the taxpayer makes an election prior to December 31, 2001, to 4133  
apply those amendments. 4134

(8) The tax commissioner may adopt rules governing division 4135  
(H) of this section. 4136

(I) Any reference in the Revised Code to "the tax imposed by 4137  
section 5733.06 of the Revised Code" or "the tax due under section 4138  
5733.06 of the Revised Code" includes the taxes imposed under 4139  
sections 5733.065 and 5733.066 of the Revised Code. 4140

(J)(1) Division (J) of this section applies solely to a 4141  
combined company. Section 5733.057 of the Revised Code shall apply 4142  
when calculating the adjustments required by division (J) of this 4143  
section. 4144

(2) Subject to division (J)(4) of this section, the total tax 4145  
calculated in divisions (A) and (B) of this section shall be 4146  
reduced by an amount calculated by multiplying such tax by a 4147  
fraction, the numerator of which is the total taxable gross 4148  
receipts attributed to providing public utility activity other 4149  
than as an electric company under section 5727.03 of the Revised 4150  
Code for the year upon which the taxable gross receipts are 4151  
measured immediately preceding the tax year, and the denominator 4152  
of which is the total gross receipts from all sources for the year 4153  
upon which the taxable gross receipts are measured immediately 4154  
preceding the tax year. Nothing herein shall be construed to 4155  
exclude from the denominator any item of income described in 4156  
section 5733.051 of the Revised Code. 4157

(3) Subject to division (J)(4) of this section, the total tax 4158  
calculated in division (C) of this section shall be reduced by an 4159  
amount calculated by multiplying such tax by the fraction 4160



described in division (J)(2) of this section. 4161

(4) In no event shall the reduction provided by division 4162  
(J)(2) or (J)(3) of this section exceed the amount of the excise 4163  
tax paid in accordance with section 5727.38 of the Revised Code, 4164  
for the year upon which the taxable gross receipts are measured 4165  
immediately preceding the tax year. 4166

**Sec. 5747.01.** Except as otherwise expressly provided or 4167  
clearly appearing from the context, any term used in this chapter 4168  
that is not otherwise defined in this section has the same meaning 4169  
as when used in a comparable context in the laws of the United 4170  
States relating to federal income taxes or if not used in a 4171  
comparable context in those laws, has the same meaning as in 4172  
section 5733.40 of the Revised Code. Any reference in this chapter 4173  
to the Internal Revenue Code includes other laws of the United 4174  
States relating to federal income taxes. 4175

As used in this chapter: 4176

(A) "Adjusted gross income" or "Ohio adjusted gross income" 4177  
means federal adjusted gross income, as defined and used in the 4178  
Internal Revenue Code, adjusted as provided in this section: 4179

(1) Add interest or dividends on obligations or securities of 4180  
any state or of any political subdivision or authority of any 4181  
state, other than this state and its subdivisions and authorities. 4182

(2) Add interest or dividends on obligations of any 4183  
authority, commission, instrumentality, territory, or possession 4184  
of the United States to the extent that the interest or dividends 4185  
are exempt from federal income taxes but not from state income 4186  
taxes. 4187

(3) Deduct interest or dividends on obligations of the United 4188  
States and its territories and possessions or of any authority, 4189  
commission, or instrumentality of the United States to the extent 4190

that the interest or dividends are included in federal adjusted 4191  
gross income but exempt from state income taxes under the laws of 4192  
the United States. 4193

(4) Deduct disability and survivor's benefits to the extent 4194  
included in federal adjusted gross income. 4195

(5) Deduct benefits under Title II of the Social Security Act 4196  
and tier 1 railroad retirement benefits to the extent included in 4197  
federal adjusted gross income under section 86 of the Internal 4198  
Revenue Code. 4199

(6) In the case of a taxpayer who is a beneficiary of a trust 4200  
that makes an accumulation distribution as defined in section 665 4201  
of the Internal Revenue Code, add, for the beneficiary's taxable 4202  
years beginning before 2002, the portion, if any, of such 4203  
distribution that does not exceed the undistributed net income of 4204  
the trust for the three taxable years preceding the taxable year 4205  
in which the distribution is made to the extent that the portion 4206  
was not included in the trust's taxable income for any of the 4207  
trust's taxable years beginning in 2002 or thereafter. 4208

"Undistributed net income of a trust" means the taxable income of 4209  
the trust increased by (a)(i) the additions to adjusted gross 4210  
income required under division (A) of this section and (ii) the 4211  
personal exemptions allowed to the trust pursuant to section 4212  
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 4213  
deductions to adjusted gross income required under division (A) of 4214  
this section, (ii) the amount of federal income taxes attributable 4215  
to such income, and (iii) the amount of taxable income that has 4216  
been included in the adjusted gross income of a beneficiary by 4217  
reason of a prior accumulation distribution. Any undistributed net 4218  
income included in the adjusted gross income of a beneficiary 4219  
shall reduce the undistributed net income of the trust commencing 4220  
with the earliest years of the accumulation period. 4221

(7) Deduct the amount of wages and salaries, if any, not 4222

otherwise allowable as a deduction but that would have been 4223  
allowable as a deduction in computing federal adjusted gross 4224  
income for the taxable year, had the targeted jobs credit allowed 4225  
and determined under sections 38, 51, and 52 of the Internal 4226  
Revenue Code not been in effect. 4227

(8) Deduct any interest or interest equivalent on public 4228  
obligations and purchase obligations to the extent that the 4229  
interest or interest equivalent is included in federal adjusted 4230  
gross income. 4231

(9) Add any loss or deduct any gain resulting from the sale, 4232  
exchange, or other disposition of public obligations to the extent 4233  
that the loss has been deducted or the gain has been included in 4234  
computing federal adjusted gross income. 4235

(10) Deduct or add amounts, as provided under section 5747.70 4236  
of the Revised Code, related to contributions to variable college 4237  
savings program accounts made or tuition units purchased pursuant 4238  
to Chapter 3334. of the Revised Code. 4239

(11)(a) Deduct, to the extent not otherwise allowable as a 4240  
deduction or exclusion in computing federal or Ohio adjusted gross 4241  
income for the taxable year, the amount the taxpayer paid during 4242  
the taxable year for medical care insurance and qualified 4243  
long-term care insurance for the taxpayer, the taxpayer's spouse, 4244  
and dependents. No deduction for medical care insurance under 4245  
division (A)(11) of this section shall be allowed either to any 4246  
taxpayer who is eligible to participate in any subsidized health 4247  
plan maintained by any employer of the taxpayer or of the 4248  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 4249  
application would be entitled to, benefits under part A of Title 4250  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 4251  
301, as amended. For the purposes of division (A)(11)(a) of this 4252  
section, "subsidized health plan" means a health plan for which 4253  
the employer pays any portion of the plan's cost. The deduction 4254

allowed under division (A)(11)(a) of this section shall be the net 4255  
of any related premium refunds, related premium reimbursements, or 4256  
related insurance premium dividends received during the taxable 4257  
year. 4258

(b) Deduct, to the extent not otherwise deducted or excluded 4259  
in computing federal or Ohio adjusted gross income during the 4260  
taxable year, the amount the taxpayer paid during the taxable 4261  
year, not compensated for by any insurance or otherwise, for 4262  
medical care of the taxpayer, the taxpayer's spouse, and 4263  
dependents, to the extent the expenses exceed seven and one-half 4264  
per cent of the taxpayer's federal adjusted gross income. 4265

(c) Deduct, to the extent not otherwise deducted or excluded 4266  
in computing federal or Ohio adjusted gross income, any amount 4267  
included in federal adjusted gross income under section 105 or not 4268  
excluded under section 106 of the Internal Revenue Code solely 4269  
because it relates to an accident and health plan for a person who 4270  
otherwise would be a "qualifying relative" and thus a "dependent" 4271  
under section 152 of the Internal Revenue Code but for the fact 4272  
that the person fails to meet the income and support limitations 4273  
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 4274

(d) For purposes of division (A)(11) of this section, 4275  
"medical care" has the meaning given in section 213 of the 4276  
Internal Revenue Code, subject to the special rules, limitations, 4277  
and exclusions set forth therein, and "qualified long-term care" 4278  
has the same meaning given in section 7702B(c) of the Internal 4279  
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 4280  
of this section, "dependent" includes a person who otherwise would 4281  
be a "qualifying relative" and thus a "dependent" under section 4282  
152 of the Internal Revenue Code but for the fact that the person 4283  
fails to meet the income and support limitations under section 4284  
152(d)(1)(B) and (C) of the Internal Revenue Code. 4285

(12)(a) Deduct any amount included in federal adjusted gross 4286

income solely because the amount represents a reimbursement or 4287  
refund of expenses that in any year the taxpayer had deducted as 4288  
an itemized deduction pursuant to section 63 of the Internal 4289  
Revenue Code and applicable United States department of the 4290  
treasury regulations. The deduction otherwise allowed under 4291  
division (A)(12)(a) of this section shall be reduced to the extent 4292  
the reimbursement is attributable to an amount the taxpayer 4293  
deducted under this section in any taxable year. 4294

(b) Add any amount not otherwise included in Ohio adjusted 4295  
gross income for any taxable year to the extent that the amount is 4296  
attributable to the recovery during the taxable year of any amount 4297  
deducted or excluded in computing federal or Ohio adjusted gross 4298  
income in any taxable year. 4299

(13) Deduct any portion of the deduction described in section 4300  
1341(a)(2) of the Internal Revenue Code, for repaying previously 4301  
reported income received under a claim of right, that meets both 4302  
of the following requirements: 4303

(a) It is allowable for repayment of an item that was 4304  
included in the taxpayer's adjusted gross income for a prior 4305  
taxable year and did not qualify for a credit under division (A) 4306  
or (B) of section 5747.05 of the Revised Code for that year; 4307

(b) It does not otherwise reduce the taxpayer's adjusted 4308  
gross income for the current or any other taxable year. 4309

(14) Deduct an amount equal to the deposits made to, and net 4310  
investment earnings of, a medical savings account during the 4311  
taxable year, in accordance with section 3924.66 of the Revised 4312  
Code. The deduction allowed by division (A)(14) of this section 4313  
does not apply to medical savings account deposits and earnings 4314  
otherwise deducted or excluded for the current or any other 4315  
taxable year from the taxpayer's federal adjusted gross income. 4316

(15)(a) Add an amount equal to the funds withdrawn from a 4317

medical savings account during the taxable year, and the net 4318  
investment earnings on those funds, when the funds withdrawn were 4319  
used for any purpose other than to reimburse an account holder 4320  
for, or to pay, eligible medical expenses, in accordance with 4321  
section 3924.66 of the Revised Code; 4322

(b) Add the amounts distributed from a medical savings 4323  
account under division (A)(2) of section 3924.68 of the Revised 4324  
Code during the taxable year. 4325

(16) Add any amount claimed as a credit under section 4326  
5747.059 or 5747.65 of the Revised Code to the extent that such 4327  
amount satisfies either of the following: 4328

(a) The amount was deducted or excluded from the computation 4329  
of the taxpayer's federal adjusted gross income as required to be 4330  
reported for the taxpayer's taxable year under the Internal 4331  
Revenue Code; 4332

(b) The amount resulted in a reduction of the taxpayer's 4333  
federal adjusted gross income as required to be reported for any 4334  
of the taxpayer's taxable years under the Internal Revenue Code. 4335

(17) Deduct the amount contributed by the taxpayer to an 4336  
individual development account program established by a county 4337  
department of job and family services pursuant to sections 329.11 4338  
to 329.14 of the Revised Code for the purpose of matching funds 4339  
deposited by program participants. On request of the tax 4340  
commissioner, the taxpayer shall provide any information that, in 4341  
the tax commissioner's opinion, is necessary to establish the 4342  
amount deducted under division (A)(17) of this section. 4343

(18) Beginning in taxable year 2001 but not for any taxable 4344  
year beginning after December 31, 2005, if the taxpayer is married 4345  
and files a joint return and the combined federal adjusted gross 4346  
income of the taxpayer and the taxpayer's spouse for the taxable 4347  
year does not exceed one hundred thousand dollars, or if the 4348

taxpayer is single and has a federal adjusted gross income for the 4349  
taxable year not exceeding fifty thousand dollars, deduct amounts 4350  
paid during the taxable year for qualified tuition and fees paid 4351  
to an eligible institution for the taxpayer, the taxpayer's 4352  
spouse, or any dependent of the taxpayer, who is a resident of 4353  
this state and is enrolled in or attending a program that 4354  
culminates in a degree or diploma at an eligible institution. The 4355  
deduction may be claimed only to the extent that qualified tuition 4356  
and fees are not otherwise deducted or excluded for any taxable 4357  
year from federal or Ohio adjusted gross income. The deduction may 4358  
not be claimed for educational expenses for which the taxpayer 4359  
claims a credit under section 5747.27 of the Revised Code. 4360

(19) Add any reimbursement received during the taxable year 4361  
of any amount the taxpayer deducted under division (A)(18) of this 4362  
section in any previous taxable year to the extent the amount is 4363  
not otherwise included in Ohio adjusted gross income. 4364

(20)(a)(i) Add five-sixths of the amount of depreciation 4365  
expense allowed by subsection (k) of section 168 of the Internal 4366  
Revenue Code, including the taxpayer's proportionate or 4367  
distributive share of the amount of depreciation expense allowed 4368  
by that subsection to a pass-through entity in which the taxpayer 4369  
has a direct or indirect ownership interest. 4370

(ii) Add five-sixths of the amount of qualifying section 179 4371  
depreciation expense, including a person's proportionate or 4372  
distributive share of the amount of qualifying section 179 4373  
depreciation expense allowed to any pass-through entity in which 4374  
the person has a direct or indirect ownership. For the purposes of 4375  
this division, "qualifying section 179 depreciation expense" means 4376  
the difference between (I) the amount of depreciation expense 4377  
directly or indirectly allowed to the taxpayer under section 179 4378  
of the Internal Revenue Code, and (II) the amount of depreciation 4379  
expense directly or indirectly allowed to the taxpayer under 4380

section 179 of the Internal Revenue Code as that section existed 4381  
on December 31, 2002. 4382

The tax commissioner, under procedures established by the 4383  
commissioner, may waive the add-backs related to a pass-through 4384  
entity if the taxpayer owns, directly or indirectly, less than 4385  
five per cent of the pass-through entity. 4386

(b) Nothing in division (A)(20) of this section shall be 4387  
construed to adjust or modify the adjusted basis of any asset. 4388

(c) To the extent the add-back required under division 4389  
(A)(20)(a) of this section is attributable to property generating 4390  
nonbusiness income or loss allocated under section 5747.20 of the 4391  
Revised Code, the add-back shall be situated to the same location 4392  
as the nonbusiness income or loss generated by the property for 4393  
the purpose of determining the credit under division (A) of 4394  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 4395  
be apportioned, subject to one or more of the four alternative 4396  
methods of apportionment enumerated in section 5747.21 of the 4397  
Revised Code. 4398

(d) For the purposes of division (A) of this section, net 4399  
operating loss carryback and carryforward shall not include 4400  
five-sixths of the allowance of any net operating loss deduction 4401  
carryback or carryforward to the taxable year to the extent such 4402  
loss resulted from depreciation allowed by section 168(k) of the 4403  
Internal Revenue Code and by the qualifying section 179 4404  
depreciation expense amount. 4405

(21)(a) If the taxpayer was required to add an amount under 4406  
division (A)(20)(a) of this section for a taxable year, deduct 4407  
one-fifth of the amount so added for each of the five succeeding 4408  
taxable years. 4409

(b) If the amount deducted under division (A)(21)(a) of this 4410  
section is attributable to an add-back allocated under division 4411



(A)(20)(c) of this section, the amount deducted shall be situated 4412  
to the same location. Otherwise, the add-back shall be apportioned 4413  
using the apportionment factors for the taxable year in which the 4414  
deduction is taken, subject to one or more of the four alternative 4415  
methods of apportionment enumerated in section 5747.21 of the 4416  
Revised Code. 4417

(c) No deduction is available under division (A)(21)(a) of 4418  
this section with regard to any depreciation allowed by section 4419  
168(k) of the Internal Revenue Code and by the qualifying section 4420  
179 depreciation expense amount to the extent that such 4421  
depreciation resulted in or increased a federal net operating loss 4422  
carryback or carryforward to a taxable year to which division 4423  
(A)(20)(d) of this section does not apply. 4424

(22) Deduct, to the extent not otherwise deducted or excluded 4425  
in computing federal or Ohio adjusted gross income for the taxable 4426  
year, the amount the taxpayer received during the taxable year as 4427  
reimbursement for life insurance premiums under section 5919.31 of 4428  
the Revised Code. 4429

(23) Deduct, to the extent not otherwise deducted or excluded 4430  
in computing federal or Ohio adjusted gross income for the taxable 4431  
year, the amount the taxpayer received during the taxable year as 4432  
a death benefit paid by the adjutant general under section 5919.33 4433  
of the Revised Code. 4434

(24) Deduct, to the extent included in federal adjusted gross 4435  
income and not otherwise allowable as a deduction or exclusion in 4436  
computing federal or Ohio adjusted gross income for the taxable 4437  
year, military pay and allowances received by the taxpayer during 4438  
the taxable year for active duty service in the United States 4439  
army, air force, navy, marine corps, or coast guard or reserve 4440  
components thereof or the national guard. The deduction may not be 4441  
claimed for military pay and allowances received by the taxpayer 4442  
while the taxpayer is stationed in this state. 4443

(25) Deduct, to the extent not otherwise allowable as a 4444  
deduction or exclusion in computing federal or Ohio adjusted gross 4445  
income for the taxable year and not otherwise compensated for by 4446  
any other source, the amount of qualified organ donation expenses 4447  
incurred by the taxpayer during the taxable year, not to exceed 4448  
ten thousand dollars. A taxpayer may deduct qualified organ 4449  
donation expenses only once for all taxable years beginning with 4450  
taxable years beginning in 2007. 4451

For the purposes of division (A)(25) of this section: 4452

(a) "Human organ" means all or any portion of a human liver, 4453  
pancreas, kidney, intestine, or lung, and any portion of human 4454  
bone marrow. 4455

(b) "Qualified organ donation expenses" means travel 4456  
expenses, lodging expenses, and wages and salary forgone by a 4457  
taxpayer in connection with the taxpayer's donation, while living, 4458  
of one or more of the taxpayer's human organs to another human 4459  
being. 4460

(26) Deduct, to the extent not otherwise deducted or excluded 4461  
in computing federal or Ohio adjusted gross income for the taxable 4462  
year, amounts received by the taxpayer as retired military 4463  
personnel pay for service in the United States army, navy, air 4464  
force, coast guard, or marine corps or reserve components thereof, 4465  
or the national guard, or received by the surviving spouse or 4466  
former spouse of such a taxpayer under the survivor benefit plan 4467  
on account of such a taxpayer's death. If the taxpayer receives 4468  
income on account of retirement paid under the federal civil 4469  
service retirement system or federal employees retirement system, 4470  
or under any successor retirement program enacted by the congress 4471  
of the United States that is established and maintained for 4472  
retired employees of the United States government, and such 4473  
retirement income is based, in whole or in part, on credit for the 4474  
taxpayer's military service, the deduction allowed under this 4475

division shall include only that portion of such retirement income 4476  
that is attributable to the taxpayer's military service, to the 4477  
extent that portion of such retirement income is otherwise 4478  
included in federal adjusted gross income and is not otherwise 4479  
deducted under this section. Any amount deducted under division 4480  
(A)(26) of this section is not included in a taxpayer's adjusted 4481  
gross income for the purposes of section 5747.055 of the Revised 4482  
Code. No amount may be deducted under division (A)(26) of this 4483  
section on the basis of which a credit was claimed under section 4484  
5747.055 of the Revised Code. 4485

(27) Deduct, to the extent not otherwise deducted or excluded 4486  
in computing federal or Ohio adjusted gross income for the taxable 4487  
year, the amount the taxpayer received during the taxable year 4488  
from the military injury relief fund created in section 5101.98 of 4489  
the Revised Code. 4490

(28) Deduct, to the extent not otherwise deducted or excluded 4491  
in computing federal or Ohio adjusted gross income for the taxable 4492  
year, the amount the taxpayer received as a veterans bonus during 4493  
the taxable year from the Ohio department of veterans services as 4494  
authorized by Section 2r of Article VIII, Ohio Constitution. 4495

(29) Deduct, to the extent not otherwise deducted or excluded 4496  
in computing federal or Ohio adjusted gross income for the taxable 4497  
year, any loss from wagering transactions that is allowed as an 4498  
itemized deduction under section 165 of the Internal Revenue Code 4499  
and that the taxpayer deducted in computing federal taxable 4500  
income. 4501

(30) Deduct, to the extent not otherwise deducted or excluded 4502  
in computing federal or Ohio adjusted gross income for the taxable 4503  
year, any income derived from providing public services under a 4504  
contract through a project owned by the state, as described in 4505  
section 126.604 of the Revised Code or derived from a transfer 4506  
agreement or from the enterprise transferred under that agreement 4507

under section 4313.02 of the Revised Code. 4508

(31) Deduct, to the extent not otherwise deducted or excluded 4509  
in computing federal or Ohio adjusted gross income for the taxable 4510  
year, Ohio college opportunity or federal Pell grant amounts 4511  
received by the taxpayer or the taxpayer's spouse or dependent 4512  
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 4513  
1070a, et seq., and used to pay room or board furnished by the 4514  
educational institution for which the grant was awarded at the 4515  
institution's facilities, including meal plans administered by the 4516  
institution. For the purposes of this division, receipt of a grant 4517  
includes the distribution of a grant directly to an educational 4518  
institution and the crediting of the grant to the enrollee's 4519  
account with the institution. 4520

(B) "Business income" means income, including gain or loss, 4521  
arising from transactions, activities, and sources in the regular 4522  
course of a trade or business and includes income, gain, or loss 4523  
from real property, tangible property, and intangible property if 4524  
the acquisition, rental, management, and disposition of the 4525  
property constitute integral parts of the regular course of a 4526  
trade or business operation. "Business income" includes income, 4527  
including gain or loss, from a partial or complete liquidation of 4528  
a business, including, but not limited to, gain or loss from the 4529  
sale or other disposition of goodwill. 4530

(C) "Nonbusiness income" means all income other than business 4531  
income and may include, but is not limited to, compensation, rents 4532  
and royalties from real or tangible personal property, capital 4533  
gains, interest, dividends and distributions, patent or copyright 4534  
royalties, or lottery winnings, prizes, and awards. 4535

(D) "Compensation" means any form of remuneration paid to an 4536  
employee for personal services. 4537

(E) "Fiduciary" means a guardian, trustee, executor, 4538

administrator, receiver, conservator, or any other person acting 4539  
in any fiduciary capacity for any individual, trust, or estate. 4540

(F) "Fiscal year" means an accounting period of twelve months 4541  
ending on the last day of any month other than December. 4542

(G) "Individual" means any natural person. 4543

(H) "Internal Revenue Code" means the "Internal Revenue Code 4544  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 4545

(I) "Resident" means any of the following, provided that 4546  
division (I)(3) of this section applies only to taxable years of a 4547  
trust beginning in 2002 or thereafter: 4548

(1) An individual who is domiciled in this state, subject to 4549  
section 5747.24 of the Revised Code; 4550

(2) The estate of a decedent who at the time of death was 4551  
domiciled in this state. The domicile tests of section 5747.24 of 4552  
the Revised Code are not controlling for purposes of division 4553  
(I)(2) of this section. 4554

(3) A trust that, in whole or part, resides in this state. If 4555  
only part of a trust resides in this state, the trust is a 4556  
resident only with respect to that part. 4557

For the purposes of division (I)(3) of this section: 4558

(a) A trust resides in this state for the trust's current 4559  
taxable year to the extent, as described in division (I)(3)(d) of 4560  
this section, that the trust consists directly or indirectly, in 4561  
whole or in part, of assets, net of any related liabilities, that 4562  
were transferred, or caused to be transferred, directly or 4563  
indirectly, to the trust by any of the following: 4564

(i) A person, a court, or a governmental entity or 4565  
instrumentality on account of the death of a decedent, but only if 4566  
the trust is described in division (I)(3)(e)(i) or (ii) of this 4567  
section; 4568

(ii) A person who was domiciled in this state for the 4569  
purposes of this chapter when the person directly or indirectly 4570  
transferred assets to an irrevocable trust, but only if at least 4571  
one of the trust's qualifying beneficiaries is domiciled in this 4572  
state for the purposes of this chapter during all or some portion 4573  
of the trust's current taxable year; 4574

(iii) A person who was domiciled in this state for the 4575  
purposes of this chapter when the trust document or instrument or 4576  
part of the trust document or instrument became irrevocable, but 4577  
only if at least one of the trust's qualifying beneficiaries is a 4578  
resident domiciled in this state for the purposes of this chapter 4579  
during all or some portion of the trust's current taxable year. If 4580  
a trust document or instrument became irrevocable upon the death 4581  
of a person who at the time of death was domiciled in this state 4582  
for purposes of this chapter, that person is a person described in 4583  
division (I)(3)(a)(iii) of this section. 4584

(b) A trust is irrevocable to the extent that the transferor 4585  
is not considered to be the owner of the net assets of the trust 4586  
under sections 671 to 678 of the Internal Revenue Code. 4587

(c) With respect to a trust other than a charitable lead 4588  
trust, "qualifying beneficiary" has the same meaning as "potential 4589  
current beneficiary" as defined in section 1361(e)(2) of the 4590  
Internal Revenue Code, and with respect to a charitable lead trust 4591  
"qualifying beneficiary" is any current, future, or contingent 4592  
beneficiary, but with respect to any trust "qualifying 4593  
beneficiary" excludes a person or a governmental entity or 4594  
instrumentality to any of which a contribution would qualify for 4595  
the charitable deduction under section 170 of the Internal Revenue 4596  
Code. 4597

(d) For the purposes of division (I)(3)(a) of this section, 4598  
the extent to which a trust consists directly or indirectly, in 4599  
whole or in part, of assets, net of any related liabilities, that 4600

were transferred directly or indirectly, in whole or part, to the 4601  
trust by any of the sources enumerated in that division shall be 4602  
ascertained by multiplying the fair market value of the trust's 4603  
assets, net of related liabilities, by the qualifying ratio, which 4604  
shall be computed as follows: 4605

(i) The first time the trust receives assets, the numerator 4606  
of the qualifying ratio is the fair market value of those assets 4607  
at that time, net of any related liabilities, from sources 4608  
enumerated in division (I)(3)(a) of this section. The denominator 4609  
of the qualifying ratio is the fair market value of all the 4610  
trust's assets at that time, net of any related liabilities. 4611

(ii) Each subsequent time the trust receives assets, a 4612  
revised qualifying ratio shall be computed. The numerator of the 4613  
revised qualifying ratio is the sum of (1) the fair market value 4614  
of the trust's assets immediately prior to the subsequent 4615  
transfer, net of any related liabilities, multiplied by the 4616  
qualifying ratio last computed without regard to the subsequent 4617  
transfer, and (2) the fair market value of the subsequently 4618  
transferred assets at the time transferred, net of any related 4619  
liabilities, from sources enumerated in division (I)(3)(a) of this 4620  
section. The denominator of the revised qualifying ratio is the 4621  
fair market value of all the trust's assets immediately after the 4622  
subsequent transfer, net of any related liabilities. 4623

(iii) Whether a transfer to the trust is by or from any of 4624  
the sources enumerated in division (I)(3)(a) of this section shall 4625  
be ascertained without regard to the domicile of the trust's 4626  
beneficiaries. 4627

(e) For the purposes of division (I)(3)(a)(i) of this 4628  
section: 4629

(i) A trust is described in division (I)(3)(e)(i) of this 4630  
section if the trust is a testamentary trust and the testator of 4631

that testamentary trust was domiciled in this state at the time of 4632  
the testator's death for purposes of the taxes levied under 4633  
Chapter 5731. of the Revised Code. 4634

(ii) A trust is described in division (I)(3)(e)(ii) of this 4635  
section if the transfer is a qualifying transfer described in any 4636  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 4637  
irrevocable inter vivos trust, and at least one of the trust's 4638  
qualifying beneficiaries is domiciled in this state for purposes 4639  
of this chapter during all or some portion of the trust's current 4640  
taxable year. 4641

(f) For the purposes of division (I)(3)(e)(ii) of this 4642  
section, a "qualifying transfer" is a transfer of assets, net of 4643  
any related liabilities, directly or indirectly to a trust, if the 4644  
transfer is described in any of the following: 4645

(i) The transfer is made to a trust, created by the decedent 4646  
before the decedent's death and while the decedent was domiciled 4647  
in this state for the purposes of this chapter, and, prior to the 4648  
death of the decedent, the trust became irrevocable while the 4649  
decedent was domiciled in this state for the purposes of this 4650  
chapter. 4651

(ii) The transfer is made to a trust to which the decedent, 4652  
prior to the decedent's death, had directly or indirectly 4653  
transferred assets, net of any related liabilities, while the 4654  
decedent was domiciled in this state for the purposes of this 4655  
chapter, and prior to the death of the decedent the trust became 4656  
irrevocable while the decedent was domiciled in this state for the 4657  
purposes of this chapter. 4658

(iii) The transfer is made on account of a contractual 4659  
relationship existing directly or indirectly between the 4660  
transferor and either the decedent or the estate of the decedent 4661  
at any time prior to the date of the decedent's death, and the 4662



decedent was domiciled in this state at the time of death for 4663  
purposes of the taxes levied under Chapter 5731. of the Revised 4664  
Code. 4665

(iv) The transfer is made to a trust on account of a 4666  
contractual relationship existing directly or indirectly between 4667  
the transferor and another person who at the time of the 4668  
decedent's death was domiciled in this state for purposes of this 4669  
chapter. 4670

(v) The transfer is made to a trust on account of the will of 4671  
a testator who was domiciled in this state at the time of the 4672  
testator's death for purposes of the taxes levied under Chapter 4673  
5731. of the Revised Code. 4674

(vi) The transfer is made to a trust created by or caused to 4675  
be created by a court, and the trust was directly or indirectly 4676  
created in connection with or as a result of the death of an 4677  
individual who, for purposes of the taxes levied under Chapter 4678  
5731. of the Revised Code, was domiciled in this state at the time 4679  
of the individual's death. 4680

(g) The tax commissioner may adopt rules to ascertain the 4681  
part of a trust residing in this state. 4682

(J) "Nonresident" means an individual or estate that is not a 4683  
resident. An individual who is a resident for only part of a 4684  
taxable year is a nonresident for the remainder of that taxable 4685  
year. 4686

(K) "Pass-through entity" has the same meaning as in section 4687  
5733.04 of the Revised Code. 4688

(L) "Return" means the notifications and reports required to 4689  
be filed pursuant to this chapter for the purpose of reporting the 4690  
tax due and includes declarations of estimated tax when so 4691  
required. 4692

(M) "Taxable year" means the calendar year or the taxpayer's 4693  
fiscal year ending during the calendar year, or fractional part 4694  
thereof, upon which the adjusted gross income is calculated 4695  
pursuant to this chapter. 4696

(N) "Taxpayer" means any person subject to the tax imposed by 4697  
section 5747.02 of the Revised Code or any pass-through entity 4698  
that makes the election under division (D) of section 5747.08 of 4699  
the Revised Code. 4700

(O) "Dependents" means dependents as defined in the Internal 4701  
Revenue Code and as claimed in the taxpayer's federal income tax 4702  
return for the taxable year or which the taxpayer would have been 4703  
permitted to claim had the taxpayer filed a federal income tax 4704  
return. 4705

(P) "Principal county of employment" means, in the case of a 4706  
nonresident, the county within the state in which a taxpayer 4707  
performs services for an employer or, if those services are 4708  
performed in more than one county, the county in which the major 4709  
portion of the services are performed. 4710

(Q) As used in sections 5747.50 to 5747.55 of the Revised 4711  
Code: 4712

(1) "Subdivision" means any county, municipal corporation, 4713  
park district, or township. 4714

(2) "Essential local government purposes" includes all 4715  
functions that any subdivision is required by general law to 4716  
exercise, including like functions that are exercised under a 4717  
charter adopted pursuant to the Ohio Constitution. 4718

(R) "Overpayment" means any amount already paid that exceeds 4719  
the figure determined to be the correct amount of the tax. 4720

(S) "Taxable income" or "Ohio taxable income" applies only to 4721  
estates and trusts, and means federal taxable income, as defined 4722

and used in the Internal Revenue Code, adjusted as follows: 4723

(1) Add interest or dividends, net of ordinary, necessary, 4724  
and reasonable expenses not deducted in computing federal taxable 4725  
income, on obligations or securities of any state or of any 4726  
political subdivision or authority of any state, other than this 4727  
state and its subdivisions and authorities, but only to the extent 4728  
that such net amount is not otherwise includible in Ohio taxable 4729  
income and is described in either division (S)(1)(a) or (b) of 4730  
this section: 4731

(a) The net amount is not attributable to the S portion of an 4732  
electing small business trust and has not been distributed to 4733  
beneficiaries for the taxable year; 4734

(b) The net amount is attributable to the S portion of an 4735  
electing small business trust for the taxable year. 4736

(2) Add interest or dividends, net of ordinary, necessary, 4737  
and reasonable expenses not deducted in computing federal taxable 4738  
income, on obligations of any authority, commission, 4739  
instrumentality, territory, or possession of the United States to 4740  
the extent that the interest or dividends are exempt from federal 4741  
income taxes but not from state income taxes, but only to the 4742  
extent that such net amount is not otherwise includible in Ohio 4743  
taxable income and is described in either division (S)(1)(a) or 4744  
(b) of this section; 4745

(3) Add the amount of personal exemption allowed to the 4746  
estate pursuant to section 642(b) of the Internal Revenue Code; 4747

(4) Deduct interest or dividends, net of related expenses 4748  
deducted in computing federal taxable income, on obligations of 4749  
the United States and its territories and possessions or of any 4750  
authority, commission, or instrumentality of the United States to 4751  
the extent that the interest or dividends are exempt from state 4752  
taxes under the laws of the United States, but only to the extent 4753

that such amount is included in federal taxable income and is 4754  
described in either division (S)(1)(a) or (b) of this section; 4755

(5) Deduct the amount of wages and salaries, if any, not 4756  
otherwise allowable as a deduction but that would have been 4757  
allowable as a deduction in computing federal taxable income for 4758  
the taxable year, had the targeted jobs credit allowed under 4759  
sections 38, 51, and 52 of the Internal Revenue Code not been in 4760  
effect, but only to the extent such amount relates either to 4761  
income included in federal taxable income for the taxable year or 4762  
to income of the S portion of an electing small business trust for 4763  
the taxable year; 4764

(6) Deduct any interest or interest equivalent, net of 4765  
related expenses deducted in computing federal taxable income, on 4766  
public obligations and purchase obligations, but only to the 4767  
extent that such net amount relates either to income included in 4768  
federal taxable income for the taxable year or to income of the S 4769  
portion of an electing small business trust for the taxable year; 4770

(7) Add any loss or deduct any gain resulting from sale, 4771  
exchange, or other disposition of public obligations to the extent 4772  
that such loss has been deducted or such gain has been included in 4773  
computing either federal taxable income or income of the S portion 4774  
of an electing small business trust for the taxable year; 4775

(8) Except in the case of the final return of an estate, add 4776  
any amount deducted by the taxpayer on both its Ohio estate tax 4777  
return pursuant to section 5731.14 of the Revised Code, and on its 4778  
federal income tax return in determining federal taxable income; 4779

(9)(a) Deduct any amount included in federal taxable income 4780  
solely because the amount represents a reimbursement or refund of 4781  
expenses that in a previous year the decedent had deducted as an 4782  
itemized deduction pursuant to section 63 of the Internal Revenue 4783  
Code and applicable treasury regulations. The deduction otherwise 4784

allowed under division (S)(9)(a) of this section shall be reduced 4785  
to the extent the reimbursement is attributable to an amount the 4786  
taxpayer or decedent deducted under this section in any taxable 4787  
year. 4788

(b) Add any amount not otherwise included in Ohio taxable 4789  
income for any taxable year to the extent that the amount is 4790  
attributable to the recovery during the taxable year of any amount 4791  
deducted or excluded in computing federal or Ohio taxable income 4792  
in any taxable year, but only to the extent such amount has not 4793  
been distributed to beneficiaries for the taxable year. 4794

(10) Deduct any portion of the deduction described in section 4795  
1341(a)(2) of the Internal Revenue Code, for repaying previously 4796  
reported income received under a claim of right, that meets both 4797  
of the following requirements: 4798

(a) It is allowable for repayment of an item that was 4799  
included in the taxpayer's taxable income or the decedent's 4800  
adjusted gross income for a prior taxable year and did not qualify 4801  
for a credit under division (A) or (B) of section 5747.05 of the 4802  
Revised Code for that year. 4803

(b) It does not otherwise reduce the taxpayer's taxable 4804  
income or the decedent's adjusted gross income for the current or 4805  
any other taxable year. 4806

(11) Add any amount claimed as a credit under section 4807  
5747.059 or 5747.65 of the Revised Code to the extent that the 4808  
amount satisfies either of the following: 4809

(a) The amount was deducted or excluded from the computation 4810  
of the taxpayer's federal taxable income as required to be 4811  
reported for the taxpayer's taxable year under the Internal 4812  
Revenue Code; 4813

(b) The amount resulted in a reduction in the taxpayer's 4814  
federal taxable income as required to be reported for any of the 4815

taxpayer's taxable years under the Internal Revenue Code. 4816

(12) Deduct any amount, net of related expenses deducted in 4817  
computing federal taxable income, that a trust is required to 4818  
report as farm income on its federal income tax return, but only 4819  
if the assets of the trust include at least ten acres of land 4820  
satisfying the definition of "land devoted exclusively to 4821  
agricultural use" under section 5713.30 of the Revised Code, 4822  
regardless of whether the land is valued for tax purposes as such 4823  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 4824  
trust is a pass-through entity investor, section 5747.231 of the 4825  
Revised Code applies in ascertaining if the trust is eligible to 4826  
claim the deduction provided by division (S)(12) of this section 4827  
in connection with the pass-through entity's farm income. 4828

Except for farm income attributable to the S portion of an 4829  
electing small business trust, the deduction provided by division 4830  
(S)(12) of this section is allowed only to the extent that the 4831  
trust has not distributed such farm income. Division (S)(12) of 4832  
this section applies only to taxable years of a trust beginning in 4833  
2002 or thereafter. 4834

(13) Add the net amount of income described in section 641(c) 4835  
of the Internal Revenue Code to the extent that amount is not 4836  
included in federal taxable income. 4837

(14) Add or deduct the amount the taxpayer would be required 4838  
to add or deduct under division (A)(20) or (21) of this section if 4839  
the taxpayer's Ohio taxable income were computed in the same 4840  
manner as an individual's Ohio adjusted gross income is computed 4841  
under this section. In the case of a trust, division (S)(14) of 4842  
this section applies only to any of the trust's taxable years 4843  
beginning in 2002 or thereafter. 4844

(T) "School district income" and "school district income tax" 4845  
have the same meanings as in section 5748.01 of the Revised Code. 4846

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 4847  
of this section, "public obligations," "purchase obligations," and 4848  
"interest or interest equivalent" have the same meanings as in 4849  
section 5709.76 of the Revised Code. 4850

(V) "Limited liability company" means any limited liability 4851  
company formed under Chapter 1705. of the Revised Code or under 4852  
the laws of any other state. 4853

(W) "Pass-through entity investor" means any person who, 4854  
during any portion of a taxable year of a pass-through entity, is 4855  
a partner, member, shareholder, or equity investor in that 4856  
pass-through entity. 4857

(X) "Banking day" has the same meaning as in section 1304.01 4858  
of the Revised Code. 4859

(Y) "Month" means a calendar month. 4860

(Z) "Quarter" means the first three months, the second three 4861  
months, the third three months, or the last three months of the 4862  
taxpayer's taxable year. 4863

(AA)(1) "Eligible institution" means a state university or 4864  
state institution of higher education as defined in section 4865  
3345.011 of the Revised Code, or a private, nonprofit college, 4866  
university, or other post-secondary institution located in this 4867  
state that possesses a certificate of authorization issued by the 4868  
Ohio board of regents pursuant to Chapter 1713. of the Revised 4869  
Code or a certificate of registration issued by the state board of 4870  
career colleges and schools under Chapter 3332. of the Revised 4871  
Code. 4872

(2) "Qualified tuition and fees" means tuition and fees 4873  
imposed by an eligible institution as a condition of enrollment or 4874  
attendance, not exceeding two thousand five hundred dollars in 4875  
each of the individual's first two years of post-secondary 4876  
education. If the individual is a part-time student, "qualified 4877

tuition and fees" includes tuition and fees paid for the academic 4878  
equivalent of the first two years of post-secondary education 4879  
during a maximum of five taxable years, not exceeding a total of 4880  
five thousand dollars. "Qualified tuition and fees" does not 4881  
include: 4882

(a) Expenses for any course or activity involving sports, 4883  
games, or hobbies unless the course or activity is part of the 4884  
individual's degree or diploma program; 4885

(b) The cost of books, room and board, student activity fees, 4886  
athletic fees, insurance expenses, or other expenses unrelated to 4887  
the individual's academic course of instruction; 4888

(c) Tuition, fees, or other expenses paid or reimbursed 4889  
through an employer, scholarship, grant in aid, or other 4890  
educational benefit program. 4891

(BB)(1) "Modified business income" means the business income 4892  
included in a trust's Ohio taxable income after such taxable 4893  
income is first reduced by the qualifying trust amount, if any. 4894

(2) "Qualifying trust amount" of a trust means capital gains 4895  
and losses from the sale, exchange, or other disposition of equity 4896  
or ownership interests in, or debt obligations of, a qualifying 4897  
investee to the extent included in the trust's Ohio taxable 4898  
income, but only if the following requirements are satisfied: 4899

(a) The book value of the qualifying investee's physical 4900  
assets in this state and everywhere, as of the last day of the 4901  
qualifying investee's fiscal or calendar year ending immediately 4902  
prior to the date on which the trust recognizes the gain or loss, 4903  
is available to the trust. 4904

(b) The requirements of section 5747.011 of the Revised Code 4905  
are satisfied for the trust's taxable year in which the trust 4906  
recognizes the gain or loss. 4907



Any gain or loss that is not a qualifying trust amount is 4908  
modified business income, qualifying investment income, or 4909  
modified nonbusiness income, as the case may be. 4910

(3) "Modified nonbusiness income" means a trust's Ohio 4911  
taxable income other than modified business income, other than the 4912  
qualifying trust amount, and other than qualifying investment 4913  
income, as defined in section 5747.012 of the Revised Code, to the 4914  
extent such qualifying investment income is not otherwise part of 4915  
modified business income. 4916

(4) "Modified Ohio taxable income" applies only to trusts, 4917  
and means the sum of the amounts described in divisions (BB)(4)(a) 4918  
to (c) of this section: 4919

(a) The fraction, calculated under section 5747.013, and 4920  
applying section 5747.231 of the Revised Code, multiplied by the 4921  
sum of the following amounts: 4922

(i) The trust's modified business income; 4923

(ii) The trust's qualifying investment income, as defined in 4924  
section 5747.012 of the Revised Code, but only to the extent the 4925  
qualifying investment income does not otherwise constitute 4926  
modified business income and does not otherwise constitute a 4927  
qualifying trust amount. 4928

(b) The qualifying trust amount multiplied by a fraction, the 4929  
numerator of which is the sum of the book value of the qualifying 4930  
investee's physical assets in this state on the last day of the 4931  
qualifying investee's fiscal or calendar year ending immediately 4932  
prior to the day on which the trust recognizes the qualifying 4933  
trust amount, and the denominator of which is the sum of the book 4934  
value of the qualifying investee's total physical assets 4935  
everywhere on the last day of the qualifying investee's fiscal or 4936  
calendar year ending immediately prior to the day on which the 4937  
trust recognizes the qualifying trust amount. If, for a taxable 4938

year, the trust recognizes a qualifying trust amount with respect 4939  
to more than one qualifying investee, the amount described in 4940  
division (BB)(4)(b) of this section shall equal the sum of the 4941  
products so computed for each such qualifying investee. 4942

(c)(i) With respect to a trust or portion of a trust that is 4943  
a resident as ascertained in accordance with division (I)(3)(d) of 4944  
this section, its modified nonbusiness income. 4945

(ii) With respect to a trust or portion of a trust that is 4946  
not a resident as ascertained in accordance with division 4947  
(I)(3)(d) of this section, the amount of its modified nonbusiness 4948  
income satisfying the descriptions in divisions (B)(2) to (5) of 4949  
section 5747.20 of the Revised Code, except as otherwise provided 4950  
in division (BB)(4)(c)(ii) of this section. With respect to a 4951  
trust or portion of a trust that is not a resident as ascertained 4952  
in accordance with division (I)(3)(d) of this section, the trust's 4953  
portion of modified nonbusiness income recognized from the sale, 4954  
exchange, or other disposition of a debt interest in or equity 4955  
interest in a section 5747.212 entity, as defined in section 4956  
5747.212 of the Revised Code, without regard to division (A) of 4957  
that section, shall not be allocated to this state in accordance 4958  
with section 5747.20 of the Revised Code but shall be apportioned 4959  
to this state in accordance with division (B) of section 5747.212 4960  
of the Revised Code without regard to division (A) of that 4961  
section. 4962

If the allocation and apportionment of a trust's income under 4963  
divisions (BB)(4)(a) and (c) of this section do not fairly 4964  
represent the modified Ohio taxable income of the trust in this 4965  
state, the alternative methods described in division (C) of 4966  
section 5747.21 of the Revised Code may be applied in the manner 4967  
and to the same extent provided in that section. 4968

(5)(a) Except as set forth in division (BB)(5)(b) of this 4969  
section, "qualifying investee" means a person in which a trust has 4970

an equity or ownership interest, or a person or unit of government 4971  
the debt obligations of either of which are owned by a trust. For 4972  
the purposes of division (BB)(2)(a) of this section and for the 4973  
purpose of computing the fraction described in division (BB)(4)(b) 4974  
of this section, all of the following apply: 4975

(i) If the qualifying investee is a member of a qualifying 4976  
controlled group on the last day of the qualifying investee's 4977  
fiscal or calendar year ending immediately prior to the date on 4978  
which the trust recognizes the gain or loss, then "qualifying 4979  
investee" includes all persons in the qualifying controlled group 4980  
on such last day. 4981

(ii) If the qualifying investee, or if the qualifying 4982  
investee and any members of the qualifying controlled group of 4983  
which the qualifying investee is a member on the last day of the 4984  
qualifying investee's fiscal or calendar year ending immediately 4985  
prior to the date on which the trust recognizes the gain or loss, 4986  
separately or cumulatively own, directly or indirectly, on the 4987  
last day of the qualifying investee's fiscal or calendar year 4988  
ending immediately prior to the date on which the trust recognizes 4989  
the qualifying trust amount, more than fifty per cent of the 4990  
equity of a pass-through entity, then the qualifying investee and 4991  
the other members are deemed to own the proportionate share of the 4992  
pass-through entity's physical assets which the pass-through 4993  
entity directly or indirectly owns on the last day of the 4994  
pass-through entity's calendar or fiscal year ending within or 4995  
with the last day of the qualifying investee's fiscal or calendar 4996  
year ending immediately prior to the date on which the trust 4997  
recognizes the qualifying trust amount. 4998

(iii) For the purposes of division (BB)(5)(a)(iii) of this 4999  
section, "upper level pass-through entity" means a pass-through 5000  
entity directly or indirectly owning any equity of another 5001  
pass-through entity, and "lower level pass-through entity" means 5002

that other pass-through entity. 5003

An upper level pass-through entity, whether or not it is also 5004  
a qualifying investee, is deemed to own, on the last day of the 5005  
upper level pass-through entity's calendar or fiscal year, the 5006  
proportionate share of the lower level pass-through entity's 5007  
physical assets that the lower level pass-through entity directly 5008  
or indirectly owns on the last day of the lower level pass-through 5009  
entity's calendar or fiscal year ending within or with the last 5010  
day of the upper level pass-through entity's fiscal or calendar 5011  
year. If the upper level pass-through entity directly and 5012  
indirectly owns less than fifty per cent of the equity of the 5013  
lower level pass-through entity on each day of the upper level 5014  
pass-through entity's calendar or fiscal year in which or with 5015  
which ends the calendar or fiscal year of the lower level 5016  
pass-through entity and if, based upon clear and convincing 5017  
evidence, complete information about the location and cost of the 5018  
physical assets of the lower pass-through entity is not available 5019  
to the upper level pass-through entity, then solely for purposes 5020  
of ascertaining if a gain or loss constitutes a qualifying trust 5021  
amount, the upper level pass-through entity shall be deemed as 5022  
owning no equity of the lower level pass-through entity for each 5023  
day during the upper level pass-through entity's calendar or 5024  
fiscal year in which or with which ends the lower level 5025  
pass-through entity's calendar or fiscal year. Nothing in division 5026  
(BB)(5)(a)(iii) of this section shall be construed to provide for 5027  
any deduction or exclusion in computing any trust's Ohio taxable 5028  
income. 5029

(b) With respect to a trust that is not a resident for the 5030  
taxable year and with respect to a part of a trust that is not a 5031  
resident for the taxable year, "qualifying investee" for that 5032  
taxable year does not include a C corporation if both of the 5033  
following apply: 5034

(i) During the taxable year the trust or part of the trust 5035  
recognizes a gain or loss from the sale, exchange, or other 5036  
disposition of equity or ownership interests in, or debt 5037  
obligations of, the C corporation. 5038

(ii) Such gain or loss constitutes nonbusiness income. 5039

(6) "Available" means information is such that a person is 5040  
able to learn of the information by the due date plus extensions, 5041  
if any, for filing the return for the taxable year in which the 5042  
trust recognizes the gain or loss. 5043

(CC) "Qualifying controlled group" has the same meaning as in 5044  
section 5733.04 of the Revised Code. 5045

(DD) "Related member" has the same meaning as in section 5046  
5733.042 of the Revised Code. 5047

(EE)(1) For the purposes of division (EE) of this section: 5048

(a) "Qualifying person" means any person other than a 5049  
qualifying corporation. 5050

(b) "Qualifying corporation" means any person classified for 5051  
federal income tax purposes as an association taxable as a 5052  
corporation, except either of the following: 5053

(i) A corporation that has made an election under subchapter 5054  
S, chapter one, subtitle A, of the Internal Revenue Code for its 5055  
taxable year ending within, or on the last day of, the investor's 5056  
taxable year; 5057

(ii) A subsidiary that is wholly owned by any corporation 5058  
that has made an election under subchapter S, chapter one, 5059  
subtitle A of the Internal Revenue Code for its taxable year 5060  
ending within, or on the last day of, the investor's taxable year. 5061

(2) For the purposes of this chapter, unless expressly stated 5062  
otherwise, no qualifying person indirectly owns any asset directly 5063  
or indirectly owned by any qualifying corporation. 5064

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

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

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

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

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

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

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

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

**Sec. 5747.65.** There is hereby allowed a refundable credit against the tax imposed under section 5747.02 of the Revised Code. The amount of the credit shall equal the taxpayer's proportionate share of the lesser of either the tax due or the tax paid for the

tax imposed by section 5726.02 of the Revised Code by a 5095  
pass-through entity for the pass-through entity's taxable year 5096  
ending in the taxpayer's taxable year. 5097

The taxpayer shall claim the credit for the taxpayer's 5098  
taxable year that includes the last day of the pass-through 5099  
entity's taxable year. For purposes of making tax payments under 5100  
this chapter, taxes equal to the amount of the credit shall be 5101  
considered to be paid by the taxpayer on the day the pass-through 5102  
entity pays to the treasurer of state the amount due for the tax 5103  
imposed by section 5726.02 of the Revised Code. 5104

In claiming the credit and determining the taxpayer's 5105  
proportionate share of the tax due and the tax paid by a 5106  
pass-through entity, the taxpayer shall follow the concepts set 5107  
forth in subchapters J and K of the Internal Revenue Code. 5108

The credit shall be claimed in the order required under 5109  
section 5747.98 of the Revised Code. If the amount of the credit 5110  
exceeds the amount of tax otherwise due under section 5747.02 of 5111  
the Revised Code after deduction of all other credits in that 5112  
order, the taxpayer is entitled to a refund of the excess. 5113

**Sec. 5747.98.** (A) To provide a uniform procedure for 5114  
calculating the amount of tax due under section 5747.02 of the 5115  
Revised Code, a taxpayer shall claim any credits to which the 5116  
taxpayer is entitled in the following order: 5117

(1) The retirement income credit under division (B) of 5118  
section 5747.055 of the Revised Code; 5119

(2) The senior citizen credit under division (C) of section 5120  
5747.05 of the Revised Code; 5121

(3) The lump sum distribution credit under division (D) of 5122  
section 5747.05 of the Revised Code; 5123

|   |              |
|---|--------------|
| (4) The dependent care credit under section 5747.054 of the Revised Code;   | 5124<br>5125 |
| (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;                           | 5126<br>5127 |
| (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;                           | 5128<br>5129 |
| (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;                           | 5130<br>5131 |
| (8) The low-income credit under section 5747.056 of the Revised Code;   | 5132<br>5133 |
| (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;                        | 5134<br>5135 |
| (10) The campaign contribution credit under section 5747.29 of the Revised Code;  | 5136<br>5137 |
| (11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;                                    | 5138<br>5139 |
| (12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;   | 5140<br>5141 |
| (13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;  | 5142<br>5143 |
| (14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;                 | 5144<br>5145 |
| (15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code; | 5146<br>5147 |
| (16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;            | 5148<br>5149 |
| (17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;  | 5150<br>5151 |
| (18) The credit for purchases of lights and reflectors under  | 5152         |



|  |      |
|--|------|
| section 5747.38 of the Revised Code;                             | 5153 |
| (19) The nonrefundable job retention credit under division       | 5154 |
| (B) of section 5747.058 of the Revised Code;                     | 5155 |
| (20) The credit for selling alternative fuel under section       | 5156 |
| 5747.77 of the Revised Code;                                     | 5157 |
| (21) The second credit for purchases of new manufacturing        | 5158 |
| machinery and equipment and the credit for using Ohio coal under | 5159 |
| section 5747.31 of the Revised Code;                             | 5160 |
| (22) The job training credit under section 5747.39 of the        | 5161 |
| Revised Code;  | 5162 |
| (23) The enterprise zone credit under section 5709.66 of the     | 5163 |
| Revised Code;  | 5164 |
| (24) The credit for the eligible costs associated with a         | 5165 |
| voluntary action under section 5747.32 of the Revised Code;      | 5166 |
| (25) The credit for employers that establish on-site child       | 5167 |
| day-care centers under section 5747.35 of the Revised Code;      | 5168 |
| (26) The ethanol plant investment credit under section           | 5169 |
| 5747.75 of the Revised Code;                                     | 5170 |
| (27) The credit for purchases of qualifying grape production     | 5171 |
| property under section 5747.28 of the Revised Code;              | 5172 |
| (28) The small business investment credit under section          | 5173 |
| 5747.81 of the Revised Code;                                     | 5174 |
| (29) The credit for research and development and technology      | 5175 |
| transfer investors under section 5747.33 of the Revised Code;    | 5176 |
| (30) The enterprise zone credits under section 5709.65 of the    | 5177 |
| Revised Code;  | 5178 |
| (31) The research and development credit under section           | 5179 |
| 5747.331 of the Revised Code;                                    | 5180 |
| (32) The credit for rehabilitating a historic building under     | 5181 |

section 5747.76 of the Revised Code; 5182

(33) The refundable credit for rehabilitating a historic 5183  
building under section 5747.76 of the Revised Code; 5184

(34) The refundable jobs creation credit or job retention 5185  
credit under division (A) of section 5747.058 of the Revised Code; 5186

(35) The refundable credit for taxes paid by a qualifying 5187  
entity granted under section 5747.059 of the Revised Code; 5188

(36) The refundable credits for taxes paid by a qualifying 5189  
pass-through entity granted under division (J) of section 5747.08 5190  
of the Revised Code; 5191

(37) The refundable credit for tax withheld under division 5192  
(B)(1) of section 5747.062 of the Revised Code; 5193

(38) The refundable credit for tax withheld under section 5194  
5747.063 of the Revised Code; 5195

(39) The refundable credit under section 5747.80 of the 5196  
Revised Code for losses on loans made to the Ohio venture capital 5197  
program under sections 150.01 to 150.10 of the Revised Code; 5198

(40) The refundable motion picture production credit under 5199  
section 5747.66 of the Revised Code; 5200

(41) The refundable credit for financial institution taxes 5201  
paid by a pass-through entity granted under section 5747.65 of the 5202  
Revised Code. 5203

(B) For any credit, except the refundable credits enumerated 5204  
in this section and the credit granted under division (I) of 5205  
section 5747.08 of the Revised Code, the amount of the credit for 5206  
a taxable year shall not exceed the tax due after allowing for any 5207  
other credit that precedes it in the order required under this 5208  
section. Any excess amount of a particular credit may be carried 5209  
forward if authorized under the section creating that credit. 5210  
Nothing in this chapter shall be construed to allow a taxpayer to 5211

claim, directly or indirectly, a credit more than once for a 5212  
taxable year. 5213

**Sec. 5751.01.** As used in this chapter: 5214

(A) "Person" means, but is not limited to, individuals, 5215  
combinations of individuals of any form, receivers, assignees, 5216  
trustees in bankruptcy, firms, companies, joint-stock companies, 5217  
business trusts, estates, partnerships, limited liability 5218  
partnerships, limited liability companies, associations, joint 5219  
ventures, clubs, societies, for-profit corporations, S 5220  
corporations, qualified subchapter S subsidiaries, qualified 5221  
subchapter S trusts, trusts, entities that are disregarded for 5222  
federal income tax purposes, and any other entities. 5223

(B) "Consolidated elected taxpayer" means a group of two or 5224  
more persons treated as a single taxpayer for purposes of this 5225  
chapter as the result of an election made under section 5751.011 5226  
of the Revised Code. 5227

(C) "Combined taxpayer" means a group of two or more persons 5228  
treated as a single taxpayer for purposes of this chapter under 5229  
section 5751.012 of the Revised Code. 5230

(D) "Taxpayer" means any person, or any group of persons in 5231  
the case of a consolidated elected taxpayer or combined taxpayer 5232  
treated as one taxpayer, required to register or pay tax under 5233  
this chapter. "Taxpayer" does not include excluded persons. 5234

(E) "Excluded person" means any of the following: 5235

(1) Any person with not more than one hundred fifty thousand 5236  
dollars of taxable gross receipts during the calendar year. 5237  
Division (E)(1) of this section does not apply to a person that is 5238  
a member of a consolidated elected taxpayer; 5239

(2) A public utility that paid the excise tax imposed by 5240  
section 5727.24 or 5727.30 of the Revised Code based on one or 5241

more measurement periods that include the entire tax period under 5242  
this chapter, except that a public utility that is a combined 5243  
company is a taxpayer with regard to the following gross receipts: 5244

(a) Taxable gross receipts directly attributed to a public 5245  
utility activity, but not directly attributed to an activity that 5246  
is subject to the excise tax imposed by section 5727.24 or 5727.30 5247  
of the Revised Code; 5248

(b) Taxable gross receipts that cannot be directly attributed 5249  
to any activity, multiplied by a fraction whose numerator is the 5250  
taxable gross receipts described in division (E)(2)(a) of this 5251  
section and whose denominator is the total taxable gross receipts 5252  
that can be directly attributed to any activity; 5253

(c) Except for any differences resulting from the use of an 5254  
accrual basis method of accounting for purposes of determining 5255  
gross receipts under this chapter and the use of the cash basis 5256  
method of accounting for purposes of determining gross receipts 5257  
under section 5727.24 of the Revised Code, the gross receipts 5258  
directly attributed to the activity of a natural gas company shall 5259  
be determined in a manner consistent with division (D) of section 5260  
5727.03 of the Revised Code. 5261

As used in division (E)(2) of this section, "combined 5262  
company" and "public utility" have the same meanings as in section 5263  
5727.01 of the Revised Code. 5264

(3) A financial institution, as defined in section ~~5725.01~~ 5265  
~~5726.01~~ of the Revised Code, that paid the ~~corporation franchise~~ 5266  
~~tax charged by division (D) of~~ imposed by section 5733.06 ~~5726.02~~ 5267  
of the Revised Code based on one or more taxable years that 5268  
include the entire tax period under this chapter; 5269

~~(4) A dealer in intangibles, as defined in section 5725.01 of~~ 5270  
~~the Revised Code, that paid the dealer in intangibles tax levied~~ 5271  
~~by division (D) of section 5707.03 of the Revised Code based on~~ 5272

~~one or more measurement periods that include the entire tax period~~ 5273  
~~under this chapter;~~ 5274

~~(5) A financial holding company as defined in the "Bank~~ 5275  
~~Holding Company Act," 12 U.S.C. 1841(p);~~ 5276

~~(6) A bank holding company as defined in the "Bank Holding~~ 5277  
~~Company Act," 12 U.S.C. 1841(a);~~ 5278

~~(7) A savings and loan holding company as defined in the~~ 5279  
~~"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging~~ 5280  
~~only in activities or investments permissible for a financial~~ 5281  
~~holding company under 12 U.S.C. 1843(k);~~ 5282

~~(8) A person directly or indirectly owned by one or more~~ 5283  
~~financial institutions, financial holding companies, bank holding~~ 5284  
~~companies, or savings and loan holding companies described in~~ 5285  
~~division (E)(3), (5), (6), or (7) of this section that is engaged~~ 5286  
~~in activities permissible for a financial holding company under 12~~ 5287  
~~U.S.C. 1843(k), except that any such person held pursuant to~~ 5288  
~~merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12~~ 5289  
~~U.S.C. 1843(k)(4)(I) is not an excluded person, or a person~~ 5290  
~~directly or indirectly owned by one or more insurance companies~~ 5291  
~~described in division (E)(9) of this section that is authorized to~~ 5292  
~~do the business of insurance in this state. A person directly or~~ 5293  
~~indirectly owned by one or more financial institutions, as defined~~ 5294  
~~in section 5726.01 of the Revised Code, that paid the tax imposed~~ 5295  
~~by section 5726.02 of the Revised Code based on one or more~~ 5296  
~~taxable years that include the entire tax period under this~~ 5297  
~~chapter.~~ 5298

For the purposes of division (E)~~(8)~~(4) of this section, a 5299  
person owns another person under the following circumstances: 5300

(a) In the case of corporations issuing capital stock, one 5301  
corporation owns another corporation if it owns fifty per cent or 5302  
more of the other corporation's capital stock with current voting 5303

rights; 5304

(b) In the case of a limited liability company, one person 5305  
owns the company if that person's membership interest, as defined 5306  
in section 1705.01 of the Revised Code, is fifty per cent or more 5307  
of the combined membership interests of all persons owning such 5308  
interests in the company; 5309

(c) In the case of a partnership, trust, or other 5310  
unincorporated business organization other than a limited 5311  
liability company, one person owns the organization if, under the 5312  
articles of organization or other instrument governing the affairs 5313  
of the organization, that person has a beneficial interest in the 5314  
organization's profits, surpluses, losses, or distributions of 5315  
fifty per cent or more of the combined beneficial interests of all 5316  
persons having such an interest in the organization; 5317

~~(d) In the case of multiple ownership, the ownership 5318  
interests of more than one person may be aggregated to meet the 5319  
fifty per cent ownership tests in this division only when each 5320  
such owner is described in division (E)(3), (5), (6), or (7) of 5321  
this section and is engaged in activities permissible for a 5322  
financial holding company under 12 U.S.C. 1843(k) or is a person 5323  
directly or indirectly owned by one or more insurance companies 5324  
described in division (E)(9) of this section that is authorized to 5325  
do the business of insurance in this state. 5326~~

~~(9)(5)~~ A domestic insurance company or foreign insurance 5327  
company, as defined in section 5725.01 of the Revised Code, that 5328  
paid the insurance company premiums tax imposed by section 5725.18 5329  
or Chapter 5729. of the Revised Code based on one or more 5330  
measurement periods that include the entire tax period under this 5331  
chapter; 5332

~~(10) A person that solely facilitates or services one or more 5333  
securitizations or similar transactions for any person described 5334~~

~~in division (E)(3), (5), (6), (7), (8), or (9) of this section. 5335~~  
~~For purposes of this division, "securitization" means transferring 5336~~  
~~one or more assets to one or more persons and then issuing 5337~~  
~~securities backed by the right to receive payment from the asset 5338~~  
~~or assets so transferred. 5339~~

~~(11)~~(6) Except as otherwise provided in this division, a 5340  
pre-income tax trust as defined in division (FF)(4) of section 5341  
5747.01 of the Revised Code and any pass-through entity of which 5342  
such pre-income tax trust owns or controls, directly, indirectly, 5343  
or constructively through related interests, more than five per 5344  
cent of the ownership or equity interests. If the pre-income tax 5345  
trust has made a qualifying pre-income tax trust election under 5346  
division (FF)(3) of section 5747.01 of the Revised Code, then the 5347  
trust and the pass-through entities of which it owns or controls, 5348  
directly, indirectly, or constructively through related interests, 5349  
more than five per cent of the ownership or equity interests, 5350  
shall not be excluded persons for purposes of the tax imposed 5351  
under section 5751.02 of the Revised Code. 5352

~~(12)~~(7) Nonprofit organizations or the state and its 5353  
agencies, instrumentalities, or political subdivisions. 5354

(F) Except as otherwise provided in divisions (F)(2), (3), 5355  
and (4) of this section, "gross receipts" means the total amount 5356  
realized by a person, without deduction for the cost of goods sold 5357  
or other expenses incurred, that contributes to the production of 5358  
gross income of the person, including the fair market value of any 5359  
property and any services received, and any debt transferred or 5360  
forgiven as consideration. 5361

(1) The following are examples of gross receipts: 5362

(a) Amounts realized from the sale, exchange, or other 5363  
disposition of the taxpayer's property to or with another; 5364

(b) Amounts realized from the taxpayer's performance of 5365

services for another; 5366

(c) Amounts realized from another's use or possession of the 5367  
taxpayer's property or capital; 5368

(d) Any combination of the foregoing amounts. 5369

(2) "Gross receipts" excludes the following amounts: 5370

(a) Interest income except interest on credit sales; 5371

(b) Dividends and distributions from corporations, and 5372  
distributive or proportionate shares of receipts and income from a 5373  
pass-through entity as defined under section 5733.04 of the 5374  
Revised Code; 5375

(c) Receipts from the sale, exchange, or other disposition of 5376  
an asset described in section 1221 or 1231 of the Internal Revenue 5377  
Code, without regard to the length of time the person held the 5378  
asset. Notwithstanding section 1221 of the Internal Revenue Code, 5379  
receipts from hedging transactions also are excluded to the extent 5380  
the transactions are entered into primarily to protect a financial 5381  
position, such as managing the risk of exposure to (i) foreign 5382  
currency fluctuations that affect assets, liabilities, profits, 5383  
losses, equity, or investments in foreign operations; (ii) 5384  
interest rate fluctuations; or (iii) commodity price fluctuations. 5385  
As used in division (F)(2)(c) of this section, "hedging 5386  
transaction" has the same meaning as used in section 1221 of the 5387  
Internal Revenue Code and also includes transactions accorded 5388  
hedge accounting treatment under statement of financial accounting 5389  
standards number 133 of the financial accounting standards board. 5390  
For the purposes of division (F)(2)(c) of this section, the actual 5391  
transfer of title of real or tangible personal property to another 5392  
entity is not a hedging transaction. 5393

(d) Proceeds received attributable to the repayment, 5394  
maturity, or redemption of the principal of a loan, bond, mutual 5395  
fund, certificate of deposit, or marketable instrument; 5396



(e) The principal amount received under a repurchase 5397  
agreement or on account of any transaction properly characterized 5398  
as a loan to the person; 5399

(f) Contributions received by a trust, plan, or other 5400  
arrangement, any of which is described in section 501(a) of the 5401  
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 5402  
1, Subchapter (D) of the Internal Revenue Code applies; 5403

(g) Compensation, whether current or deferred, and whether in 5404  
cash or in kind, received or to be received by an employee, former 5405  
employee, or the employee's legal successor for services rendered 5406  
to or for an employer, including reimbursements received by or for 5407  
an individual for medical or education expenses, health insurance 5408  
premiums, or employee expenses, or on account of a dependent care 5409  
spending account, legal services plan, any cafeteria plan 5410  
described in section 125 of the Internal Revenue Code, or any 5411  
similar employee reimbursement; 5412

(h) Proceeds received from the issuance of the taxpayer's own 5413  
stock, options, warrants, puts, or calls, or from the sale of the 5414  
taxpayer's treasury stock; 5415

(i) Proceeds received on the account of payments from 5416  
insurance policies, except those proceeds received for the loss of 5417  
business revenue; 5418

(j) Gifts or charitable contributions received; membership 5419  
dues received by trade, professional, homeowners', or condominium 5420  
associations; and payments received for educational courses, 5421  
meetings, meals, or similar payments to a trade, professional, or 5422  
other similar association; and fundraising receipts received by 5423  
any person when any excess receipts are donated or used 5424  
exclusively for charitable purposes; 5425

(k) Damages received as the result of litigation in excess of 5426  
amounts that, if received without litigation, would be gross 5427

|  |      |
|--|------|
| receipts;  | 5428 |
| (1) Property, money, and other amounts received or acquired        | 5429 |
| by an agent on behalf of another in excess of the agent's          | 5430 |
| commission, fee, or other remuneration;                            | 5431 |
| (m) Tax refunds, other tax benefit recoveries, and                 | 5432 |
| reimbursements for the tax imposed under this chapter made by      | 5433 |
| entities that are part of the same combined taxpayer or            | 5434 |
| consolidated elected taxpayer group, and reimbursements made by    | 5435 |
| entities that are not members of a combined taxpayer or            | 5436 |
| consolidated elected taxpayer group that are required to be made   | 5437 |
| for economic parity among multiple owners of an entity whose tax   | 5438 |
| obligation under this chapter is required to be reported and paid  | 5439 |
| entirely by one owner, pursuant to the requirements of sections    | 5440 |
| 5751.011 and 5751.012 of the Revised Code;                         | 5441 |
| (n) Pension reversions;  | 5442 |
| (o) Contributions to capital;                                      | 5443 |
| (p) Sales or use taxes collected as a vendor or an                 | 5444 |
| out-of-state seller on behalf of the taxing jurisdiction from a    | 5445 |
| consumer or other taxes the taxpayer is required by law to collect | 5446 |
| directly from a purchaser and remit to a local, state, or federal  | 5447 |
| tax authority;   | 5448 |
| (q) In the case of receipts from the sale of cigarettes or         | 5449 |
| tobacco products by a wholesale dealer, retail dealer,             | 5450 |
| distributor, manufacturer, or seller, all as defined in section    | 5451 |
| 5743.01 of the Revised Code, an amount equal to the federal and    | 5452 |
| state excise taxes paid by any person on or for such cigarettes or | 5453 |
| tobacco products under subtitle E of the Internal Revenue Code or  | 5454 |
| Chapter 5743. of the Revised Code;                                 | 5455 |
| (r) In the case of receipts from the sale of motor fuel by a       | 5456 |
| licensed motor fuel dealer, licensed retail dealer, or licensed    | 5457 |
| permissive motor fuel dealer, all as defined in section 5735.01 of | 5458 |

the Revised Code, an amount equal to federal and state excise 5459  
taxes paid by any person on such motor fuel under section 4081 of 5460  
the Internal Revenue Code or Chapter 5735. of the Revised Code; 5461

(s) In the case of receipts from the sale of beer or 5462  
intoxicating liquor, as defined in section 4301.01 of the Revised 5463  
Code, by a person holding a permit issued under Chapter 4301. or 5464  
4303. of the Revised Code, an amount equal to federal and state 5465  
excise taxes paid by any person on or for such beer or 5466  
intoxicating liquor under subtitle E of the Internal Revenue Code 5467  
or Chapter 4301. or 4305. of the Revised Code; 5468

(t) Receipts realized by a new motor vehicle dealer or used 5469  
motor vehicle dealer, as defined in section 4517.01 of the Revised 5470  
Code, from the sale or other transfer of a motor vehicle, as 5471  
defined in that section, to another motor vehicle dealer for the 5472  
purpose of resale by the transferee motor vehicle dealer, but only 5473  
if the sale or other transfer was based upon the transferee's need 5474  
to meet a specific customer's preference for a motor vehicle; 5475

(u) Receipts from a financial institution described in 5476  
division (E)(3) of this section for services provided to the 5477  
financial institution in connection with the issuance, processing, 5478  
servicing, and management of loans or credit accounts, if such 5479  
financial institution and the recipient of such receipts have at 5480  
least fifty per cent of their ownership interests owned or 5481  
controlled, directly or constructively through related interests, 5482  
by common owners; 5483

(v) Receipts realized from administering anti-neoplastic 5484  
drugs and other cancer chemotherapy, biologicals, therapeutic 5485  
agents, and supportive drugs in a physician's office to patients 5486  
with cancer; 5487

(w) Funds received or used by a mortgage broker that is not a 5488  
dealer in intangibles, other than fees or other consideration, 5489

pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

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

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

(z) Qualifying distribution center receipts.

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

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or

processing. 5521

(III) "Qualified distribution center" means a warehouse or 5522  
other similar facility in this state that, for the qualifying 5523  
year, is operated by a person that is not part of a combined 5524  
taxpayer group and that has a qualifying certificate. However, all 5525  
warehouses or other similar facilities that are operated by 5526  
persons in the same taxpayer group and that are located within one 5527  
mile of each other shall be treated as one qualified distribution 5528  
center. 5529

(IV) "Qualifying year" means the calendar year to which the 5530  
qualifying certificate applies. 5531

(V) "Qualifying period" means the period of the first day of 5532  
July of the second year preceding the qualifying year through the 5533  
thirtieth day of June of the year preceding the qualifying year. 5534

(VI) "Qualifying certificate" means the certificate issued by 5535  
the tax commissioner after the operator of a distribution center 5536  
files an annual application with the commissioner. The application 5537  
and annual fee shall be filed and paid for each qualified 5538  
distribution center on or before the first day of September before 5539  
the qualifying year or within forty-five days after the 5540  
distribution center opens, whichever is later. 5541

The applicant must substantiate to the commissioner's 5542  
satisfaction that, for the qualifying period, all persons 5543  
operating the distribution center have more than fifty per cent of 5544  
the cost of the qualified property shipped to a location such that 5545  
it would be situated outside this state under the provisions of 5546  
division (E) of section 5751.033 of the Revised Code. The 5547  
applicant must also substantiate that the distribution center 5548  
cumulatively had costs from its suppliers equal to or exceeding 5549  
five hundred million dollars during the qualifying period. (For 5550  
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 5551

excludes any person that is part of the consolidated elected 5552  
taxpayer group, if applicable, of the operator of the qualified 5553  
distribution center.) The commissioner may require the applicant 5554  
to have an independent certified public accountant certify that 5555  
the calculation of the minimum thresholds required for a qualified 5556  
distribution center by the operator of a distribution center has 5557  
been made in accordance with generally accepted accounting 5558  
principles. The commissioner shall issue or deny the issuance of a 5559  
certificate within sixty days after the receipt of the 5560  
application. A denial is subject to appeal under section 5717.02 5561  
of the Revised Code. If the operator files a timely appeal under 5562  
section 5717.02 of the Revised Code, the operator shall be granted 5563  
a qualifying certificate, provided that the operator is liable for 5564  
any tax, interest, or penalty upon amounts claimed as qualifying 5565  
distribution center receipts, other than those receipts exempt 5566  
under division (C)(1) of section 5751.011 of the Revised Code, 5567  
that would have otherwise not been owed by its suppliers if the 5568  
qualifying certificate was valid. 5569

(VII) "Ohio delivery percentage" means the proportion of the 5570  
total property delivered to a destination inside Ohio from the 5571  
qualified distribution center during the qualifying period 5572  
compared with total deliveries from such distribution center 5573  
everywhere during the qualifying period. 5574

(ii) If the distribution center is new and was not open for 5575  
the entire qualifying period, the operator of the distribution 5576  
center may request that the commissioner grant a qualifying 5577  
certificate. If the certificate is granted and it is later 5578  
determined that more than fifty per cent of the qualified property 5579  
during that year was not shipped to a location such that it would 5580  
be situated outside of this state under the provisions of division 5581  
(E) of section 5751.033 of the Revised Code or if it is later 5582  
determined that the person that operates the distribution center 5583

had average monthly costs from its suppliers of less than forty 5584  
million dollars during that year, then the operator of the 5585  
distribution center shall be liable for any tax, interest, or 5586  
penalty upon amounts claimed as qualifying distribution center 5587  
receipts, other than those receipts exempt under division (C)(1) 5588  
of section 5751.011 of the Revised Code, that would have not 5589  
otherwise been owed by its suppliers during the qualifying year if 5590  
the qualifying certificate was valid. (For purposes of division 5591  
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 5592  
is part of the consolidated elected taxpayer group, if applicable, 5593  
of the operator of the qualified distribution center.) 5594

(iii) When filing an application for a qualifying certificate 5595  
under division (F)(2)(z)(i)(VI) of this section, the operator of a 5596  
qualified distribution center also shall provide documentation, as 5597  
the commissioner requires, for the commissioner to ascertain the 5598  
Ohio delivery percentage. The commissioner, upon issuing the 5599  
qualifying certificate, also shall certify the Ohio delivery 5600  
percentage. The operator of the qualified distribution center may 5601  
appeal the commissioner's certification of the Ohio delivery 5602  
percentage in the same manner as an appeal is taken from the 5603  
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 5604  
of this section. 5605

Within thirty days after all appeals have been exhausted, the 5606  
operator of the qualified distribution center shall notify the 5607  
affected suppliers of qualified property that such suppliers are 5608  
required to file, within sixty days after receiving notice from 5609  
the operator of the qualified distribution center, amended reports 5610  
for the impacted calendar quarter or quarters or calendar year, 5611  
whichever the case may be. Any additional tax liability or tax 5612  
overpayment shall be subject to interest but shall not be subject 5613  
to the imposition of any penalty so long as the amended returns 5614  
are timely filed. The supplier of tangible personal property 5615

delivered to the qualified distribution center shall include in 5616  
its report of taxable gross receipts the receipts from the total 5617  
sales of property delivered to the qualified distribution center 5618  
for the calendar quarter or calendar year, whichever the case may 5619  
be, multiplied by the Ohio delivery percentage for the qualifying 5620  
year. Nothing in division (F)(2)(z)(iii) of this section shall be 5621  
construed as imposing liability on the operator of a qualified 5622  
distribution center for the tax imposed by this chapter arising 5623  
from any change to the Ohio delivery percentage. 5624

(iv) In the case where the distribution center is new and not 5625  
open for the entire qualifying period, the operator shall make a 5626  
good faith estimate of an Ohio delivery percentage for use by 5627  
suppliers in their reports of taxable gross receipts for the 5628  
remainder of the qualifying period. The operator of the facility 5629  
shall disclose to the suppliers that such Ohio delivery percentage 5630  
is an estimate and is subject to recalculation. By the due date of 5631  
the next application for a qualifying certificate, the operator 5632  
shall determine the actual Ohio delivery percentage for the 5633  
estimated qualifying period and proceed as provided in division 5634  
(F)(2)(z)(iii) of this section with respect to the calculation and 5635  
recalculation of the Ohio delivery percentage. The supplier is 5636  
required to file, within sixty days after receiving notice from 5637  
the operator of the qualified distribution center, amended reports 5638  
for the impacted calendar quarter or quarters or calendar year, 5639  
whichever the case may be. Any additional tax liability or tax 5640  
overpayment shall be subject to interest but shall not be subject 5641  
to the imposition of any penalty so long as the amended returns 5642  
are timely filed. 5643

(v) Qualifying certificates and Ohio delivery percentages 5644  
issued by the commissioner shall be open to public inspection and 5645  
shall be timely published by the commissioner. A supplier relying 5646  
in good faith on a certificate issued under this division shall 5647



not be subject to tax on the qualifying distribution center 5648  
receipts under division (F)(2)(z) of this section. A person 5649  
receiving a qualifying certificate is responsible for paying the 5650  
tax, interest, and penalty upon amounts claimed as qualifying 5651  
distribution center receipts that would not otherwise have been 5652  
owed by the supplier if the qualifying certificate were available 5653  
when it is later determined that the qualifying certificate should 5654  
not have been issued because the statutory requirements were in 5655  
fact not met. 5656

(vi) The annual fee for a qualifying certificate shall be one 5657  
hundred thousand dollars for each qualified distribution center. 5658  
If a qualifying certificate is not issued, the annual fee is 5659  
subject to refund after the exhaustion of all appeals provided for 5660  
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 5661  
under this division may be assessed in the same manner as the tax 5662  
imposed under this chapter. The first one hundred thousand dollars 5663  
of the annual application fees collected each calendar year shall 5664  
be credited to the commercial activity tax administrative fund. 5665  
The remainder of the annual application fees collected shall be 5666  
distributed in the same manner required under section 5751.20 of 5667  
the Revised Code. 5668

(vii) The tax commissioner may require that adequate security 5669  
be posted by the operator of the distribution center on appeal 5670  
when the commissioner disagrees that the applicant has met the 5671  
minimum thresholds for a qualified distribution center as set 5672  
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 5673  
section. 5674

(aa) Receipts of an employer from payroll deductions relating 5675  
to the reimbursement of the employer for advancing moneys to an 5676  
unrelated third party on an employee's behalf; 5677

(bb) Cash discounts allowed and taken; 5678

(cc) Returns and allowances; 5679

(dd) Bad debts from receipts on the basis of which the tax 5680  
imposed by this chapter was paid in a prior quarterly tax payment 5681  
period. For the purpose of this division, "bad debts" means any 5682  
debts that have become worthless or uncollectible between the 5683  
preceding and current quarterly tax payment periods, have been 5684  
uncollected for at least six months, and that may be claimed as a 5685  
deduction under section 166 of the Internal Revenue Code and the 5686  
regulations adopted under that section, or that could be claimed 5687  
as such if the taxpayer kept its accounts on the accrual basis. 5688  
"Bad debts" does not include repossessed property, uncollectible 5689  
amounts on property that remains in the possession of the taxpayer 5690  
until the full purchase price is paid, or expenses in attempting 5691  
to collect any account receivable or for any portion of the debt 5692  
recovered; 5693

(ee) Any amount realized from the sale of an account 5694  
receivable to the extent the receipts from the underlying 5695  
transaction giving rise to the account receivable were included in 5696  
the gross receipts of the taxpayer; 5697

(ff) Any receipts directly attributed to providing public 5698  
services pursuant to sections 126.60 to 126.605 of the Revised 5699  
Code, or any receipts directly attributed to a transfer agreement 5700  
or to the enterprise transferred under that agreement under 5701  
section 4313.02 of the Revised Code. 5702

(gg) Any receipts for which the tax imposed by this chapter 5703  
is prohibited by the Constitution or laws of the United States or 5704  
the Constitution of Ohio. 5705

(hh)(i) As used in this division: 5706

(I) "Qualified uranium receipts" means receipts from the 5707  
sale, exchange, lease, loan, production, processing, or other 5708  
disposition of uranium within a uranium enrichment zone certified 5709

by the tax commissioner under division (F)(2)(hh)(ii) of this 5710  
section. "Qualified uranium receipts" does not include any 5711  
receipts with a situs in this state outside a uranium enrichment 5712  
zone certified by the tax commissioner under division 5713  
(F)(2)(hh)(ii) of this section. 5714

(II) "Uranium enrichment zone" means all real property that 5715  
is part of a uranium enrichment facility licensed by the United 5716  
States nuclear regulatory commission and that was or is owned or 5717  
controlled by the United States department of energy or its 5718  
successor. 5719

(ii) Any person that owns, leases, or operates real or 5720  
tangible personal property constituting or located within a 5721  
uranium enrichment zone may apply to the tax commissioner to have 5722  
the uranium enrichment zone certified for the purpose of excluding 5723  
qualified uranium receipts under division (F)(2)(hh) of this 5724  
section. The application shall include such information that the 5725  
tax commissioner prescribes. Within sixty days after receiving the 5726  
application, the tax commissioner shall certify the zone for that 5727  
purpose if the commissioner determines that the property qualifies 5728  
as a uranium enrichment zone as defined in division (F)(2)(hh) of 5729  
this section, or, if the tax commissioner determines that the 5730  
property does not qualify, the commissioner shall deny the 5731  
application or request additional information from the applicant. 5732  
If the tax commissioner denies an application, the commissioner 5733  
shall state the reasons for the denial. The applicant may appeal 5734  
the denial of an application to the board of tax appeals pursuant 5735  
to section 5717.02 of the Revised Code. If the applicant files a 5736  
timely appeal, the tax commissioner shall conditionally certify 5737  
the applicant's property. The conditional certification shall 5738  
expire when all of the applicant's appeals are exhausted. Until 5739  
final resolution of the appeal, the applicant shall retain the 5740  
applicant's records in accordance with section 5751.12 of the 5741

Revised Code, notwithstanding any time limit on the preservation 5742  
of records under that section. 5743

(ii) Amounts realized by licensed motor fuel dealers or 5744  
licensed permissive motor fuel dealers from the exchange of 5745  
petroleum products, including motor fuel, between such dealers, 5746  
provided that delivery of the petroleum products occurs at a 5747  
refinery, terminal, pipeline, or marine vessel and that the 5748  
exchanging dealers agree neither dealer shall require monetary 5749  
compensation from the other for the value of the exchanged 5750  
petroleum products other than such compensation for differences in 5751  
product location or grade. Division (F)(2)(ii) of this section 5752  
does not apply to amounts realized as a result of differences in 5753  
location or grade of exchanged petroleum products or from 5754  
handling, lubricity, dye, or other additive injections fees, 5755  
pipeline security fees, or similar fees. As used in this division, 5756  
"motor fuel," "licensed motor fuel dealer," "licensed permissive 5757  
motor fuel dealer," and "terminal" have the same meanings as in 5758  
section 5735.01 of the Revised Code. 5759

~~(hh)~~(jj) In the case of amounts collected by a licensed 5760  
casino operator from casino gaming, amounts in excess of the 5761  
casino operator's gross casino revenue. In this division, "casino 5762  
operator" and "casino gaming" have the meanings defined in section 5763  
3772.01 of the Revised Code, and "gross casino revenue" has the 5764  
meaning defined in section 5753.01 of the Revised Code. 5765

(3) In the case of a taxpayer when acting as a real estate 5766  
broker, "gross receipts" includes only the portion of any fee for 5767  
the service of a real estate broker, or service of a real estate 5768  
salesperson associated with that broker, that is retained by the 5769  
broker and not paid to an associated real estate salesperson or 5770  
another real estate broker. For the purposes of this division, 5771  
"real estate broker" and "real estate salesperson" have the same 5772  
meanings as in section 4735.01 of the Revised Code. 5773

(4) A taxpayer's method of accounting for gross receipts for 5774  
a tax period shall be the same as the taxpayer's method of 5775  
accounting for federal income tax purposes for the taxpayer's 5776  
federal taxable year that includes the tax period. If a taxpayer's 5777  
method of accounting for federal income tax purposes changes, its 5778  
method of accounting for gross receipts under this chapter shall 5779  
be changed accordingly. 5780

(G) "Taxable gross receipts" means gross receipts situated to 5781  
this state under section 5751.033 of the Revised Code. 5782

(H) A person has "substantial nexus with this state" if any 5783  
of the following applies. The person: 5784

(1) Owns or uses a part or all of its capital in this state; 5785

(2) Holds a certificate of compliance with the laws of this 5786  
state authorizing the person to do business in this state; 5787

(3) Has bright-line presence in this state; 5788

(4) Otherwise has nexus with this state to an extent that the 5789  
person can be required to remit the tax imposed under this chapter 5790  
under the Constitution of the United States. 5791

(I) A person has "bright-line presence" in this state for a 5792  
reporting period and for the remaining portion of the calendar 5793  
year if any of the following applies. The person: 5794

(1) Has at any time during the calendar year property in this 5795  
state with an aggregate value of at least fifty thousand dollars. 5796  
For the purpose of division (I)(1) of this section, owned property 5797  
is valued at original cost and rented property is valued at eight 5798  
times the net annual rental charge. 5799

(2) Has during the calendar year payroll in this state of at 5800  
least fifty thousand dollars. Payroll in this state includes all 5801  
of the following: 5802

(a) Any amount subject to withholding by the person under 5803

section 5747.06 of the Revised Code; 5804

(b) Any other amount the person pays as compensation to an 5805  
individual under the supervision or control of the person for work 5806  
done in this state; and 5807

(c) Any amount the person pays for services performed in this 5808  
state on its behalf by another. 5809

(3) Has during the calendar year taxable gross receipts of at 5810  
least five hundred thousand dollars. 5811

(4) Has at any time during the calendar year within this 5812  
state at least twenty-five per cent of the person's total 5813  
property, total payroll, or total gross receipts. 5814

(5) Is domiciled in this state as an individual or for 5815  
corporate, commercial, or other business purposes. 5816

(J) "Tangible personal property" has the same meaning as in 5817  
section 5739.01 of the Revised Code. 5818

(K) "Internal Revenue Code" means the Internal Revenue Code 5819  
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 5820  
this chapter that is not otherwise defined has the same meaning as 5821  
when used in a comparable context in the laws of the United States 5822  
relating to federal income taxes unless a different meaning is 5823  
clearly required. Any reference in this chapter to the Internal 5824  
Revenue Code includes other laws of the United States relating to 5825  
federal income taxes. 5826

(L) "Calendar quarter" means a three-month period ending on 5827  
the thirty-first day of March, the thirtieth day of June, the 5828  
thirtieth day of September, or the thirty-first day of December. 5829

(M) "Tax period" means the calendar quarter or calendar year 5830  
on the basis of which a taxpayer is required to pay the tax 5831  
imposed under this chapter. 5832

(N) "Calendar year taxpayer" means a taxpayer for which the 5833

tax period is a calendar year. 5834

(O) "Calendar quarter taxpayer" means a taxpayer for which 5835  
the tax period is a calendar quarter. 5836

(P) "Agent" means a person authorized by another person to 5837  
act on its behalf to undertake a transaction for the other, 5838  
including any of the following: 5839

(1) A person receiving a fee to sell financial instruments; 5840

(2) A person retaining only a commission from a transaction 5841  
with the other proceeds from the transaction being remitted to 5842  
another person; 5843

(3) A person issuing licenses and permits under section 5844  
1533.13 of the Revised Code; 5845

(4) A lottery sales agent holding a valid license issued 5846  
under section 3770.05 of the Revised Code; 5847

(5) A person acting as an agent of the division of liquor 5848  
control under section 4301.17 of the Revised Code. 5849

(Q) "Received" includes amounts accrued under the accrual 5850  
method of accounting. 5851

(R) "Reporting person" means a person in a consolidated 5852  
elected taxpayer or combined taxpayer group that is designated by 5853  
that group to legally bind the group for all filings and tax 5854  
liabilities and to receive all legal notices with respect to 5855  
matters under this chapter, or, for the purposes of section 5856  
5751.04 of the Revised Code, a separate taxpayer that is not a 5857  
member of such a group. 5858

**Sec. 5751.011.** (A) A group of two or more persons may elect 5859  
to be a consolidated elected taxpayer for the purposes of this 5860  
chapter if the group satisfies all of the following requirements: 5861

(1) The group elects to include all persons, including 5862

persons enumerated in divisions (E)(2) to ~~(10)~~(5) of section 5863  
5751.01 of the Revised Code, having at least eighty per cent, or 5864  
having at least fifty per cent, of the value of their ownership 5865  
interests owned or controlled, directly or constructively through 5866  
related interests, by common owners during all or any portion of 5867  
the tax period, together with the common owners. 5868

A group making its initial election on the basis of the 5869  
eighty per cent ownership test may change its election so that its 5870  
consolidated elected taxpayer group is formed on the basis of the 5871  
fifty per cent ownership test if all of the following are 5872  
satisfied: 5873

(a) When the initial election was made, the group did not 5874  
have any persons satisfying the fifty per cent ownership test; 5875

(b) One or more of the persons in the initial group 5876  
subsequently acquires ownership interests in a person such that 5877  
the fifty per cent ownership test is satisfied, the eighty per 5878  
cent ownership test is not satisfied, and the acquired person 5879  
would be required to be included in a combined taxpayer group 5880  
under section 5751.012 of the Revised Code; 5881

(c) The group requests the change in a written request to the 5882  
tax commissioner on or before the due date for filing the first 5883  
return due under section 5751.051 of the Revised Code after the 5884  
date of the acquisition; 5885

(d) The group has not previously changed its election. 5886

At the election of the group, all entities that are not 5887  
incorporated or formed under the laws of a state or of the United 5888  
States and that meet the consolidated elected ownership test shall 5889  
either be included in the group or all shall be excluded from the 5890  
group. If, at the time of registration, the group does not include 5891  
any such entities that meet the consolidated elected ownership 5892  
test, the group shall elect to either include or exclude the newly 5893



acquired entities before the due date of the first return due 5894  
after the date of the acquisition. 5895

Each group shall notify the tax commissioner of the foregoing 5896  
elections before the due date of the return for the period in 5897  
which the election becomes binding. If fifty per cent of the value 5898  
of a person's ownership interests is owned or controlled by each 5899  
of two consolidated elected taxpayer groups formed under the fifty 5900  
per cent ownership or control test, that person is a member of 5901  
each group for the purposes of this section, and each group shall 5902  
include in the group's taxable gross receipts fifty per cent of 5903  
that person's taxable gross receipts. Otherwise, all of that 5904  
person's taxable gross receipts shall be included in the taxable 5905  
gross receipts of the consolidated elected taxpayer group of which 5906  
the person is a member. In no event shall the ownership or control 5907  
of fifty per cent of the value of a person's ownership interests 5908  
by two otherwise unrelated groups form the basis for consolidating 5909  
the groups into a single consolidated elected taxpayer group or 5910  
permit any exclusion under division (C) of this section of taxable 5911  
gross receipts between members of the two groups. Division (A)(3) 5912  
of this section applies with respect to the elections described in 5913  
this division. 5914

(2) The group makes the election to be treated as a 5915  
consolidated elected taxpayer in the manner prescribed under 5916  
division (D) of this section. 5917

(3) Subject to review and audit by the tax commissioner, the 5918  
group agrees that all of the following apply: 5919

(a) The group shall file reports as a single taxpayer for at 5920  
least the next eight calendar quarters following the election so 5921  
long as at least two or more of the members of the group meet the 5922  
requirements of division (A)(1) of this section. 5923

(b) Before the expiration of the eighth such calendar 5924

quarter, the group shall notify the commissioner if it elects to 5925  
cancel its designation as a consolidated elected taxpayer. If the 5926  
group does not so notify the tax commissioner, the election 5927  
remains in effect for another eight calendar quarters. 5928

(c) If, at any time during any of those eight calendar 5929  
quarters following the election, a former member of the group no 5930  
longer meets the requirements under division (A)(1) of this 5931  
section, that member shall report and pay the tax imposed under 5932  
this chapter separately, as a member of a combined taxpayer, or, 5933  
if the former member satisfies such requirements with respect to 5934  
another consolidated elected group, as a member of that 5935  
consolidated elected group. 5936

(d) The group agrees to the application of division (B) of 5937  
this section. 5938

(B) A group of persons making the election under this section 5939  
shall report and pay tax on all of the group's taxable gross 5940  
receipts even if substantial nexus with this state does not exist 5941  
for one or more persons in the group. 5942

(C)(1)(a) Members of a consolidated elected taxpayer group 5943  
shall exclude gross receipts among persons included in the 5944  
consolidated elected taxpayer group. 5945

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 5946  
section, nothing in this section shall have the effect of 5947  
requiring a consolidated elected taxpayer group to include gross 5948  
receipts received by a person enumerated in divisions (E)(2) to 5949  
~~(10)~~(5) of section 5751.01 of the Revised Code if that person is a 5950  
member of the group pursuant to the elections made by the group 5951  
under division (A)(1) of this section. 5952

(c)(i) As used in division (C)(1)(c) of this section, "dealer 5953  
transfer" means a transfer of property that satisfies both of the 5954  
following: (I) the property is directly transferred by any means 5955

from one member of the group to another member of the group that 5956  
is a dealer in intangibles but is not a qualifying dealer as 5957  
defined in section 5707.031 of the Revised Code; and (II) the 5958  
property is subsequently delivered by the dealer in intangibles to 5959  
a person that is not a member of the group. 5960

(ii) In the event of a dealer transfer, a consolidated 5961  
elected taxpayer group shall not exclude, under division (C) of 5962  
this section, gross receipts from the transfer described in 5963  
division (C)(1)(c)(i)(I) of this section. 5964

(2) Gross receipts related to the sale or transmission of 5965  
electricity through the use of an intermediary regional 5966  
transmission organization approved by the federal energy 5967  
regulatory commission shall be excluded from taxable gross 5968  
receipts under division (C)(1) of this section if all other 5969  
requirements of that division are met, even if the receipts are 5970  
from and to the same member of the group. 5971

(D) To make the election to be a consolidated elected 5972  
taxpayer, a group of persons shall notify the tax commissioner of 5973  
the election in the manner prescribed by the commissioner and pay 5974  
the commissioner a registration fee equal to the lesser of two 5975  
hundred dollars or twenty dollars for each person in the group. No 5976  
additional fee shall be imposed for the addition of new members to 5977  
the group once the group has remitted a fee in the amount of two 5978  
hundred dollars. The election shall be made and the fee paid 5979  
before the beginning of the first calendar quarter to which the 5980  
election applies. The fee shall be collected and used in the same 5981  
manner as provided in section 5751.04 of the Revised Code. 5982

The election shall be made on a form prescribed by the tax 5983  
commissioner for that purpose and shall be signed by one or more 5984  
individuals with authority, separately or together, to make a 5985  
binding election on behalf of all persons in the group. 5986

Any person acquired or formed after the filing of the 5987  
registration shall be included in the group if the person meets 5988  
the requirements of division (A)(1) of this section, and the group 5989  
shall notify the tax commissioner of any additions to the group 5990  
with the next tax return it files with the commissioner. 5991

**Sec. 5751.012.** (A) All persons, other than persons enumerated 5992  
in divisions (E)(2) to ~~(10)~~(5) of section 5751.01 of the Revised 5993  
Code, having more than fifty per cent of the value of their 5994  
ownership interest owned or controlled, directly or constructively 5995  
through related interests, by common owners during all or any 5996  
portion of the tax period, together with the common owners, shall 5997  
be members of a combined taxpayer if those persons are not members 5998  
of a consolidated elected taxpayer pursuant to an election under 5999  
section 5751.011 of the Revised Code. 6000

(B) A combined taxpayer shall register, file returns, and pay 6001  
taxes under this chapter as a single taxpayer. 6002

(C) A combined taxpayer shall neither exclude taxable gross 6003  
receipts between its members nor from others that are not members. 6004

(D) A combined taxpayer shall pay to the tax commissioner a 6005  
registration fee equal to the lesser of two hundred dollars or 6006  
twenty dollars for each person in the group. No additional fee 6007  
shall be imposed for the addition of new members to the group once 6008  
the group has remitted a fee in the amount of two hundred dollars. 6009  
The fee shall be timely paid before the later of the beginning of 6010  
the first calendar quarter or November 15, 2005. The fee shall be 6011  
collected and used in the same manner as provided in section 6012  
5751.04 of the Revised Code. 6013

Any person acquired or formed after the filing of the 6014  
registration shall be included in the group if the person meets 6015  
the requirements of division (A) of this section, and the group 6016  
must notify the tax commissioner of any additions with the next 6017

quarterly tax return it files with the commissioner. 6018

Sec. 5751.54. (A) Any term used in this section has the same 6019  
meaning as in section 122.85 of the Revised Code. 6020

(B) There is allowed a refundable credit against the tax 6021  
imposed by section 5751.02 of the Revised Code for any person that 6022  
is the certificate owner of a tax credit certificate issued under 6023  
section 122.85 of the Revised Code. The credit shall be claimed 6024  
for the tax period in which the certificate is issued by the 6025  
director of development services. The credit amount equals the 6026  
amount stated in the certificate. The credit shall be claimed in 6027  
the order required under section 5751.98 of the Revised Code. If 6028  
the credit amount exceeds the tax otherwise due under section 6029  
5751.02 of the Revised Code after deducting all other credits in 6030  
that order, the excess shall be refunded. 6031

(C) Nothing in this section allows a person to claim more 6032  
than one credit per tax credit-eligible production. 6033

Sec. 5751.98. (A) To provide a uniform procedure for 6034  
calculating the amount of tax due under this chapter, a taxpayer 6035  
shall claim any credits to which it is entitled in the following 6036  
order: 6037

(1) The nonrefundable jobs retention credit under division 6038  
(B) of section 5751.50 of the Revised Code; 6039

(2) The nonrefundable credit for qualified research expenses 6040  
under division (B) of section 5751.51 of the Revised Code; 6041

(3) The nonrefundable credit for a borrower's qualified 6042  
research and development loan payments under division (B) of 6043  
section 5751.52 of the Revised Code; 6044

(4) The nonrefundable credit for calendar years 2010 to 2029 6045  
for unused net operating losses under division (B) of section 6046

5751.53 of the Revised Code; 6047

(5) The refundable motion picture production credit for 6048  
~~calendar year 2030 for unused net operating losses~~ under division 6049  
~~(C) of section 5751.53~~ 5751.54 of the Revised Code; 6050

(6) The refundable jobs creation credit or job retention 6051  
credit under division (A) of section 5751.50 of the Revised Code; 6052

(7) The refundable credit for calendar year 2030 for unused 6053  
net operating losses under division (C) of section 5751.53 of the 6054  
Revised Code. 6055

(B) For any credit except the refundable credits enumerated 6056  
in this section, the amount of the credit for a tax period shall 6057  
not exceed the tax due after allowing for any other credit that 6058  
precedes it in the order required under this section. Any excess 6059  
amount of a particular credit may be carried forward if authorized 6060  
under the section creating the credit. 6061

**Section 2.** That existing sections 122.17, 122.171, 122.85, 6062  
145.114, 145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 6063  
742.114, 742.116, 3307.152, 3307.154, 3309.157, 3309.159, 6064  
5505.068, 5505.0610, 5703.052, 5703.053, 5703.70, 5707.03, 6065  
5709.76, 5711.22, 5725.02, 5725.14, 5725.16, 5725.26, 5725.33, 6066  
5733.01, 5733.02, 5733.021, 5733.06, 5747.01, 5747.98, 5751.01, 6067  
5751.011, 5751.012, and 5751.98 of the Revised Code are hereby 6068  
repealed. 6069

**Section 3.** The amendment by this act of division (E) of 6070  
section 5751.01 and sections 5751.011 and 5751.012 of the Revised 6071  
Code applies to tax periods beginning on or after January 1, 2014. 6072

**Section 4.** (A) The Tax Commissioner shall not assess or hold 6073  
liable for the failure to report or pay the tax imposed by section 6074  
5751.02 of the Revised Code for any tax periods ending before 6075

January 1, 2014, a corporation or any other person directly or 6076  
indirectly owned by one or more insurance companies that are 6077  
subject to the tax imposed by section 5725.18 or Chapter 5729. of 6078  
the Revised Code, provided the corporation, but not the other 6079  
person or persons, so owned by the insurance company or companies 6080  
reported and paid the tax imposed by section 5733.06 of the 6081  
Revised Code and not the tax imposed by section 5751.02 of the 6082  
Revised Code for taxable periods before January 1, 2014. 6083

(B) For the purposes of this section, division (E)(8)(a),(b), 6084  
or (c) of section 5751.01 of the Revised Code as that section 6085  
existed before January 1, 2014, shall apply in determining whether 6086  
a person is directly or indirectly owned. 6087

**Section 5.** The General Assembly, applying the principle 6088  
stated in division (B) of section 1.52 of the Revised Code that 6089  
amendments are to be harmonized if reasonably capable of 6090  
simultaneous operation, finds that the following sections, 6091  
presented in this act as composites of the sections as amended by 6092  
the acts indicated, are the resulting versions of the sections in 6093  
effect prior to the effective date of the sections as presented in 6094  
this act: 6095

Section 5747.01 of the Revised Code as amended by both Am. 6096  
Sub. H.B. 153 and Am. H.B. 167 of the 129th General Assembly. 6097

Section 5751.01 of the Revised Code as amended by both Am. 6098  
Sub. H.B. 153 and Sub. H.B. 277 of the 129th General Assembly. 6099