

the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty per cent of the taxes that would be payable to the township in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (B)(1) of this section that is adopted on or after January 1,

2006, shall be distributed to the appropriate taxing authority as required under division (D) of section 5709.79 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in

the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (A) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development ~~services~~ a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director ~~of development services~~. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.80 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

(J) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

Sec. 5709.83. (A) Except as otherwise provided in division (B) or (C) of this section, prior to taking formal action to adopt or enter into any instrument granting a tax exemption under section 725.02, 1728.06, 5709.40, 5709.41, 5709.45, 5709.48, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code or formally approving an agreement under section 3735.671 of the Revised Code, or prior to forwarding an application for a tax exemption for residential property under section 3735.67 of the Revised Code to the county auditor, the legislative authority of the political subdivision, governing board of a regional transportation improvement project, or housing officer shall notify the board of education of each city, local, exempted village, or joint vocational school district in which the proposed tax-exempted property is located. The notice shall include a copy of the instrument or application. The notice shall be delivered not later than fourteen days prior to the day the legislative authority or governing board takes formal action to adopt or enter into the instrument, or not later than fourteen days prior to the day the housing officer forwards the application to the county auditor. If the board of education comments on the instrument or application to the legislative authority, governing board, or housing officer, the legislative authority, governing board, or housing officer shall consider the comments. If the

board of education of the city, local, exempted village, or joint vocational school district so requests, the legislative authority, governing board, or the housing officer shall meet in person with a representative designated by the board of education to discuss the terms of the instrument or application.

(B) The notice otherwise required to be provided to boards of education under division (A) of this section is not required if the board has adopted a resolution waiving its right to receive such notices, and that resolution remains in effect. If a board of education adopts such a resolution, the board shall cause a copy of the resolution to be certified to the legislative authority or governing board. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority or governing board. A board of education may adopt such a resolution with respect to any one or more counties, townships, or municipal corporations situated in whole or in part within the school district.

(C) If a legislative authority or governing board is required to provide notice to a city, local, or exempted village school district of its intent to adopt or enter into any instrument granting a tax exemption as required by section 3735.671, 5709.40, 5709.41, 5709.45, 5709.48, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code, the legislative authority, before adopting a resolution or ordinance or entering into an agreement under that section, shall notify the board of education of each joint vocational school district in which the property to be exempted is located using the same time requirements for the notice that applies to notices to city, local, and exempted village school districts. The content of the notice and procedures for responding to the notice are the same as required in division (A) of this section.

Sec. 5711.29. If any corporation uses the rights and powers granted by its charter to prevent the assessment of the shares of its resident shareholders on the basis of income yield, as provided in sections 5711.01 to 5711.36 of the Revised Code, by permitting its gains and profits to accumulate instead of being distributed, or by paying exorbitant salaries to its officers and employees, the tax commissioner, upon finding such to be the fact, shall assess the amount representing the aggregate assessments of the shares of such resident shareholders in the names of such resident shareholders and certify such assessments, together with the penalty provided in such sections, to the proper county auditor who shall place the same on the classified tax list and duplicate in the names of such shareholders, as investments assessed on the basis of income yield for the year for which such assessments are made; and taxes shall be collected thereon the same as on other like assessments. The commissioner shall give notice of such

assessment to the corporation ~~by personal service or certified mail, in the manner provided in section 5703.37 of the Revised Code,~~ and such assessment shall be subject to a petition for reassessment and an appeal as provided in sections 5711.31 and 5717.02 of the Revised Code.

If any such corporation is a holding or investment company, or if the gains or profits are permitted to accumulate beyond the reasonable needs of the business, such fact shall be prima-facie evidence of a purpose to prevent the assessment of the shares of its resident stockholders on such basis.

If any trust, under the terms of which the trustee is required or authorized to withhold and accumulate all or any part of the income, is created or used for the purpose of preventing the assessment of the equitable interests of the resident beneficiaries on the basis of income yield, as provided in sections 5711.01 to 5711.36 of the Revised Code, the commissioner, upon finding such to be the fact, shall assess the amount representing the aggregate assessment of such equitable shares in the manner provided in this section. If the creator of such trust reserved a power of revocation, or if the trustee has discretion to pay and distribute the income of the trust property to or for the benefit of such resident beneficiary, such fact shall be prima-facie evidence of a purpose to prevent the assessment of the equitable shares of the resident beneficiaries upon such basis.

The assessment imposed by this action shall not be made against any resident shareholder of such corporation or beneficiary of such trust who in filing ~~his~~ the shareholder's or beneficiary's return lists as the income yield of ~~his~~ the shares or beneficial interest the entire distributive share or beneficial interest, whether distributed or not, of the net income of such corporation or trust for such year, in which event any subsequent distribution made by such corporation or trust out of the earnings or profits of such year shall, if distributed to any shareholder or beneficiary who has so included in the income yield of ~~his~~ the shareholder's or beneficiary's shares the distributive share thereof, be deducted from the income yield of such shares for the year in which the same is made.

Sec. 5713.03. ~~(A)~~ The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions, of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules

prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. The auditor shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor may consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

~~(1)(A)~~ The tract, lot, or parcel of real estate loses value due to some casualty;

~~(2)(B)~~ An improvement is added to the property.

Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.

~~(B) Pursuant to division (A) of this section, the county auditor may determine the true value of real property that is part of a qualified low income housing tax credit project through use of one or more of the market data approach, the income approach, or the cost approach.~~

~~As used in division (B) of this section, "low income housing tax credit project" means a qualified low income housing project during its compliance period, as those terms are defined by section 42 of the Internal Revenue Code.~~

~~(C)~~ The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. The auditor shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

Sec. 5713.031. (A) As used in this section, "federally subsidized

residential rental property" means property to which one or more of the following apply:

(1) It is part of a qualified low-income housing project, through its compliance and extended use period, as those terms are defined in section 42 of the Internal Revenue Code, or any other period during which it is similarly restricted under section 42 of the Internal Revenue Code.

(2) It receives assistance pursuant to section 202 of the "Housing Act of 1959," 12 U.S.C. 1701q, and remains restricted pursuant to that section.

(3) Property that receives assistance pursuant to Section 811 of the "Cranston-Gonzalez National Affordable Housing Act," 42 U.S.C. 8013, and remains restricted pursuant to that section;

(4) Property that receives project-based assistance pursuant to section 8 of the "United States Housing Act of 1937," 42 U.S.C. 1437f, and remains restricted pursuant to that section;

(5) Property that receives assistance pursuant to section 515 of the "Housing Act of 1949," 42 U.S.C. 1485, and remains restricted pursuant to that section;

(6) Property that receives assistance pursuant to section 538 of the "Housing Act of 1949," 42 U.S.C. 1490p-2, and remains restricted pursuant to that section;

(7) Property that receives assistance pursuant to section 521 of the "Housing Act of 1949," 42 U.S.C. 1490a, and remains restricted pursuant to that section.

(B) An owner of federally subsidized residential rental property shall file with the county auditor of the county in which the property is located the following information from the preceding calendar year or up to three preceding calendar years, as applicable:

(1) The operating income of the property which shall include gross potential rent, any forgiveness of or allowance received for losses due to vacancy or unpaid rent, and any income derived from other sources;

(2) The operating expenses of the property including all non-capitalized expenses related to staffing, utilities, repairs, supplies, telecommunication, management fees, audits, legal and contract services, and any other expense a prospective buyer might consider in purchasing the property. Real property taxes, depreciation, and amortization expenses and replacement of short-term capitalized assets shall be excluded from operating expenses.

(3) The annual amount of contribution to replacement reserve funds or accounts related to the property.

(C)(1) The information required under division (B) of this section shall be filed by the owner both before the property is placed in service and after

the commencement of the property's operations, and each following year to which section 5715.24 of the Revised Code applies in the county, on or before the first day of March. Each such filing in a reappraisal or update year shall report the information required under division (B) of this section for the preceding three calendar years or for the period of time the property has been in operation, if less than three years.

(2) Information filed under this section shall have first been audited by an independent public accountant or auditor or a certified public accountant prior to filing. If such an audit is not completed by the first day of March, the owner of the property shall file updated records within thirty days after the completion of such an audit.

(3) If a property owner fails to timely submit the information required under division (B) of this section, the county auditor is not required to value the property in accordance with division (A)(4) of section 5715.01 of the Revised Code for any applicable tax year to which that division would have applied and shall otherwise proceed under section 5713.01 of the Revised Code to value the property in compliance with Ohio Constitution, Article XII, Section 2 for that tax year.

(D) The county auditor shall use the information submitted under this section to determine the valuation of the property pursuant to rules adopted under division (A)(4) of section 5715.01 of the Revised Code.

(E) Any information submitted under this section is not a public record for purposes of section 149.43 of the Revised Code.

Sec. 5715.01. (A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use.

(1) The uniform rules shall prescribe methods of determining the true value and taxable value of real property. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those minerals.

(2) The uniform rules shall prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration the productivity of the soil under normal management practices, typical cropping and land use patterns, the average price patterns of the crops and products produced and the typical production costs to determine the net income potential to be capitalized, and other pertinent factors.

In determining the agricultural land capitalization rate to be applied to the net income potential from agricultural use, the commissioner shall use standard and modern appraisal techniques. In calculating the capitalization rate for any year, the commissioner shall comply with both of the following requirements:

(a) The commissioner shall use an equity yield rate equal to the greater of (i) the average of the total rates of return on farm equity for the twenty-five most recent years for which those rates have been calculated and published by the United States department of agriculture economic research service or another published source or (ii) the loan interest rate the commissioner uses for that year to calculate the capitalization rate;

(b) The commissioner shall assume that the holding period for agricultural land is twenty-five years for the purpose of computing buildup of equity or appreciation with respect to that land.

The commissioner shall add to the overall capitalization rate a tax additur. The sum of the overall capitalization rate and the tax additur shall represent as nearly as possible the rate of return a prudent investor would expect from an average or typical farm in this state considering only agricultural factors.

The commissioner shall annually determine and announce the overall capitalization rate, tax additur, agricultural land capitalization rate, and the individual components used in computing such amounts in a determination, finding, computation, or order of the commissioner published simultaneously with the commissioner's annual publication of the per-acre agricultural use values for each soil type.

(3) Notwithstanding any other provision of this chapter and Chapter 5713. of the Revised Code, the current agricultural use value of land devoted exclusively to agricultural use shall equal the following amounts for the years specified:

(a) In counties that undergo a reappraisal or triennial update in 2017, the current agricultural use value of the land for each of the 2017, 2018, and 2019 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(a)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2016 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2016 tax year, exceeds the value determined under division (A)(3)(a)(i) of this section.

(b) In counties that undergo a reappraisal or triennial update in 2018, the current agricultural use value of the land for each of the 2018, 2019, and 2020 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(b)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2017 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2017 tax year, exceeds the value determined under division (A)(3)(b)(i) of this section.

(c) In counties that undergo a reappraisal or triennial update in 2019, the current agricultural use value of the land for each of the 2019, 2020, and 2021 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(c)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2018 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2018 tax year, exceeds the value determined under division (A)(3)(c)(i) of this section.

(4) The uniform rules shall prescribe the method for determining the value of federally subsidized residential rental property through the use of a formula that accounts for the following factors:

(a) Up to three years of operating income of the property, which

includes gross potential rent, and any income derived from other sources as reported by the property owner to the county auditor under section 5713.031 of the Revised Code. Operating income shall include an allowance for vacancy losses, which shall be presumed to be four per cent of gross potential rent, and unpaid rent losses, which shall be presumed to be three per cent of gross potential rent. These presumptive amounts may be exceeded with evidence demonstrating the actual income of the property.

(b) Operating expenses of the property, which shall be presumed to be forty-eight per cent of operating income plus utility expenses as reported by the property owner to the county auditor under section 5713.031 of the Revised Code. Operating expenses shall also include replacement reserve fund or account contributions which shall be presumed to be five per cent of gross potential rent. These presumptive amounts may be exceeded with evidence demonstrating the actual expenses of the property. Real property taxes, depreciation, and amortization expenses and replacement of short-term capitalized assets shall be excluded from operating expenses.

(c) A market-appropriate, uniform capitalization rate plus a tax additur accounting for the real property tax rate of the property's location. For federally subsidized residential rental property described in division (A)(1) of section 5713.031 of the Revised Code, one percentage point shall be subtracted from the uniform capitalization rate.

The uniform rules shall also prescribe a minimum total value for federally subsidized residential rental property of five thousand dollars multiplied by the number of dwelling units comprising the property or one hundred fifty per cent of the property's unimproved land value, whichever is greater. The formula and other rules adopted by the commissioner pursuant to this division shall comply with Ohio Constitution, Article XII, Section 2.

As used in division (A)(4) of this section, "federally subsidized residential rental property" has the same meaning as in section 5713.031 of the Revised Code and "dwelling unit" has the same meaning as in section 5321.01 of the Revised Code.

(B) The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five per cent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26,

5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of revision, which shall hear complaints and revise assessments of real property for taxation.

(C) The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.

Sec. 5721.14. Subject to division (A)(2) of this section, on receipt of a delinquent vacant land tax certificate or a master list of delinquent vacant tracts, a county prosecuting attorney shall institute a foreclosure proceeding under section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, or a foreclosure and forfeiture proceeding under this section. If the delinquent vacant land tax certificate or a master list of delinquent vacant tracts lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county prosecuting attorney may institute a foreclosure proceeding under section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code or a foreclosure and forfeiture proceeding under this section against such minerals or rights to minerals.

(A)(1) The prosecuting attorney shall institute a proceeding under this section by filing, in the name of the county treasurer and with the clerk of a court with jurisdiction, a complaint that requests that the lien of the state on the property identified in the certificate or master list be foreclosed and that the property be forfeited to the state. The prosecuting attorney shall prosecute the proceeding to final judgment and satisfaction.

(2) If the delinquent taxes, assessments, charges, penalties, and interest are paid prior to the time a complaint is filed, the prosecuting attorney shall not institute a proceeding under this section. If there is a copy of a written delinquent tax contract attached to the certificate or an asterisk next to an entry on the master list, or if a copy of a delinquent tax contract is received from the county auditor prior to the commencement of the proceeding under this section, the prosecuting attorney shall not institute the proceeding under this section unless the prosecuting attorney receives a certification of the

county treasurer that the delinquent tax contract has become void.

(B) Foreclosure and forfeiture proceedings instituted under this section constitute an action in rem. Prior to filing such an action in rem, the county prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property that is subject to foreclosure and forfeiture. Following the title search, the action in rem shall be instituted by filing in the office of the clerk of a court with jurisdiction a complaint bearing a caption substantially in the form set forth in division (A) of section 5721.15 of the Revised Code.

Any number of parcels may be joined in one action. Each separate parcel included in a complaint shall be given a serial number and shall be separately indexed and docketed by the clerk of the court in a book kept by the clerk for such purpose. A complaint shall contain the permanent parcel number of each parcel included in it, the full street address of the parcel when available, a description of the parcel as set forth in the certificate or master list, the name and address of the last known owner of the parcel if they appear on the general tax list, the name and address of each lienholder and other person with an interest in the parcel identified in the title search relating to the parcel that is required by this division, and the amount of taxes, assessments, charges, penalties, and interest due and unpaid with respect to the parcel. It is sufficient for the county treasurer to allege in the complaint that the certificate or master list has been duly filed by the county auditor with respect to each parcel listed, that the amount of money with respect to each parcel appearing to be due and unpaid is due and unpaid, and that there is a lien against each parcel, without setting forth any other or special matters. The prayer of the complaint shall be that the court issue an order that the lien of the state on each of the parcels included in the complaint be foreclosed, that the property be forfeited to the state, and that the land be offered for sale in the manner provided in section 5723.06 of the Revised Code.

(C) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure and forfeiture substantially in the form of the notice set forth in division (B) of section 5721.15 of the Revised Code to be published either (1) once a week for three consecutive weeks in a newspaper of general circulation in the county or (2) once in a newspaper of general circulation in the county and, beginning one week thereafter, on a web site of the county or of the court, as selected by the clerk. Publication on the web site shall continue until one year after the date a judgment is rendered under section 5721.16 of the Revised Code with respect to such property. Any notice published on a

web site shall identify the date the notice is first published on the web site. In lieu of the form prescribed in division (B) of section 5721.15 of the Revised Code, the second and third publication of the notice, if proceeding under division (C)(1) of this section, may be abbreviated as authorized under section 7.16 of the Revised Code. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the county prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure and forfeiture proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the ~~third~~ final newspaper publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure and forfeiture as published. Two weeks after the clerk causes the notice to be published on the selected web site, if proceeding under division (C)(2) of this section, the prosecuting attorney shall file with the clerk an affidavit stating the fact of the publication and including a copy of the notice of foreclosure and forfeiture as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the ~~last third newspaper publication or the date that is two weeks after the clerk causes the notice to be published on the selected web site, as applicable.~~

Within thirty days after the filing of a complaint and before the date of ~~the final publication of the notice of foreclosure and forfeiture~~ service of process is considered complete under this division, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.15 of the Revised Code to be mailed by ordinary mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the name and address of the last known owner of a parcel included in a complaint is not set forth in it, the county auditor shall file an affidavit with the clerk stating that the name and address of the last known owner does not appear on the general tax list.

(D)(1) An answer may be filed in a foreclosure and forfeiture proceeding by any person owning or claiming any right, title, or interest in, or lien upon, any parcel described in the complaint. The answer shall

contain the caption and number of the action and the serial number of the parcel concerned. The answer shall set forth the nature and amount of interest claimed in the parcel and any defense or objection to the foreclosure of the lien of the state for delinquent taxes, assessments, charges, penalties, and interest, as shown in the complaint. The answer shall be filed in the office of the clerk of the court, and a copy of the answer shall be served on the county prosecuting attorney not later than twenty-eight days after the ~~date of final publication of the notice of foreclosure and forfeiture~~ service of process is considered complete under division (C) of this section. If an answer is not filed within such time, a default judgment may be taken as to any parcel included in a complaint as to which no answer has been filed. A default judgment is valid and effective with respect to all persons owning or claiming any right, title, or interest in, or lien upon, any such parcel, notwithstanding that one or more of such persons are minors, incompetents, absentees or nonresidents of the state, or convicts in confinement.

(2)(a) A receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code may file an answer pursuant to division (D)(1) of this section, but is not required to do so as a condition of receiving proceeds in a distribution under division (B)(2) of section 5721.17 of the Revised Code.

(b) When a receivership under section 3767.41 of the Revised Code is associated with a parcel, the notice of foreclosure and forfeiture set forth in division (B) of section 5721.15 of the Revised Code and the notice set forth in division (C) of that section shall be modified to reflect the provisions of division (D)(2)(a) of this section.

(E) At the trial of a foreclosure and forfeiture proceeding, the delinquent vacant land tax certificate or master list of delinquent vacant tracts filed by the county auditor with the county prosecuting attorney shall be prima-facie evidence of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid on the parcel to which the certificate or master list relates and their nonpayment. If an answer is properly filed, the court may, in its discretion, and shall, at the request of the person filing the answer, grant a severance of the proceedings as to any parcel described in such answer for purposes of trial or appeal.

(F) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent vacant land tax list but before the date of a judgment of foreclosure and forfeiture pursuant to section 5721.16 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure and forfeiture.

Sec. 5721.18. The county prosecuting attorney, upon the delivery to the prosecuting attorney by the county auditor of a delinquent land or delinquent vacant land tax certificate, or of a master list of delinquent or delinquent vacant tracts, shall institute a foreclosure proceeding under this section in the name of the county treasurer to foreclose the lien of the state, in any court with jurisdiction or in the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time a complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code. If the delinquent land or delinquent vacant land tax certificate or the master list of delinquent or delinquent vacant tracts lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county prosecuting attorney may institute a foreclosure proceeding in the name of the county treasurer, in any court with jurisdiction, to foreclose the lien of the state against such minerals or rights to minerals, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time the complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code.

Nothing in this section or section 5721.03 of the Revised Code prohibits the prosecuting attorney from instituting a proceeding under this section before the delinquent tax list or delinquent vacant land tax list that includes the parcel is published pursuant to division (B) of section 5721.03 of the Revised Code if the list is not published within the time prescribed by that division. The prosecuting attorney shall prosecute the proceeding to final judgment and satisfaction. Within ten days after obtaining a judgment, the prosecuting attorney shall notify the treasurer in writing that judgment has been rendered. If there is a copy of a written delinquent tax contract attached to the certificate or an asterisk next to an entry on the master list, or if a copy of a delinquent tax contract is received from the auditor prior to the commencement of the proceeding under this section, the prosecuting attorney shall not institute the proceeding under this section, unless the prosecuting attorney receives a certification of the treasurer that the delinquent tax contract has become void.

(A) This division applies to all foreclosure proceedings not instituted and prosecuted under section 323.25 of the Revised Code or division (B) or (C) of this section. The foreclosure proceedings shall be instituted and prosecuted in the same manner as is provided by law for the foreclosure of

mortgages on land, except that, if service by publication is necessary, such publication, instead of as provided by the Rules of Civil Procedure, shall either be made (1) once a week for three consecutive weeks instead of as provided by the Rules of Civil Procedure, and the service in a newspaper of general circulation in the county or (2) once in a newspaper of general circulation in the county and, beginning one week thereafter, on a web site of the county or of the court, as selected by the clerk of the court. Publication on the web site shall continue until one year after the date a judgment is rendered under section 5721.19 of the Revised Code with respect to such property. Any notices published on a web site shall identify the date the notice is first published on the web site. If proceeding under division (A)(1) of this section, the second and third publication of the notice may be abbreviated as authorized under section 7.16 of the Revised Code.

Service shall be complete, if proceeding under division (A)(1) of this section, at the expiration of three weeks after the date of the first publication or, if proceeding under division (A)(2) of this section, the date that is two weeks after the clerk causes the notice to be published on the selected web site. In any proceeding prosecuted under this section, if the prosecuting attorney determines that service upon a defendant may be obtained ultimately only by publication, the prosecuting attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication.

In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the treasurer to allege in the treasurer's complaint that the certificate or master list has been duly filed by the auditor, that the amount of money appearing to be due and unpaid is due and unpaid, and that there is a lien against the property described in the certificate or master list, without setting forth in the complaint any other or special matter relating to the foreclosure proceeding. The prayer of the complaint shall be that the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code issue an order that the property be sold or conveyed by the sheriff or otherwise be disposed of, and the equity of redemption be extinguished, according to the alternative redemption procedures prescribed

in sections 323.65 to 323.79 of the Revised Code, or if the action is in the municipal court by the bailiff, in the manner provided in section 5721.19 of the Revised Code.

In the foreclosure proceeding, the treasurer may join in one action any number of lots or lands, but the decree shall be rendered separately, and any proceedings may be severed, in the discretion of the court or board of revision, for the purpose of trial or appeal, and the court or board of revision shall make such order for the payment of costs as is considered proper. The certificate or master list filed by the auditor with the prosecuting attorney is prima-facie evidence at the trial of the foreclosure action of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid and of their nonpayment.

(B) Foreclosure proceedings constituting an action in rem may be commenced by the filing of a complaint after the end of the second year from the date on which the delinquency was first certified by the auditor. Prior to filing such an action in rem, the prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure. Following the title search, the action in rem shall be instituted by filing in the office of the clerk of a court with jurisdiction a complaint bearing a caption substantially in the form set forth in division (A) of section 5721.181 of the Revised Code.

Any number of parcels may be joined in one action. Each separate parcel included in a complaint shall be given a serial number and shall be separately indexed and docketed by the clerk of the court in a book kept by the clerk for such purpose. A complaint shall contain the permanent parcel number of each parcel included in it, the full street address of the parcel when available, a description of the parcel as set forth in the certificate or master list, the name and address of the last known owner of the parcel if they appear on the general tax list, the name and address of each lienholder and other person with an interest in the parcel identified in the title search relating to the parcel that is required by this division, and the amount of taxes, assessments, charges, penalties, and interest due and unpaid with respect to the parcel. It is sufficient for the treasurer to allege in the complaint that the certificate or master list has been duly filed by the auditor with respect to each parcel listed, that the amount of money with respect to each parcel appearing to be due and unpaid is due and unpaid, and that there is a lien against each parcel, without setting forth any other or special matters. The prayer of the complaint shall be that the court issue an order that the land described in the complaint be sold in the manner provided in

section 5721.19 of the Revised Code.

(1) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure substantially in the form of the notice set forth in division (B) of section 5721.181 of the Revised Code to be published either (a) once a week for three consecutive weeks in a newspaper of general circulation in the county or (b) once in a newspaper of general circulation in the county and, beginning one week thereafter, on a web site of the county or of the court, as selected by the clerk. Publication on the web site shall continue until one year after the date a judgment is rendered under section 5721.19 of the Revised Code with respect to such property. The newspaper shall meet the requirements of section 7.12 of the Revised Code. Any notice published on a web site shall identify the date the notice is first published on that web site. In lieu of the form prescribed in division (B) of section 5721.181 of the Revised Code, the second and third publication of the notice, if proceeding under division (B)(1)(a) of this section, may be abbreviated as authorized under section 7.16 of the Revised Code. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the ~~third~~ final newspaper publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure as published. Two weeks after the clerk causes the notice to be published on the selected web site, if proceeding under division (B)(1)(b) of this section, the prosecuting attorney shall file with the clerk an affidavit stating the fact of the publication and including a copy of the notice of foreclosure and forfeiture as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the ~~last~~ third newspaper publication or the date that is two weeks after the clerk causes the notice to be published on the selected web site, as applicable.

Within thirty days after the filing of a complaint and before the ~~final~~ date of publication of the notice of foreclosure service of process is considered complete under this division, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.181 of the Revised Code to be mailed by

certified mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the name and address of the last known owner of a parcel included in a complaint is not set forth in it, the auditor shall file an affidavit with the clerk stating that the name and address of the last known owner does not appear on the general tax list.

(2)(a) An answer may be filed in an action in rem under this division by any person owning or claiming any right, title, or interest in, or lien upon, any parcel described in the complaint. The answer shall contain the caption and number of the action and the serial number of the parcel concerned. The answer shall set forth the nature and amount of interest claimed in the parcel and any defense or objection to the foreclosure of the lien of the state for delinquent taxes, assessments, charges, penalties, and interest as shown in the complaint. The answer shall be filed in the office of the clerk of the court, and a copy of the answer shall be served on the prosecuting attorney, not later than twenty-eight days after the date ~~of final publication of the notice of foreclosure~~ service of process is considered complete under division (B)(1) of this section. If an answer is not filed within such time, a default judgment may be taken as to any parcel included in a complaint as to which no answer has been filed. A default judgment is valid and effective with respect to all persons owning or claiming any right, title, or interest in, or lien upon, any such parcel, notwithstanding that one or more of such persons are minors, incompetents, absentees or nonresidents of the state, or convicts in confinement.

(b)(i) A receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code may file an answer pursuant to division (B)(2)(a) of this section, but is not required to do so as a condition of receiving proceeds in a distribution under division (B)(1) of section 5721.17 of the Revised Code.

(ii) When a receivership under section 3767.41 of the Revised Code is associated with a parcel, the notice of foreclosure set forth in division (B) of section 5721.181 of the Revised Code and the notice set forth in division (C) of that section shall be modified to reflect the provisions of division (B)(2)(b)(i) of this section.

(3) At the trial of an action in rem under this division, the certificate or master list filed by the auditor with the prosecuting attorney shall be prima-facie evidence of the amount and validity of the taxes, assessments,

charges, penalties, and interest appearing due and unpaid on the parcel to which the certificate or master list relates and their nonpayment. If an answer is properly filed, the court may, in its discretion, and shall, at the request of the person filing the answer, grant a severance of the proceedings as to any parcel described in such answer for purposes of trial or appeal.

(C) In addition to the actions in rem authorized under division (B) of this section and section 5721.14 of the Revised Code, an action in rem may be commenced under this division. An action commenced under this division shall conform to all of the requirements of division (B) of this section except as follows:

(1) The prosecuting attorney shall not cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure, except that the prosecuting attorney shall cause a title search to be conducted to identify any receiver's lien.

(2) The names and addresses of lienholders and persons with an interest in the parcel shall not be contained in the complaint, and notice shall not be mailed to lienholders and persons with an interest as provided in division (B)(1) of this section, except that the name and address of a receiver under section 3767.41 of the Revised Code shall be contained in the complaint and notice shall be mailed to the receiver.

(3) With respect to the forms applicable to actions commenced under division (B) of this section and contained in section 5721.181 of the Revised Code:

(a) The notice of foreclosure prescribed by division (B) of section 5721.181 of the Revised Code shall be revised to exclude any reference to the inclusion of the name and address of each lienholder and other person with an interest in the parcel identified in a statutorily required title search relating to the parcel, and to exclude any such names and addresses from the published notice, except that the revised notice shall refer to the inclusion of the name and address of a receiver under section 3767.41 of the Revised Code and the published notice shall include the receiver's name and address. The notice of foreclosure also shall include the following in boldface type:

"If pursuant to the action the parcel is sold, the sale shall not affect or extinguish any lien or encumbrance with respect to the parcel other than a receiver's lien and other than the lien for land taxes, assessments, charges, interest, and penalties for which the lien is foreclosed and in satisfaction of which the property is sold. All other liens and encumbrances with respect to the parcel shall survive the sale."

(b) The notice to the owner, lienholders, and other persons with an

interest in a parcel shall be a notice only to the owner and to any receiver under section 3767.41 of the Revised Code, and the last two sentences of the notice shall be omitted.

(4) As used in this division, a "receiver's lien" means the lien of a receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code that is acquired pursuant to division (H)(2)(b) of that section for any unreimbursed expenses and other amounts paid in accordance with division (F) of that section by the receiver and for the fees of the receiver approved pursuant to division (H)(1) of that section.

(D) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5725.05. On or before the third day of December, annually, the tax commissioner shall fix the day as of which the taxable deposits in financial institutions shall be listed and assessed. The day fixed shall be between the first and the thirtieth day of November, and the action of the commissioner shall be taken not more than three days after the day fixed. Notice of such action by the commissioner shall be immediately given to each financial institution and to the county auditor of each county ~~by certified mail in the manner provided in section 5703.37 of the Revised Code~~, and the date fixed shall be printed or stamped on the forms of return to be made by all financial institutions. The commissioner shall also give immediate notice, by collect telegram, to those financial institutions or persons that have filed a request for this service with the commissioner. The dates fixed by this section for the action of the commissioner are directory, and if through inadvertence or mistake such action is not taken at the time prescribed, or the notice required to be given to a financial institution or a county auditor is not duly given, the remaining requirements of sections 5725.01 to 5725.26 of the Revised Code, and the validity of any assessment made hereunder shall not be affected.

Sec. 5725.36. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) There is allowed a nonrefundable tax credit against the tax imposed by section 5725.18 of the Revised Code for a domestic insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division (I) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5725.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5725.18 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5726.58, 5729.19, or 5747.83 of the Revised Code.

Sec. 5725.37. (A) Terms used in this section have the same meanings as in section 175.17 of the Revised Code.

(B) There is allowed a nonrefundable tax credit against the tax imposed by section 5725.18 of the Revised Code for a domestic insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.17 of the Revised Code. The credit shall equal the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division (H) of section 175.17 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5725.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5725.18 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5726.60, 5729.20, or 5747.84 of the Revised Code.

Sec. 5725.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5725.18 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

The credit for eligible employee training costs under section 5725.31 of the Revised Code;

The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code;

The nonrefundable job retention credit under division (B) of section

122.171 of the Revised Code;

The nonrefundable credit for investments in rural business growth funds under section 122.152 of the Revised Code;

The nonrefundable Ohio low-income housing tax credit under section 5725.36 of the Revised Code;

The nonrefundable affordable single-family home credit under section 5725.37 of the Revised Code;

The nonrefundable credit for contributing capital to a transformational mixed use development project under section 5725.35 of the Revised Code;

The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code;

The refundable credit for rehabilitating a historic building under section 5725.34 of the Revised Code;

The refundable credit for Ohio job retention under former division (B)(2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly;

The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;

The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

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

Sec. 5726.01. As used in this chapter:

(A) "Affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

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

(1) A national bank organized and operating as a national bank

association pursuant to the "National Bank Act," 13 Stat. 100 (1864), 12 U.S.C. 21, et seq.;

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

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

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

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

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

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

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

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

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

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

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

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

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

For the purposes of division (D) of this section, "financing transaction"

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

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

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

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

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

(G) "Document of creation" means the articles of incorporation of a corporation, articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name.

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

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

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

(3) If a bank organization is owned directly by a grandfathered unitary savings and loan holding company or directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012, "financial institution" means a group consisting only of that bank

organization and the entities ~~included~~ consolidated in that bank organization's call report, notwithstanding division (H)(1) or (2) of this section.

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

(I) "FR Y-9" means the consolidated or parent-only financial statements that a holding company is required to file with the federal reserve board pursuant to 12 U.S.C. 1844. In the case of a holding company required to file both consolidated and parent-only financial statements, "FR Y-9" means the consolidated financial statements that the holding company is required to file. For purposes of division (H)(1) of this section, if a holding company is required to file a parent-only financial statement and not a consolidated financial statement, "FR Y-9" means the consolidated financial statement the company would file if it were required to do so by the federal reserve board.

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

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

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

(M)(1) "Nonbank financial organization" means every person that is not

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

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

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

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

(2) In the case of a financial institution described in division (H)(2) or (3) of this section, the bank organization required to file the call report.

(3) In the case of a bank organization or nonbank financial organization that is not included in a group described in division (H)(1) or (2) of this section, the bank organization or nonbank financial organization.

(O) "Small dollar lender" means any person engaged primarily in the business of loaning money to individuals, provided that the loan amounts do not exceed five thousand dollars and the duration of the loans do not exceed twelve months. A "small dollar lender" does not include a bank organization, credit union, or captive finance company.

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

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

(R) "Taxpayer" means a financial institution subject to the tax levied

under section 5726.02 of the Revised Code.

(S) "Total equity capital" means the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. "Total equity capital" shall not include any noncontrolling (minority) interests as reported on an FR Y-9 or call report, unless such interests are in a bank organization or a bank holding company.

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

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

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

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

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

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

(b) The product of the total Ohio equity capital of the financial institution, as determined under this section, multiplied by eight mills for each dollar of the first two hundred million dollars of total Ohio equity capital, by four mills for each dollar of total Ohio equity capital greater than

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

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

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

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

(C) For the purposes of this section:

(1) "Total Ohio equity capital" means the product of (a) the total equity capital of a financial institution as of the end of a taxable year to the extent that the total equity capital does not exceed fourteen per cent of the financial institution's total assets multiplied by (b) the Ohio apportionment ratio calculated for the financial institution under section 5726.05 of the Revised Code, ~~except as provided in section 5726.041 of the Revised Code.~~

(2) "Total assets" means:

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

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

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

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

(D) All payments received from the tax levied under this chapter shall

be credited to the general revenue fund.

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

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

(B) A taxpayer may claim a nonrefundable credit against the tax imposed under this chapter equal to seven per cent of the excess of (1) the qualified research expenses incurred by the taxpayer in this state in a taxable year over (2) the average annual qualified research expenses incurred by the taxpayer in this state in the three previous taxable years. For the purposes of this division, "qualified research expenses incurred by the taxpayer" includes the qualified research expenses incurred by all persons included in the annual report of the taxpayer and by any insurance company subject to the tax levied under section 5725.18 or Chapter 5729. of the Revised Code that has more than fifty per cent of its ownership interests directly or indirectly owned or controlled by a person included in the annual report of the taxpayer, even though such an insurance company is not subject to the tax imposed under this chapter.

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

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

(E) In the case of a taxpayer that includes more than one person, each person in the financial institution group shall separately calculate the credit claimed under this section using the qualified research expenses incurred by that person on a form prescribed by the tax commissioner, which shall be used by the taxpayer to claim the credit.

A taxpayer may only claim the credit with respect to persons included in the financial institution group as of the thirty-first day of December of the taxable year in which the qualified research expenses are incurred. A taxpayer may only claim any excess credit carried forward under division (C) of this section with respect to persons included in that group as of the last day of the taxable year for which the return claiming the credit is filed.

(F) A taxpayer that claims a credit under this section shall retain records to substantiate the claim. Required records include those relating to any expenses used in calculating the credit and incurred in the current taxable year and in the three preceding taxable years.

The taxpayer shall retain the required records until the date that is four years after the due date for the return on which the credit was claimed or four years after the date the return was actually filed, whichever is later.

(G) The tax commissioner may audit a sample of the taxpayer's qualified research expenses over a representative period to ascertain the amount of tax credit the taxpayer may claim under this section and may issue an assessment under section 5726.20 of the Revised Code based on the audit. The commissioner shall make a good faith effort to reach an agreement with the taxpayer in selecting a representative sample. The commissioner is not, however, precluded from proceeding under this division if an agreement is not made.

Sec. 5726.58. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) A taxpayer may claim a nonrefundable tax credit against the tax imposed under section 5726.02 of the Revised Code for each person included in the annual report of the taxpayer that is allocated a credit issued by the director of the governor's office of housing transformation under section 175.16 of the Revised Code. The credit equals the amount allocated to such person for the taxable year and reported by the designated reporter on the form prescribed by division (I) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5726.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than five ensuing tax years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next tax year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5729.19, or 5747.83 of the Revised Code.

Sec. 5726.59. (A) Any term used in this section has the same meaning as in section 122.852 of the Revised Code.

(B) A taxpayer may claim a refundable credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is a certificate owner of a tax credit certificate issued under

section 122.852 of the Revised Code. The credit shall be claimed for the taxable year in which the certificate is issued by the director of development. The credit amount equals the amount stated on the certificate or the portion of that amount owned by the certificate owner. The credit shall be claimed in the order required under section 5726.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess shall be refunded to the taxpayer.

Sec. 5726.60. (A) Terms used in this section have the same meanings as in section 175.17 of the Revised Code.

(B) A taxpayer may claim a nonrefundable tax credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.17 of the Revised Code. The credit equals the amount allocated to such person for the taxable year as provided by the designated reporter on the form prescribed by division (H) of section 175.17 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5726.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than five ensuing tax years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next tax year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.37, 5729.20, or 5747.84 of the Revised Code.

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

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

The nonrefundable credit for purchases of qualified low-income community investments under section 5726.54 of the Revised Code;

The nonrefundable credit for qualified research expenses under section 5726.56 of the Revised Code;

The nonrefundable credit for qualifying dealer in intangibles taxes under section 5726.57 of the Revised Code;

The nonrefundable Ohio low-income housing tax credit under section 5726.58 of the Revised Code;

The nonrefundable affordable single-family home credit under section 5726.60 of the Revised Code;

The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;

The refundable credit for rehabilitating an historic building under section 5726.52 of the Revised Code;

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

The refundable credit under section 5726.53 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

The refundable motion picture and Broadway theatrical production credit under section 5726.55 of the Revised Code;

The refundable credit for film and theater capital improvement projects under section 5726.59 of the Revised Code.

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

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

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

If the application for refund is for payment of an illegal or erroneous assessment, the commissioner shall include in the certified amount interest calculated at the rate per annum prescribed by section 5703.47 of the

Revised Code from the date of overpayment to the date of the commissioner's certification.

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

(C) In lieu of granting a refund under division (A) or (B) of this section, the tax commissioner may allow a natural gas company or combined company to claim a credit of the amount of the tax refund on the return for the period during which the tax became refundable. The commissioner may require the company to submit information to support a claim for a credit under this division, and the commissioner may disallow the credit if the information is not provided.

Sec. 5727.30. (A) Except as provided in divisions (B), (C), ~~and (D)~~, and (E) of this section, each public utility, except railroad companies, shall be subject to an annual excise tax, as provided by sections 5727.31 to 5727.62 of the Revised Code, for the privilege of owning property in this state or doing business in this state during the twelve-month period next succeeding the period upon which the tax is based. The tax shall be imposed against each such public utility that, on the first day of such twelve-month period, owns property in this state or is doing business in this state, and the lien for the tax, including any penalties and interest accruing thereon, shall attach on such day to the property of the public utility in this state.

(B) Gross receipts of an electric company, rural electric company, or energy company received after April 30, 2001, are not subject to the annual excise tax imposed by this section.

(C) A natural gas company's gross receipts received after April 30, 2000, are not subject to the annual excise tax imposed by this section.

(D) A telephone company's gross receipts derived from amounts billed to customers after June 30, 2004, are not subject to the annual excise tax imposed by this section. Notwithstanding any other provision of law, gross receipts derived from amounts billed by a telephone company to customers prior to July 1, 2004, shall be included in the telephone company's annual statement filed on or before August 1, 2004, which shall be the last statement or report filed under section 5727.31 of the Revised Code by a

telephone company. A telephone company shall not deduct from its gross receipts included in that last statement any receipts it was unable to collect from its customers for the period of July 1, 2003, to June 30, 2004.

(E) A heating company's gross receipts, and the gross receipts of a combined company from operating as a heating company, are not subject to the annual excise tax imposed by this section.

Sec. 5727.42. (A) The treasurer of state shall notify the tax commissioner of any payment of the excise tax imposed by section 5727.30 of the Revised Code. The commissioner shall collect and the taxpayer shall pay all taxes and any penalties thereon. Payments of the tax may be made by mail, in person, by electronic funds transfer if required to do so by section 5727.311 of the Revised Code, or by any other means authorized by the commissioner. The commissioner may adopt rules concerning the methods and timeliness of payment.

(B) Each tax assessment issued pursuant to this section shall separately reflect the taxes and any penalty due, and any other information considered necessary. The commissioner shall mail the assessment to the taxpayer, and the mailing of it shall be prima-facie evidence of receipt thereof by the taxpayer.

(C) The commissioner shall refund taxes levied and payments made for the tax imposed by section 5727.30 of the Revised Code as provided in this section, but no refund shall be made to a taxpayer having a delinquent claim certified pursuant to this section that remains unpaid. The commissioner may consult the attorney general regarding such claims.

(D) After receiving any excise tax annual statement for the tax imposed by section 5727.30 of the Revised Code, the commissioner shall:

(1) Ascertain the difference between the total taxes owed and the sum of all payments made for that year.

(2) If the difference is a deficiency, the commissioner shall issue an assessment.

(3) If the difference is an excess, the commissioner shall ~~notify the director of budget and management and~~ issue a refund of that amount to the taxpayer. If the amount of the refund is less than that claimed by the taxpayer, the taxpayer, within sixty days of the issuance of the refund, may provide to the commissioner additional information to support the claim or may request a hearing. Upon receiving such information or request within that time, the commissioner shall follow the same procedures set forth in divisions (C) and (D) of section 5703.70 of the Revised Code for the determination of refund applications.

If the taxpayer has a deficiency for one tax year and an excess for

another tax year, or any combination thereof for more than two years, the commissioner may determine the net result and, depending on such result, proceed to issue an assessment or certify a refund.

(E) If a taxpayer fails to pay the amount of taxes required to be paid, or fails to make an estimated payment on or before the due date prescribed in division (B) of section 5727.31 of the Revised Code, the commissioner shall impose a penalty in the amount of fifteen per cent of the unpaid amount, and the commissioner shall issue an assessment for the unpaid amount and penalty. Unless a timely petition for reassessment is filed under section 5727.47 of the Revised Code, the attorney general shall proceed to collect the delinquent taxes and penalties thereon in the manner prescribed by law and notify the commissioner of all collections.

Sec. 5727.47. (A) Notice of each assessment certified or issued pursuant to section 5727.23 or 5727.38 of the Revised Code shall be mailed to the public utility, and its mailing shall be prima-facie evidence of its receipt by the public utility to which it is addressed. With the notice, the tax commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition. If a public utility objects to such an assessment, it may file with the commissioner, either personally or by certified mail, within sixty days after the mailing of the notice of assessment a written petition for reassessment signed by the utility's authorized agent having knowledge of the facts. The date the commissioner receives the petition shall be considered the date of filing. The petition shall indicate the utility's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination.

In the case of a petition seeking a reduction in taxable value filed with respect to an assessment certified under section 5727.23 of the Revised Code, the petitioner shall state in the petition the total amount of reduction in taxable value sought by the petitioner. If the petitioner objects to the percentage of true value at which taxable property is assessed by the commissioner, the petitioner shall state in the petition the total amount of reduction in taxable value sought both with and without regard to the objection pertaining to the percentage of true value at which its taxable property is assessed. If a petitioner objects to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner shall distinctly state in the petition that the petitioner objects to the commissioner's apportionment, and, within forty-five days after filing the petition for reassessment, shall submit the petitioner's proposed apportionment of the taxable value of its taxable property among taxing

districts. If a petitioner that objects to the commissioner's apportionment fails to state its objections to that apportionment in its petition for reassessment or fails to submit its proposed apportionment within forty-five days after filing the petition for reassessment, the commissioner shall dismiss the petitioner's objection to the commissioner's apportionment, and the taxable value of the petitioner's taxable property, subject to any adjustment to taxable value pursuant to the petition or appeal, shall be apportioned in the manner used by the commissioner in the preliminary or amended preliminary assessment certified under section 5727.23 of the Revised Code.

If an additional objection seeking a reduction in taxable value in excess of the reduction stated in the original petition is properly and timely raised with respect to an assessment issued under section 5727.23 of the Revised Code, the petitioner shall state the total amount of the reduction in taxable value sought in the additional objection both with and without regard to any reduction in taxable value pertaining to the percentage of true value at which taxable property is assessed. If a petitioner fails to state the reduction in taxable value sought in the original petition or in additional objections properly raised after the petition is filed, the commissioner shall notify the petitioner of the failure by certified mail in the manner provided in section 5703.37 of the Revised Code. If the petitioner fails to notify the commissioner in writing of the reduction in taxable value sought in the petition or in an additional objection within thirty days after receiving the commissioner's notice, the commissioner shall dismiss the petition or the additional objection in which that reduction is sought.

(B)(1) Subject to divisions (B)(2) and (3) of this section, a public utility filing a petition for reassessment regarding an assessment certified or issued under section 5727.23 or 5727.38 of the Revised Code shall pay the tax with respect to the assessment objected to as required by law. The acceptance of any tax payment by the treasurer of state, tax commissioner, or any county treasurer shall not prejudice any claim for taxes on final determination by the commissioner or final decision by the board of tax appeals or any court.

(2) If a public utility properly and timely files a petition for reassessment regarding an assessment certified under section 5727.23 of the Revised Code, the petitioner shall pay the tax as prescribed by divisions (B)(2)(a), (b), and (c) of this section:

(a) If the petitioner does not object to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the part of the tax otherwise due on the taxable value that the petitioner seeks to have reduced, subject to division (B)(2)(c) of this section.

(b) If the petitioner objects to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the tax otherwise due on the part of the taxable value apportioned to any taxing district that the petitioner objects to, subject to division (B)(2)(c) of this section. If, pursuant to division (A) of this section, the petitioner has, in a proper and timely manner, apportioned taxable value to a taxing district to which the commissioner did not apportion the petitioner's taxable value, the petitioner shall pay the tax due on the taxable value that the petitioner has apportioned to the taxing district, subject to division (B)(2)(c) of this section.

(c) If a petitioner objects to the percentage of true value at which taxable property is assessed by the commissioner, the petitioner shall pay the tax due on the basis of the percentage of true value at which the public utility's taxable property is assessed by the commissioner. In any case, the petitioner's payment of tax shall not be less than the amount of tax due based on the taxable value reflected on the last appeal notice issued by the commissioner under division (C) of this section. Until the county auditor receives notification under division (E) of this section and proceeds under section 5727.471 of the Revised Code to issue any refund that is found to be due, the county auditor shall not issue a refund for any increase in the reduction in taxable value that is sought by a petitioner later than forty-five days after the petitioner files the original petition as required under division (A) of this section.

(3) Any part of the tax that, under division (B)(2)(a) or (b) of this section, is not paid shall be collected upon receipt of the notification as provided in section 5727.471 of the Revised Code with interest thereon computed in the same manner as interest is computed under division (E) of section 5715.19 of the Revised Code, subject to any correction of the assessment by the commissioner under division (E) of this section or the final judgment of the board of tax appeals or a court to which the board's final judgment is appealed. The penalty imposed under section 323.121 of the Revised Code shall apply only to the unpaid portion of the tax if the petitioner's tax payment is less than the amount of tax due based on the taxable value reflected on the last appeal notice issued by the commissioner under division (C) of this section.

(C) Upon receipt of a properly filed petition for reassessment with respect to an assessment certified under section 5727.23 of the Revised Code, the tax commissioner shall notify the treasurer of state or the auditor of each county to which the assessment objected to has been certified. In the case of a petition with respect to an assessment certified under section

5727.23 of the Revised Code, the commissioner shall issue an appeal notice within thirty days after receiving the amount of the taxable value reduction and apportionment changes sought by the petitioner in the original petition or in any additional objections properly and timely raised by the petitioner. The appeal notice shall indicate the amount of the reduction in taxable value sought in the petition or in the additional objections and the extent to which the reduction in taxable value and any change in apportionment requested by the petitioner would affect the commissioner's apportionment of the taxable value among taxing districts in the county as shown in the assessment. If a petitioner is seeking a reduction in taxable value on the basis of a lower percentage of true value than the percentage at which the commissioner assessed the petitioner's taxable property, the appeal notice shall indicate the reduction in taxable value sought by the petitioner without regard to the reduction sought on the basis of the lower percentage and shall indicate that the petitioner is required to pay tax on the reduced taxable value determined without regard to the reduction sought on the basis of a lower percentage of true value, as provided under division (B)(2)(c) of this section. The appeal notice shall include a statement that the reduced taxable value and the apportionment indicated in the notice are not final and are subject to adjustment by the commissioner or by the board of tax appeals or a court on appeal. If the commissioner finds an error in the appeal notice, the commissioner may amend the notice, but the notice is only for informational and tax payment purposes; the notice is not subject to appeal by any person. The commissioner also shall mail a copy of the appeal notice to the petitioner. Upon the request of a taxing authority, the county auditor may disclose to the taxing authority the extent to which a reduction in taxable value sought by a petitioner would affect the apportionment of taxable value to the taxing district or districts under the taxing authority's jurisdiction, but such a disclosure does not constitute a notice required by law to be given for the purpose of section 5717.02 of the Revised Code.

(D) If the petitioner requests a hearing on the petition, the tax commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of such time and place, but the commissioner may continue the hearing from time to time as necessary.

(E) The tax commissioner may make corrections to the assessment as the commissioner finds proper. The commissioner shall serve a copy of the commissioner's final determination on the petitioner in the manner provided in section 5703.37 of the Revised Code. The commissioner's decision in the matter shall be final, subject to appeal under section 5717.02 of the Revised Code. With respect to a final determination issued for an assessment

certified under section 5727.23 of the Revised Code, the commissioner also shall transmit a copy of the final determination to the applicable county auditor. In the absence of any further appeal, or when a decision of the board of tax appeals or of any court to which the decision has been appealed becomes final, the commissioner shall notify the public utility and, as appropriate, shall proceed under section 5727.42 of the Revised Code, or notify the applicable county auditor, who shall proceed under section 5727.471 of the Revised Code.

The notification made under this division is not subject to further appeal.

(F) On appeal, no adjustment shall be made in the tax commissioner's assessment certified under section 5727.23 of the Revised Code that reduces the taxable value of a petitioner's taxable property by an amount that exceeds the reduction sought by the petitioner in its petition for reassessment or in any additional objections properly and timely raised after the petition is filed with the commissioner.

Sec. 5727.75. (A) For purposes of this section:

(1) "Qualified energy project" means an energy project certified by the director of development pursuant to this section.

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours. For the purpose of this calculation, "performed at the project" includes only hours worked at the qualified energy project and devoted to site preparation or protection, construction and installation, and the unloading and distribution of materials at the project site, but does not include hours worked by superintendents, owners, manufacturers' representatives, persons employed in a bona fide executive, management, supervisory, or administrative capacity, or persons whose sole employment on the project is transporting materials or persons to the project site.

(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.

(6) "Internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

(7) "Applicable year" means the later of the following:

(a) The tax year in which the secretary of the treasury of the United States, or the secretary's delegate, determines, in accordance with section 45Y of the Internal Revenue Code, that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than twenty-five per cent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022;

(b) Tax year 2029.

(8) "Internal Revenue Code" means the Internal Revenue Code as of the effective date of this amendment.

(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through ~~2025~~ the applicable year if all of the following conditions are satisfied:

(a) On or before ~~December 31, 2024~~ the last day of the tax year preceding the applicable year, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before ~~January 1, 2025~~ the first day of the applicable year. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B)(1)(a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting an application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011 through ~~2025~~ the applicable year, and the

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certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for the tax year 2026 following the applicable year and all ensuing tax years if the property was placed into service before January 1, 2026 before the first day of the tax year following the applicable year, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, 2021. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is exempted under this section.

(E)(1)(a) A person may apply to the director of development for

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JUL 3, 2023
Date

Mike DeWine

Mike DeWine, Governor

certification of an energy project as a qualified energy project on or before the following dates:

(i) ~~December 31, 2024~~ The last day of the tax year preceding the applicable year, for an energy project using renewable energy resources;

(ii) December 31, 2017, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology.

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of twenty megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

The board shall send copies of the resolution to the owner of the facility and the director by certified mail or, if the board has record of an internet identifier of record associated with the owner or director, by ordinary mail and by that internet identifier of record. The board shall send such notice within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of development under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of twenty megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c)

of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of twenty megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(d) For construction or installation of a qualified energy project described in division (B)(1)(b) of this section, that the project is subject to wage requirements described in section 45(b)(7)(A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b)(8)(A)(i) of the Internal Revenue Code, provided both of the following apply:

(i) The person applies for such certificate after the effective date of this amendment.

(ii) A board of commissioners of at least one county in which the project is located is required to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

(1) Comply with all applicable regulations;

(2) File with the director of development a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of

the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

(3) File with the director of development, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;

(4) For energy projects with a nameplate capacity of twenty megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of twenty megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

~~(6) Maintain~~ (6)(a) Except as otherwise provided in this division, for projects for which certification as a qualified energy project was applied for,

under division (E) of this section, before the effective date of this amendment, maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. ~~In~~ A person applying for such a qualified energy project may certify to the director of development that the project will be voluntarily subject to the wage requirements described in section 45(b)(7)(A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b)(8)(A)(i) of the Internal Revenue Code as authorized in division (F)(6)(b) of this section. Upon receipt of that certification, the project shall comply with division (F)(6)(b) of this section rather than division (F)(6)(a) of this section.

(b) For projects for which certification as a qualified energy project was applied for, under division (E) of this section, on or after the effective date of this amendment, maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than seventy per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project.

(c) For purposes of divisions (F)(6)(a) and (b) of this section, "Ohio-domiciled" includes persons who live outside the state but within fifty miles of a border of the state who are members of any bona fide labor organization which has as members, or is authorized to represent, employees in Ohio and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees and whose members are engaged to perform work on the construction or installation of the qualified energy project.

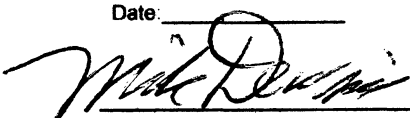
(d) For purposes of divisions (F)(6)(a) and (b) of this section, in the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the

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JUL 13, 2023

Date:



Mike DeWine, Governor

number projected to be employed by the director of development, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of twenty megawatts, establish a relationship with any of the following to educate and train individuals for careers in the wind or solar energy industry:

(a) A member of the university system of Ohio as defined in section 3345.011 of the Revised Code;

(b) A person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code;

(c) A career-technical center, joint vocational school district, comprehensive career-technical center, or compact career-technical center;

(d) A training center operated by a labor organization, or with a training center operated by a for-profit or nonprofit organization.

The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.

(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first-day of December of the preceding tax year;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to

total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of development in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

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

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

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

(B) If a natural gas distribution company or an electric distribution company entitled to a refund under this section, or section 5703.70 of the Revised Code, is indebted to the state for any tax or fee administered by the

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

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

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

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

(D) Before a refund is issued under this section or section 5703.70 of the Revised Code, a natural gas company or an electric distribution company shall certify, as prescribed by the tax commissioner, that it either did not include the tax imposed by section 5727.81 of the Revised Code in the case of an electric distribution company, or the tax imposed by section 5727.811 of the Revised Code in the case of a natural gas distribution company, in its distribution charge to its customer upon which a refund of the tax is claimed, or it has refunded or credited to the customer the excess distribution charge related to the tax that was erroneously included in the customer's distribution charge.

Sec. 5728.16. (A)(1) If any person, regardless of organizational form, required to file reports and remit taxes imposed under this chapter fails for any reason to file such reports or remit such taxes, any employees of the person having control or supervision of, or charged with the responsibility of, filing reports and making payments, or any officers or trustees of the

person responsible for the execution of the person's fiscal responsibilities, shall be personally liable for the failure.

(2) The dissolution, termination, or bankruptcy of a person shall not discharge a responsible officer's, shareholder's, member's, manager's, employee's, or trustee's liability for failure of the person to file reports or remit taxes. The sum due for the liability may be collected by assessment as provided in section 5728.10 of the Revised Code.

(B) If more than one individual is personally liable under this section for the unpaid tax of a person, then the liability of all such individuals shall be joint and several.

Sec. 5729.19. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) There is allowed a nonrefundable tax credit against the tax imposed by section 5729.03 or 5729.06 of the Revised Code for a foreign insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division (I) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5729.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5729.03 or 5729.06 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5726.58, or 5747.83 of the Revised Code.

A foreign insurance company shall not be required to pay any additional tax levied under section 5729.06 of the Revised Code as a result of claiming the tax credit authorized by this section.

Sec. 5729.20. (A) Terms used in this section have the same meanings as in section 175.17 of the Revised Code.

(B) There is allowed a nonrefundable tax credit against the tax imposed by section 5729.03 or 5729.06 of the Revised Code for a foreign insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.17 of the Revised Code. The credit equals the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division

(H) of section 175.17 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5729.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5729.03 or 5729.06 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.37, 5726.60, or 5747.84 of the Revised Code.

A foreign insurance company shall not be required to pay any additional tax levied under section 5729.06 of the Revised Code as a result of claiming the tax credit authorized under this section.

Sec. 5729.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

The credit for eligible employee training costs under section 5729.07 of the Revised Code;

The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;

The nonrefundable job retention credit under division (B) of section 122.171 of the Revised Code;

The nonrefundable credit for investments in rural business growth funds under section 122.152 of the Revised Code;

The nonrefundable Ohio low-income housing tax credit under section 5729.19 of the Revised Code;

The nonrefundable affordable single-family home credit under section 5729.20 of the Revised Code;

The nonrefundable credit for contributing capital to a transformational mixed use development project under section 5729.18 of the Revised Code;

The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;

The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code;

The refundable credit for Ohio job retention under former division (B)(2) or (3) of section 122.171 of the Revised Code as those divisions

existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly;

The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

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

Sec. 5731.27. (A) The tax commissioner shall, ~~if he determines after~~ determining that a return indicating that a tax is due is correct as filed, issue a certificate of determination of final estate tax liability showing the amount of such liability, if any, in triplicate, one copy of which shall be sent by regular mail to the person filing the return, one copy of which shall be sent to the county auditor for the county in which the return was filed, and one copy of which shall be sent to the probate court of the county in which the return was filed if there is an administration of or other proceedings in the decedent's estate.

(B) The tax commissioner, ~~if he determines after determining that~~ a deficiency or refund of tax or penalty addition to tax, shall issue ~~his~~ a certificate of determination stating the adjusted amount of the tax due and the amount of any refund, deficiency, or penalty. Such certificate also shall state whether or not any portion of the tax liability has been reserved for later determination in accordance with division (C) of section 5731.26 of the Revised Code. Such certificate shall be issued in triplicate, one copy of which shall be sent ~~by certified mail, return receipt requested, in the manner provided in section 5703.37 of the Revised Code~~ to the person filing the return, or to the person required to file the return if no such return was filed, one copy of which shall be sent to the county auditor for the county in which the return was filed or was required to be filed, and one copy of which shall be sent to the probate court for the county in which the return was filed or required to be filed if there will be an administration of or other proceedings in the decedent's estate. The person required to file the return, or any interested party, shall have sixty days from the date of receipt of such certificate by the person required to file the return within which to file

exceptions to such determination as provided in section 5731.30 of the Revised Code.

(C) The county auditor, if no exceptions have been filed within the time specified in division (B) of this section, or if the right to file exceptions has been waived by all interested parties by written waivers filed with the county auditor, shall:

(1) If the certificate of determination is for a refund, draw ~~his~~ a warrant for the proper amount of the refund and interest on it, which warrant shall be paid by the county treasurer out of any money in ~~his~~ the treasurer's possession to the credit of estate taxes;

(2) If the certificate of determination is for a deficiency or penalty, make a charge based upon such determination, and certify a duplicate of it to the county treasurer, who shall collect, subject to division (A) of section 5731.25 of the Revised Code or any other statute extending the time for payment of an estate tax, the deficiency or penalty so charged.

Sec. 5733.031. (A) A corporation's taxable year is a period ending on the date immediately preceding the date of commencement of the corporation's annual accounting period that includes the first day of January of the tax year. Except as otherwise provided, a corporation's taxable year is the same as the corporation's taxable year for federal income tax purposes. If a corporation's taxable year is changed for federal income tax purposes, the taxable year for purposes of this chapter is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule, an appropriate period as the taxable year for a corporation that has had a change of its taxable year for federal income tax purposes, for a corporation that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.

(B) A corporation's method of accounting for the base calculated under division (B) of section 5733.05 of the Revised Code shall be the same as its method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, income shall be computed under such method as in the opinion of the tax commissioner clearly reflects income.

If a corporation's method of accounting is changed for federal income tax purposes, its method of accounting for purposes of this chapter shall be changed accordingly.

(C) ~~If~~ Except as provided in division (C)(3) of this section, any of the facts, figures, computations, or attachments required in a corporation's

annual report to determine the tax imposed by section 5733.06 of the Revised Code must be altered as the result of an adjustment to the corporation's federal income tax return, whether the adjustment is initiated by the corporation or the internal revenue service, and such alteration affects the corporation's liability for the tax imposed by section 5733.06 of the Revised Code, the corporation shall file an amended report with the tax commissioner in such form as the commissioner requires. The amended report shall be filed not later than one year after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

(1) In the case of an underpayment, the amended report shall be accompanied by payment of an additional tax and interest due and is a report subject to assessment under section 5733.11 of the Revised Code for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed report no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the corporation's federal income tax return.

(2) In the case of an overpayment, an application for refund may be filed under this division within the one-year period prescribed for filing the amended report even if it is filed beyond the period prescribed in division (B) of section 5733.12 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the corporation's annual report that are affected, either directly or indirectly, by the adjustment to the corporation's federal income tax return unless it is also filed within the time prescribed in division (B) of section 5733.12 of the Revised Code. It shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the corporation's federal income tax return.

(3) A taxpayer is not required to file an amended report, and is not permitted to file an application for refund, under this section on or after January 1, 2024.

Sec. 5735.024. (A) No aviation fuel dealer shall purchase aviation fuel for resale in this state without first being licensed as an aviation fuel dealer by the tax commissioner to engage in such activities.

(B) The failure to register with the commissioner as an aviation fuel dealer does not relieve a person from the requirement to file returns under

this title.

(C) No person shall make a false or fraudulent statement on the application required by this section.

(D) Each aviation fuel dealer shall file a report with the commissioner on or before the last day of each month for the preceding month. The commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code specifying the information that shall be required to be included in the report.

(E) If an aviation fuel dealer files a false monthly report of the information required by the commissioner or fails to file a monthly report as required by this section, the commissioner may revoke the license of the aviation fuel dealer and notify the aviation fuel dealer in writing of such revocation ~~by certified mail in the manner provided in section 5703.37 of the Revised Code.~~

Sec. 5735.04. If a motor fuel dealer files a false monthly report of the information required under section 5735.06 of the Revised Code, fails to file a monthly report as required by that section or section 5735.024 of the Revised Code, or fails to pay the full amount of the tax as required by the motor fuel laws of the state or as may be agreed upon by the tax commissioner and the motor fuel dealer, the commissioner may revoke the license of the motor fuel dealer, and notify the motor fuel dealer in writing of such revocation ~~by certified mail in the manner provided in section 5703.37 of the Revised Code.~~

The commissioner may cancel any license issued to any motor fuel dealer, and the cancellation shall become effective at the time that may be determined by the commissioner. The commissioner also may cancel the license of any motor fuel dealer upon sixty days' notice mailed to the last known address of the motor fuel dealer if the commissioner, upon investigation, finds that the person to whom the license has been issued is no longer engaged in the receipt, use, or sale of motor fuel as a motor fuel dealer, and has not been so engaged for the period of six months prior to the cancellation. No license shall be canceled upon the request of any motor fuel dealer unless the motor fuel dealer, prior to the date of cancellation, has paid to the state all motor fuel taxes payable or assumed by the motor fuel dealer under the laws of the state, together with all penalties and fines accruing by reason of any failure of the motor fuel dealer to make accurate reports of receipts of motor fuel or to pay the taxes and penalties.

If the license of any motor fuel dealer is canceled by the commissioner as provided in this section, and if the motor fuel dealer has paid to the state all motor fuel taxes due and payable by the motor fuel dealer under the laws

of the state, or assumed by the motor fuel dealer upon the receipt, sale, or use of motor fuel, together with all penalties accruing by reason of any failure on the part of the motor fuel dealer to make accurate reports or to pay the tax and penalties, then the commissioner shall cancel and surrender the bond theretofore filed by the motor fuel dealer.

Sec. 5735.041. (A) The tax commissioner may revoke the license of a retail dealer in the following circumstances:

(1) The retail dealer sells or attempts to sell any motor fuel upon which any motor fuel tax imposed by this chapter has not been paid;

(2) The retail dealer attempts to evade any motor fuel tax imposed by this chapter;

(3) The retail dealer violates any provision of this chapter.

(B) The commissioner shall notify the retail dealer in writing of the revocation ~~by certified mail in the manner provided in section 5703.37 of the Revised Code.~~

Sec. 5735.042. (A) The tax commissioner may revoke an exporter's license in the following circumstances:

(1) An exporter licensed under section 5735.026 of the Revised Code purchases, for export, motor fuel in this state exclusive of the motor fuel tax, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any state other than the originally designated state;

(2) The exporter is no longer the holder of a valid license to purchase motor fuel tax free in the specified destination state or states for which the license is issued.

(B) The commissioner shall notify the exporter in writing of such revocation ~~by certified mail in the manner provided in section 5703.37 of the Revised Code.~~

Sec. 5735.043. If a terminal operator files a false monthly report of the information required under section 5735.063 of the Revised Code, or fails to file the monthly report required by section 5735.063 of the Revised Code, the tax commissioner may revoke the license of the terminal operator. The commissioner shall notify the terminal operator in writing of such revocation ~~by certified mail in the manner provided in section 5703.37 of the Revised Code.~~

The commissioner also may cancel the license of any terminal operator upon sixty days' notice mailed to the last known address of the terminal operator if the commissioner finds that the person to whom the license has been issued is no longer engaged as a terminal operator in this state, and has not been so engaged for at least six months prior to cancellation.

Sec. 5735.044. If a permissive motor fuel dealer files a false monthly report of the information required under section 5735.06 of the Revised Code, fails to file the monthly report as required by section 5735.06 of the Revised Code, or fails to pay the full amount of the tax as required by this chapter or as may be agreed upon by the tax commissioner and the permissive motor fuel dealer, the commissioner may revoke the license of the permissive motor fuel dealer. The commissioner shall notify the permissive motor fuel dealer in writing of the revocation ~~by certified mail in~~ the manner provided in section 5703.37 of the Revised Code.

The commissioner may cancel any license issued to any permissive motor fuel dealer and the cancellation shall become effective at the time that the commissioner determines. No license shall be canceled upon the request of any permissive motor fuel dealer unless the permissive motor fuel dealer, prior to the date of cancellation, has paid to the state all motor fuel taxes payable or assumed by the dealer under the laws of the state, together with all penalties, fines, and interest accruing by reason of any failure of the permissive motor fuel dealer to make accurate reports of sales of motor fuel or to pay the taxes, penalties, and interest.

If the license of any permissive motor fuel dealer is canceled by the commissioner under this section, and the permissive motor fuel dealer has paid to the state all motor fuel taxes due and payable by the permissive motor fuel dealer under the laws of this state or assumed by the permissive motor fuel dealer upon the sale of motor fuel, together with all penalties and interest accruing by reason of any failure on the part of the permissive motor fuel dealer to make accurate reports or to pay the tax, penalties, and interest, then the commissioner shall cancel and surrender the bond previously filed by the permissive motor fuel dealer.

Sec. 5735.27. (A) There is hereby created in the state treasury the gasoline excise tax fund. All investment earnings of the fund shall be credited to the fund. Revenue credited to the fund under section 5735.051 from the tax levied under section 5735.05 of the Revised Code shall be distributed to municipal corporations, counties, and townships as provided in divisions (A)(1), (2), and (3) of this section.

(1) The amount distributed to each municipal corporation shall be that proportion of the amount to be distributed among municipal corporations that the number of motor vehicles registered within the municipal corporation bears to the total number of motor vehicles registered within all the municipal corporations of this state during the preceding motor vehicle registration year. When a new village is incorporated, the registrar of motor vehicles shall determine from the applications on file in the bureau of motor

vehicles the number of motor vehicles located within the territory comprising the village during the entire registration year in which the municipal corporation was incorporated. The registrar shall forthwith certify the number of motor vehicles so determined to the tax commissioner for use in distributing motor vehicle fuel tax funds to the village until the village is qualified to participate in the distribution of the funds pursuant to this division. The number of motor vehicle registrations shall be determined by the official records of the bureau of motor vehicles. The amount received by each municipal corporation shall be used to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to pay the costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; to purchase, erect, and maintain traffic lights and signals; to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(2) The amount distributed to counties shall be paid in equal proportions to the county treasurer of each county within the state and shall be used only for the purposes of planning, maintaining, and repairing the county system of public roads and highways within the county; the planning, construction, and repair of walks or paths along county roads in congested areas; the planning, construction, purchase, lease, and maintenance of suitable buildings for the housing and repair of county road machinery, housing of supplies, and housing of personnel associated with the machinery and supplies; the payment of costs apportioned to the county under section 4907.47 of the Revised Code; the payment of principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of county commissioners may issue bonds under that chapter; and the purchase, installation, and maintenance of traffic signal lights.

(3)(a) The amounts described under divisions (A)(2)(a)(iii)(III) and (B)(2) of section 5735.051 of the Revised Code to be distributed among townships shall be divided in equal proportions among the townships.

(b) As used in division (A)(3)(b) of this section, the "formula amount"

for any township is the amount that would be allocated to that township if fifty per cent of the total amount credited to townships pursuant to divisions (A)(2)(b)(iii), (C)(2), and (E)(2)(c) of section 5735.051 of the Revised Code were allocated among townships in the state proportionate to the number of centerline miles within the boundaries of the respective townships, as determined annually by the department of transportation, and the other fifty per cent of that amount were allocated among townships in the state proportionate to the number of motor vehicles registered within the respective townships, as determined annually by the records of the bureau of motor vehicles. The number of centerline miles within the boundaries of a township shall not include any centerline miles of township roads that have been placed on nonmaintained status by a board of township trustees pursuant to section 5571.20 of the Revised Code.

The portion of the revenue of the tax levied by section 5735.05 of the Revised Code that is described under divisions (A)(3) and (B) of that section shall be partially allocated to provide funding for townships. Each township shall receive the greater of the following two calculations:

(i) The total statewide amount credited to townships under divisions (A)(2)(b)(iii), (C)(2), and (E)(2)(c) of section 5735.051 of the Revised Code divided by the number of townships in the state at the time of the calculation;

(ii) Seventy per cent of the formula amount for that township.

(c) The total difference between the amount of money credited to townships under divisions (A)(2)(b)(iii), (C)(2), and (E)(2)(c) of section 5735.051 of the Revised Code and the total amount of money required to make all the payments specified in division (A)(3)(b) of this section shall be deducted, in accordance with division (C)(3) of section 5735.051 of the Revised Code, from the revenues resulting from the portion of the revenue described in division (A)(3) of section 5735.05 of the Revised Code prior to crediting portions of such revenues to counties, municipal corporations, and the highway operating fund.

(d) All amounts credited pursuant to divisions (A)(3)(a) and (b) of this section shall be paid to the county treasurer of each county for the total amount payable to the townships within each of the counties. The county treasurer shall pay to each township within the county its proportional share of the funds, which shall be expended by each township only for the purposes of planning, constructing, maintaining, widening, and reconstructing the public roads and highways within the township, paying principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. or 505. of the Revised Code or incurred pursuant to

section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of township trustees may issue bonds under those chapters, and paying costs apportioned to the township under section 4907.47 of the Revised Code.

No part of the funds designated for road and highway purposes shall be used for any purpose except to pay in whole or part the contract price of any such work done by contract, or to pay the cost of labor in planning, constructing, widening, and reconstructing such roads and highways, and the cost of materials forming a part of the improvement; provided that the funds may be used for the purchase of road machinery and equipment, the planning, construction, purchase, and maintenance of suitable buildings for housing road machinery and equipment, and the payment of principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. or 505. of the Revised Code for the purpose of purchasing road machinery and equipment or planning, constructing, purchasing, and maintaining suitable buildings for housing road machinery and equipment; and provided that all such improvement of roads shall be under supervision and direction of the county engineer as provided in section 5575.07 of the Revised Code. No obligation against the funds shall be incurred unless plans and specifications for the improvement, approved by the county engineer, are on file in the office of the township fiscal officer, and all contracts for material and for work done by contract shall be approved by the county engineer before being signed by the board of township trustees. The board of township trustees of any township may pass a resolution permitting the board of county commissioners to expend the township's share of the funds, or any portion of it, for the improvement of the roads within the township as may be designated in the resolution.

(B) Amounts credited to the highway operating fund under section 5735.051 and other sections of the Revised Code are subject to transfer to the sinking fund upon receipt by the treasurer of state of the certification by the commissioners of the sinking fund, as required by section 5528.15 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of principal, interest, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year. All remaining amounts credited to the highway operating fund shall be expended for the purposes of planning, maintaining, repairing, and keeping in passable condition for travel the roads and

highways of the state required by law to be maintained by the department; paying the costs apportioned to the state under section 4907.47 of the Revised Code; paying that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; paying the costs of the department of public safety in administering and enforcing the state law relating to the registration and operation of motor vehicles; paying the state's share of the cost of planning, constructing, widening, maintaining, and reconstructing the state highways; paying that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; and also for supplying the state's share of the cost of eliminating railway grade crossings upon such highways and costs apportioned to the state under section 4907.47 of the Revised Code. The director of transportation may expend portions of such amount upon extensions of state highways within municipal corporations or upon portions of state highways within municipal corporations, as is provided by law.

All investment earnings of the highway operating fund shall be credited to the fund.

Sec. 5736.07. (A) If a taxpayer files a false return, fails to file a return as required by section 5736.04 of the Revised Code, or fails to pay the full amount of tax due with a return, the tax commissioner may revoke the supplier's license issued to the taxpayer under section 5736.06 of the Revised Code by notifying the taxpayer in writing of such revocation ~~by certified mail~~ in the manner provided in section 5703.37 of the Revised Code.

(B) Upon the request of a person that is no longer subject to the tax imposed by this chapter, the tax commissioner may cancel the supplier's license issued to the person under section 5736.06 of the Revised Code. The cancellation shall become effective at the time determined by the commissioner. No license shall be canceled upon the request of any person unless, prior to the date of cancellation, the person has paid to the state all taxes payable by such person under the laws of the state, together with any interest and penalties.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in

bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

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

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

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

(3) All transactions by which:

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

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

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

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

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

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided,

but not including coin-operated telephone service;

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

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

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

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

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

(l) Physical fitness facility service is or is to be provided;

(m) Recreation and sports club service is or is to be provided;

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

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

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

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

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

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

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

(5) The production or fabrication of tangible personal property for a

consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

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

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

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

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

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

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

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

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

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

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

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

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

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and,

for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

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

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

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

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

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

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

(b) In the case of a person who produces, rather than purchases, printed

matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

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

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

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

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

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

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

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

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit,

property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

- (i) The vendor's cost of the property sold;
- (ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;
- (iii) Charges by the vendor for any services necessary to complete the sale;
- (iv) Delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

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

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

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

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

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

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

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

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

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

(I) "Receipts" means the total amount of the prices of the sales of

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

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

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

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

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

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

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

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

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

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

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

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

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

(V) "Legislative authority" means, with respect to a regional transit

authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

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

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

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

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

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

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

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

"Electronic information services" does not include electronic publishing.

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

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

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

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of

existing or potential computer hardware or software needs and alternatives;

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

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

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

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

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

(k) Providing digital advertising services;

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

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

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

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

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

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

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

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

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

(c) Tangible personal property;

(d) Advertising, including directory advertising;

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

(f) Internet access service;

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

(h) Ancillary service;

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

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not

include telecommunications services used to reach the conference bridge.

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

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

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

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

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

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

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

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

(7) "Coin-operated telephone service" means a telecommunications

service paid for by inserting money into a telephone accepting direct deposits of money to operate.

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

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

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

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

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

(FF) "Information services" means providing conversation, giving

consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

(HH) "Qualified research and development equipment" means either of the following:

(1) Capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development;

(2) Any tangible personal property used by a megaproject operator primarily to perform research and development at the site of a megaproject that satisfies the criteria described in division (A)(11)(a)(ii) of section 122.17 of the Revised Code during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of that section that remains in effect and has not expired or been terminated.

"Qualified research and development equipment" does not include tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

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

(JJ) "Exterminating service" means eradicating or attempting to

eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

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

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

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

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

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

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

(QQ) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and

distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

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

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

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

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

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

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

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

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

(3) "Lease" and "rental" have the same meaning as in division (SS)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue

Code, Title XIII of the Revised Code, or other federal, state, or local laws.

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

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

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

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

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

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

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

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

(BBB) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than

the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

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

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

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

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

- (i) A vitamin;
- (ii) A mineral;
- (iii) An herb or other botanical;
- (iv) An amino acid;

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

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

~~(e)(b)~~ "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that

contains greater than fifty per cent vegetable or fruit juice by volume.

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

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

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

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

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

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

(III)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy

aircraft are operated in the program and the program meets all of the following criteria:

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

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

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

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

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

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

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

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

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

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

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

(JJJ) "Electronic publishing" means providing access to one or more of

the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

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

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

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

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

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

As used in division (OOO) of this section:

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

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

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

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

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

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

(RRR) "Megaproject" and "megaproject operator" have the same meanings as in section 122.17 of the Revised Code.

(SSS)(1) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

(2) "Children's diaper" means a diaper marketed to be worn by children.

(3) "Adult diaper" means a diaper other than a children's diaper.

(TTT) "Sales tax holiday" means three or more dates on which sales of all eligible tangible personal property are exempt from the taxes levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code.

(UUU) "Eligible tangible personal property" means any item of tangible personal property that meets both of the following requirements:

(1) The price of the item does not exceed five hundred dollars;

(2) The item is not a watercraft or outboard motor required to be titled pursuant to Chapter 1548. of the Revised Code, a motor vehicle, an alcoholic beverage, tobacco, a vapor product as defined in section 5743.01 of the Revised Code, or an item that contains marijuana as defined in section 3796.01 of the Revised Code.

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

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

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

made in this state.

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

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

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

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

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

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

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions; including either of the following:

(a) Sales or rentals of tangible personal property by construction contractors or subcontractors to provide temporary traffic control or temporary structures, including material and equipment used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions take title to, or permanent or temporary possession of, such tangible personal property for use by the state or any of its political subdivisions, including for use by the general public thereof;

(b) Sales of services by construction contractors or subcontractors to provide temporary traffic control or structures, including labor used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the state or any of its political subdivisions, including the general public thereof, receive the benefit of such services.

As used in divisions (B)(1)(a) and (b) of this section, "temporary structures" include temporary roads, bridges, drains, and pavement.

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

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

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

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

(6)(a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(b) Sales of motor fuel other than that described in division (B)(6)(a) of this section and used for powering a refrigeration unit on a vehicle other

than one used primarily to provide comfort to the operator or occupants of the vehicle.

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

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

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

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

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

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

(a) Sales or rentals of tangible personal property by construction

contractors or subcontractors to provide temporary traffic control or temporary structures, including material and equipment used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the United States takes title to, or permanent or temporary possession of, such tangible personal property for use by the United States including for use by the general public thereof;

(b) Sales of services by construction contractors or subcontractors to provide temporary traffic control or structures, including labor used to comply with the Ohio manual of uniform traffic control devices adopted pursuant to section 4511.09 of the Revised Code, whereby the United States, including the general public thereof, receives the benefit of such services.

As used in divisions (B)(10)(a) and (b) of this section, "temporary structures" include temporary roads, bridges, drains, and pavement.

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

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

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

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

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

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied

by that state; building and construction materials for incorporation into a transportation facility pursuant to a public-private agreement entered into under sections 5501.70 to 5501.83 of the Revised Code; until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center; and building and construction materials sold for incorporation into a structure or improvement to real property that is used primarily as, or primarily in support of, a manufacturing facility or research and development facility and that is to be owned by a megaproject operator upon completion and located at the site of a megaproject that satisfies the criteria described in division (A)(11)(a)(ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated.

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

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

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

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

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

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

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

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

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

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

Code;

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

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

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

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

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

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

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

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

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

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

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

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

(32) The sale, lease, repair, and maintenance of, parts for, or items

attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

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

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

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

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

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

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

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and

the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

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

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

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

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

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

or distributing electricity.

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

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

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

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

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

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

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

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

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

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

(i) To use the thing transferred as qualified research and development

equipment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(V) Trailers to which production equipment is attached;

(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;

(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;

(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;

(IX) Pressure pumping equipment;

(X) Artificial lift systems equipment;

(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;

(XII) Tangible personal property directly used to control production equipment.

(ii) For the purposes of division (B)(42)(q) of this section, the "thing transferred" does not include any of the following:

(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;

(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in

section 1509.01 of the Revised Code;

(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;

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

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

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

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

(VIII) Communication devices or services;

(IX) Office supplies;

(X) Trailers used as offices or lodging;

(XI) Motor vehicles of any kind;

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

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

(XIV) Data collection or monitoring devices;

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

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

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

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

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

(44) Sales of replacement and modification parts for engines, airframes,

instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

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

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

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

(48) Sales of feminine hygiene products.

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

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

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

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

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

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

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

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

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

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

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

(a) Accepts direct payments to operate;

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

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

(55)(a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of ~~each any year, beginning in 2018~~ except in 2024 or any subsequent year in which a sales tax holiday is held pursuant to section 5739.41 of the Revised Code:

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

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

less;

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

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

(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

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

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

(56)(a) Sales of adult diapers or incontinence underpads sold pursuant to

a prescription, for the benefit of a medicaid recipient with a diagnosis of incontinence, and by a medicaid provider that maintains a valid provider agreement under section 5164.30 of the Revised Code with the department of medicaid, provided that the medicaid program covers diapers or incontinence underpads as an incontinence garment.

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

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

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

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

(58) Sales of tangible personal property used primarily for any of the following purposes by a megaproject operator at the site of a megaproject that satisfies the criteria described in division (A)(11)(a)(ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that the megaproject operator has an agreement for such megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated:

(a) To store, transmit, convey, distribute, recycle, circulate, or clean water, steam, or other gases used in or produced as a result of manufacturing activity, including items that support or aid in the operation of such property;

(b) To clean or prepare inventory, at any stage of storage or production, or equipment used in a manufacturing activity, including chemicals, solvents, catalysts, soaps, and other items that support or aid in the operation of property;

(c) To regulate, treat, filter, condition, improve, clean, maintain, or monitor environmental conditions within areas where manufacturing activities take place;

(d) To handle, transport, or convey inventory during production or manufacturing.

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

(60) Sales of children's diapers.

(61) Sales of therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.

(62) Sales of a child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.

(63) Sales of cribs intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219 or the commission's safety standard for non-full-size baby cribs under 16 C.F.R. 1220.

(64) Sales of strollers meant for transporting children from infancy to about thirty-six months of age that meet the United States consumer product safety commission safety standard for carriages and strollers under 16 C.F.R. 1227.2.

(65) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.

(66) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.

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

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

Sec. 5739.03. (A) Except as provided in section 5739.05 or section 5739.051 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the

tax payable on each taxable sale, in the manner and at the times provided as follows:

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

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

(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11), (28), (48), (55), ~~or (59)~~, or (66) of section 5739.02 of the Revised Code, the consumer must provide to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

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

- (i) A vendor that fraudulently fails to collect tax;
- (ii) A vendor that solicits consumers to participate in the unlawful claim of an exemption;
- (iii) A vendor that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the vendor in this state, and this state has posted to its web site

an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

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

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

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

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

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

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

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

Any contractor or vendor may request from any contractee a

certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall provide to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

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

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

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

(D) Notwithstanding division (B) of section 5739.01 of the Revised Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee shall reimburse the construction contractor for any additional tax paid on

tangible property consumed or services received pursuant to the contract.

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

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

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

Sec. 5739.05. (A)(1) The tax commissioner shall enforce and administer sections 5739.01 to 5739.31 of the Revised Code, which are hereby declared to be sections which the commissioner is required to administer within the meaning of sections 5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. The commissioner may adopt and promulgate, in accordance with sections 119.01 to 119.13 of the Revised Code, such rules as the commissioner deems necessary to administer sections 5739.01 to 5739.31 of the Revised Code.

(2) On or before the first day of May of each year, the commissioner shall make available to vendors a notice explaining the three-day exemption period required under division (B)(55) of section 5739.02 of the Revised Code.

(B) Upon application, the commissioner may authorize a vendor to pay on a predetermined basis the tax levied by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code upon sales of things produced or distributed or services provided by such vendor, and the commissioner may waive the collection of the tax from the consumer. The commissioner shall not grant such authority unless the commissioner finds that the granting of the authority would improve compliance and increase the efficiency of the administration of the tax. The person to whom such authority is granted shall post a notice, if required by the commissioner, at the location where the product is offered for sale that the tax is included in

the selling price. The commissioner may adopt rules to administer this division.

(C) Upon application, the commissioner may authorize a vendor to remit, on the basis of a prearranged agreement under this division, the tax levied by section 5739.02 or pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code. The proportions and ratios in a prearranged agreement shall be determined either by a test check conducted by the commissioner under terms and conditions agreed to by the commissioner and the vendor or by any other method agreed upon by the vendor and the commissioner. If the parties are unable to agree to the terms and conditions of the test check or other method, the application shall be denied.

If used, the test check shall determine the proportion that taxable retail sales bear to all of the vendor's retail sales and the ratio which the tax required to be collected under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code bears to the receipts from the vendor's taxable retail sales.

The vendor's liability for remitting the tax shall be based solely upon the proportions and ratios established in the agreement until such time that the vendor or the commissioner believes that the nature of the vendor's business has so changed as to make the agreement no longer representative. The commissioner may give notice to the vendor at any time that the authorization is revoked or the vendor may notify the commissioner that the vendor no longer elects to report under the authorization. Such notice shall be delivered to the other party ~~or~~ in the manner provided in section 5703.37 of the Revised Code. The revocation or cancellation is effective the last day of the month in which the vendor or the commissioner receives the notice.

Sec. 5739.08. (A) A municipal corporation or township may levy an excise tax for any lawful purpose not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied by section 5739.02 of the Revised Code. If a municipal corporation or township repeals a tax imposed under division (A) of this section, and a county in which the municipal corporation or township has territory has a tax imposed under division (M) of section 5739.09 of the Revised Code in effect, the municipal corporation or township may not reimpose its tax as long as that county tax remains in effect. A municipal corporation or township in which a tax is levied under division (B)(2) of section 351.021 of the Revised Code may not increase the rate of its tax levied under division (A) of this section to any rate that would cause the total taxes levied under both of those divisions to exceed three per cent on any lodging transaction within the municipal corporation or

township.

(B) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A) of section 5739.09 of the Revised Code may, by ordinance or resolution, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township under division (A) of this section.

(C)(1) As used in division (C) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (D) of section 5739.09 of the Revised Code may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county,

including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(3) The legislative authority of a municipal corporation that, pursuant to division (C)(2) of this section, has amended its ordinance or resolution to increase the rate of the tax authorized by division (B) of this section may further amend the ordinance or resolution to provide that the revenue referred to in division (C)(2)(b) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

(D) As used in division (D) of this section, "eligible municipal corporation" means a municipal corporation that, on September 29, 2017, levied a tax under division (B) of this section at a rate of three per cent and that is located in a county that, on that date, levied a tax under division (A) of section 5739.09 of the Revised Code at a rate of three per cent and that has, according to the most recent federal decennial census, a population exceeding three hundred thousand but not greater than three hundred fifty thousand.

The legislative authority of an eligible municipal corporation may amend, on or before December 31, 2017, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for the following:

(1) That the rate of the tax shall be increased by not more than an additional three per cent on each transaction;

(2) That all of the revenue from the increase in rate shall be used by the municipal corporation for economic development and tourism-related purposes.

(E)(1) As used in division (E) of this section, "cost" and "facility" have

the same meanings as in section 351.01 of the Revised Code, except that "facility" does not include a "sports facility," as that term is defined in that section, other than a facility intended to house a major league soccer team.

(2) The legislative authority of a municipal corporation that has a population exceeding three hundred thousand but less than three hundred fifty thousand and that has adopted a resolution or ordinance levying a tax authorized by division (A) of this section may amend the resolution or ordinance to provide that all or a portion of the revenue referred to in division (A) of this section may be pledged and contributed to a convention facilities authority or a port authority to pay the costs of acquiring, constructing, renovating, expanding, maintaining, or operating one or more facilities in the county, including paying bonds, or notes issued in anticipation of bonds, or paying the expenses of maintaining, operating, or promoting one or more facilities.

(3) The legislative authority of any municipal corporation that, pursuant to division (C)(2) of this section, has amended a resolution or ordinance levying the tax authorized by division (D) of section 5739.09 of the Revised Code may further amend the resolution or ordinance to provide that all or a portion of the revenue referred to in division (C)(2)(b) of this section may be pledged and contributed to an issuing authority, as defined in section 5739.093 of the Revised Code, to pay the costs of acquiring, constructing, renovating, expanding, maintaining, or operating one or more facilities in the county, including paying bonds, or notes issued in anticipation of bonds, or paying the expenses of maintaining, operating, or promoting one or more facilities.

Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as otherwise provided in this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township

from each transaction, not to exceed thirty-three and one-third per cent. Except as provided in this section, the remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent ~~solely~~ either (a) to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the remainder pursuant to an agreement authorized by section 307.678 or 307.695 of the Revised Code or (b) to pay, if authorized in the regulations, for public safety services in a resort area designated under section 5739.101 of the Revised Code.

(2) If the board of county commissioners of an eligible county as defined in section 307.678 or 307.695 of the Revised Code adopts a resolution amending a resolution levying a tax under division (A) of this section to provide that revenue from the tax shall be used by the board as described in either division (D) of section 307.678 or division (H) of section 307.695 of the Revised Code, the remainder of the revenue shall be used as described in the resolution making that amendment.

(3) Except as provided in division (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (Q) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to division (A) of this section in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of section 5739.08 of the Revised Code.

(4) The board of a county that has levied a tax under division (M) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under division (A) of this section to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

(5) The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend a resolution levying a tax under division (A) of this section to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, in which case the tax shall remain in effect at the rate at which it was imposed for the duration of any agreement entered into by the board under section 307.695 of the Revised Code, the duration during which any securities issued by the board under that section are outstanding, or the

duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(6) The board of county commissioners of an eligible county as defined in section 307.678 of the Revised Code may, by resolution, amend a resolution levying a tax under division (A) of this section to provide that revenue from the tax, not to exceed five hundred thousand dollars each year, may be used as described in division (E) of section 307.678 of the Revised Code.

(7) Notwithstanding division (A) of this section, the board of county commissioners of a county described in division (H)(1) of this section may, by resolution, amend a resolution levying a tax under division (A) of this section to provide that all or a portion of the revenue from the tax, including any revenue otherwise required to be returned to townships or municipal corporations under that division, may be used or pledged for the payment of debt service on securities issued to pay the costs of constructing, operating, and maintaining sports facilities described in division (H)(2) of this section.

(8) The board of county commissioners of a county described in division (I) of this section may, by resolution, amend a resolution levying a tax under division (A) of this section to provide that all or a portion of the revenue from the tax may be used for the purposes described in section 307.679 of the Revised Code.

(B) A board of county commissioners that levies an excise tax under division (A) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code or, in the case of the board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code, has amended a resolution levying a tax under division (M) of this section to provide that proceeds from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, may, at any time by a resolution adopted by a majority of the members of the board, amend the resolution levying a tax under division (A) of this section to provide for an increase in the rate of that tax up to seven per cent on each transaction; to provide that revenue from the increase in the rate shall be used as described in division (H) of section 307.695 of the Revised Code or be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; and to provide that the rate in excess of the three per cent levied under division (A) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was

entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A) of this section, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest. The amendment also shall provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A) of this section.

(C)(1) As used in division (C) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) A board of county commissioners that levies a tax under division (A) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(3) Division (C) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the

Revised Code on that date.

(D)(1) As used in division (D) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) A board of county commissioners that levies a tax under division (A) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(3) Any board of county commissioners that, pursuant to division (D)(2) of this section, has amended a resolution levying the tax authorized by division (A) of this section may further amend the resolution to provide that the revenue referred to in division (D)(2)(b) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

(E)(1) As used in division (E) of this section:

(a) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(b) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(2) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(a) Amend a resolution previously adopted under division (A) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(b) Amend a resolution previously adopted under division (A) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(3) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (E)(2)(b) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(F)(1) A board of county commissioners of a county organized under a county charter adopted pursuant to Article X, Section 3, Ohio Constitution, and that levies an excise tax under division (A) of this section at a rate of three per cent and levies an additional excise tax under division (O) of this section at a rate of one and one-half per cent may, by resolution adopted not later than January 1, 2008, by a majority of the members of the board, amend the resolution levying a tax under division (A) of this section to provide for an increase in the rate of that tax by not more than an additional one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding divisions (A) and (O) of this section, the resolution shall provide that all of the revenue from the increase in rate, after deducting the real and actual costs of administering the tax, shall be used to pay the costs of improving, expanding, equipping, financing, or operating a convention center by a convention and visitors' bureau in the county.

(2) The increase in rate shall remain in effect for the period specified in the resolution, not to exceed ten years, and may be extended for an

additional period of time not to exceed ten years thereafter by a resolution adopted by a majority of the members of the board.

(3) The increase in rate shall be subject to the regulations adopted under division (A) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under that division.

(G)(1) Division (G) of this section applies only to a county with a population greater than sixty-five thousand and less than seventy thousand according to the most recent federal decennial census and in which, on December 31, 2006, an excise tax is levied under division (A) of this section at a rate not less than and not greater than three per cent, and in which the most recent increase in the rate of that tax was enacted or took effect in November 1984.

(2) The board of county commissioners of a county to which division (G) of this section applies, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be for the purpose of paying expenses deemed necessary by the convention and visitors' bureau operating in the county to promote travel and tourism.

(3) The increase in rate shall remain in effect for the period specified in the resolution, not to exceed twenty years, provided that the increase in rate may not continue beyond the time when the purpose for which the increase is levied ceases to exist. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(4) The increase in rate shall be subject to the regulations adopted under division (A) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A) of this section.

(5) A resolution adopted under division (G) of this section is subject to referendum under sections 305.31 to 305.99 of the Revised Code.

(H)(1) Division (H) of this section applies only to a county satisfying all of the following:

(a) The population of the county is greater than one hundred

seventy-five thousand and less than two hundred twenty-five thousand according to the most recent federal decennial census.

(b) An amusement park with an average yearly attendance in excess of two million guests is located in the county.

(c) On December 31, 2014, an excise tax was levied in the county under division (A) of this section at a rate of three per cent.

(2) The board of county commissioners of a county to which division (H) of this section applies, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be used to pay the costs of constructing and maintaining facilities owned by the county or by a port authority created under Chapter 4582. of the Revised Code, and designed to host sporting events and expenses deemed necessary by the convention and visitors' bureau operating in the county to promote travel and tourism with reference to the sports facilities, and to pay or pledge to the payment of debt service on securities issued to pay the costs of constructing, operating, and maintaining the sports facilities.

(3) The increase in rate shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(4) The increase in rate shall be subject to the regulations adopted under division (A) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A) of this section.

(I)(1) The board of county commissioners of a county with a population greater than seventy-five thousand and less than seventy-eight thousand, by resolution adopted by a majority of the members of the board not later than October 15, 2015, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be for the purposes described in section 307.679 of the Revised Code or for the promotion of travel and tourism in the county, including travel and tourism to sports facilities.

(2) The increase in rate shall remain in effect for the period specified in the resolution and as necessary to fulfill the county's obligations under a

cooperative agreement entered into under section 307.679 of the Revised Code. If the resolution is adopted by the board before September 29, 2015, but after that enactment becomes law, the increase in rate shall become effective beginning on September 29, 2015. If revenue from the increase in rate is pledged to the payment of debt charges on securities, or to substitute for other revenues pledged to the payment of such debt, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(3) The increase in rate shall be subject to the regulations adopted under division (A) of this section, except that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A) of this section.

(J)(1) Division (J) of this section applies only to counties satisfying either of the following:

(a) A county that, on July 1, 2015, does not levy an excise tax under division (A) of this section and that has a population of at least thirty-nine thousand but not more than forty thousand according to the 2010 federal decennial census;

(b) A county that, on July 1, 2015, levies an excise tax under division (A) of this section at a rate of three per cent and that has a population of at least seventy-one thousand but not more than seventy-five thousand according to 2010 federal decennial census.

(2) The board of county commissioners of a county to which division (J) of this section applies, by resolution adopted by a majority of the members of the board, may levy an excise tax at a rate not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests for the purpose of acquiring, constructing, equipping, or repairing permanent improvements, as defined in section 133.01 of the Revised Code.

(3) If the board does not levy a tax under division (A) of this section, the board shall establish regulations necessary to provide for the administration of the tax, which may prescribe the time for payment of the tax and the imposition of penalty or interest subject to the limitations on penalty and interest provided in division (A) of this section. No portion of the revenue shall be returned to townships or municipal corporations in the county unless otherwise provided by resolution of the board.

(4) The tax shall apply throughout the territory of the county, including in any township or municipal corporation levying an excise tax under

division (A) or (B) of section 5739.08 of the Revised Code. The levy of the tax is subject to referendum as provided under section 305.31 of the Revised Code.

(5) The tax shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding unless provision is made by law or by the board for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(K)(1) The board of county commissioners of an eligible county, as defined in section 307.678 of the Revised Code, that levies an excise tax under division (A) of this section on July 1, 2017, at a rate of three per cent may, by resolution adopted by a majority of the members of the board, amend the resolution levying the tax to increase the rate of the tax by not more than an additional three per cent on each transaction.

(2) No portion of the revenue shall be returned to townships or municipal corporations in the county unless otherwise provided by resolution of the board. Otherwise, the revenue from the increase in the rate shall be distributed and used in the same manner described under division (A) of this section or distributed or used to provide credit enhancement facilities as authorized under section 307.678 of the Revised Code.

(3) The increase in rate shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding unless provision is made by law or by the board for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(L)(1) As used in division (L) of this section:

(a) "Eligible county" means a county that has a population greater than one hundred ninety thousand and less than two hundred thousand according to the 2010 federal decennial census and that levies an excise tax under division (A) of this section at a rate of three per cent.

(b) "Professional sports facility" means a sports facility that is intended to house major or minor league professional athletic teams, including a stadium, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(2) Subject to division (L)(3) of this section, the board of county commissioners of an eligible county, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Revenue from the increase in rate shall be used for the purposes of paying the costs of constructing, improving, and maintaining a professional sports facility in the county and paying expenses considered necessary by the convention and visitors' bureau operating in the county to promote travel and tourism with respect to that professional sports facility. The tax shall take effect only after the convention and visitors' bureau enters into a contract for the construction, improvement, or maintenance of a professional sports facility that is or will be located on property acquired, in whole or in part, with revenue from the increased rate, and thereafter shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless a provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A) of this section.

(3) If, on December 31, 2019, the convention and visitors' bureau has not entered into a contract for the construction, improvement, or maintenance of a professional sports facility that is or will be located on property acquired, in whole or in part, with revenue from the increased rate, the authority to levy the tax under division (L)(2) of this section is hereby repealed on that date.

(M)(1) For the purposes described in section 307.695 of the Revised Code and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by division (M) of this section shall be in addition to any tax that is levied pursuant to divisions (A) to (L) of this section, but it shall not apply to

transactions subject to a tax levied by a municipal corporation or township pursuant to section 5739.08 of the Revised Code.

(2) The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code.

(3) All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend the resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code.

(4) A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement entered into by the board under section 307.695 of the Revised Code is in effect, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(N)(1) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by division (N) of this section shall be in addition to any tax that is levied pursuant to divisions (A) to (M) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code.

(2) The board of county commissioners shall establish all regulations

necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code.

(3) All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (N) of this section. The levy of a tax imposed under division (N) of this section may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement.

(4) The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(O)(1) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by division (O) of this section shall be in addition to any tax that is levied pursuant to divisions (A) to (N) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code.

(2) The legislative authority of the county shall establish all regulations

necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code.

(3) All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county. That period of time shall not exceed fifteen years, except that the legislative authority of a county with a population of less than two hundred fifty thousand according to the most recent federal decennial census, by resolution adopted by a majority of its members before the original tax expires, may extend the duration of the tax for an additional period of time. The additional period of time by which a legislative authority extends a tax levied under division (O) of this section shall not exceed fifteen years.

(P)(1) The legislative authority of a county that has levied a tax under division (O) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code.

(2) The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of

the Revised Code.

(3) All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code and divisions (O) and (P) of this section.

(Q)(1) As used in division (Q) of this section:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (N) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (N) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (N) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A) of this section may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A) of this section, shall be deposited in

the county general fund, provided that such proceeds shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (Q) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (Q) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (Q)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (Q) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (Q)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements, except that the agreement may subsequently be amended by the parties that have entered into that agreement to authorize such amounts to instead be used for any costs related to the promotion or support of tourism or tourism-related programs.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (Q)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations

for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (Q) of this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(R)(1) As used in division (R) of this section:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (N) of this section, the legislative authority of a county with a population of one million two hundred thousand or more according to the most recent federal decennial census or the most recent annual population estimate published or released by the United States census bureau at the time the resolution is adopted placing the levy on the ballot, that has levied a tax under division (N) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that the proceeds are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code and after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (N) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A) of this section, the resolution shall provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual

costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(4) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A) of this section may, by resolution adopted on or before July 1, 2008, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A) of this section, shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code or shall otherwise be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(5) Any amount collected from a tax levied or extended under division (R) of this section may be contributed to a convention facilities authority created before July 1, 2005, but no amount collected from a tax levied or extended under division (R) of this section may be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2005, unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity.

(S) As used in division (S) of this section, "soldiers' memorial" means a memorial constructed and funded under Chapter 345. of the Revised Code.

The board of county commissioners of a county with a population between one hundred three thousand and one hundred seven thousand according to the most recent federal decennial census, by resolution adopted by a majority of the members of the board within six months after September 15, 2014, may levy a tax not to exceed three per cent on transactions by which a hotel is or is to be furnished to transient guests. The purpose of the tax shall be to pay the costs of expanding, maintaining, or operating a soldiers' memorial and the costs of administering the tax. All revenue arising from the tax shall be credited to one or more special funds in the county treasury and shall be spent solely for the purposes of paying those costs.

The board of county commissioners shall adopt all rules necessary to provide for the administration of the tax subject to the same limitations on

imposing penalty or interest under division (A) of this section.

(T) As used in division (T) of this section, ~~"eligible;~~

(1) "Eligible county" means a county in which a county agricultural society or independent agricultural society is organized under section 1711.01 or 1711.02 of the Revised Code, provided the agricultural society owns a facility or site in the county at which an annual harness horse race is conducted where one-day attendance equals at least forty thousand attendees.

(2) "Permanent improvements," "debt charges," and "financing costs" have the same meanings as in section 133.01 of the Revised Code.

(3) "Costs of permanent improvements" include all costs allowed in section 133.15 of the Revised Code.

A board of county commissioners of an eligible county, by resolution adopted by a majority of the members of the board, may levy an excise tax at the rate of up to three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests for the purpose of paying the costs of permanent improvements at sites at which one or more agricultural societies conduct fairs or exhibits, including paying financing costs and debt charges on bonds, or notes in anticipation of bonds, paying the costs of maintaining or operating such permanent improvements, and paying the costs of administering the tax.

A resolution adopted under division (T) of this section, other than a resolution that only extends the period of time for which the tax is levied, shall direct the board of elections to submit the question of the proposed lodging tax to the electors of the county at a special election held on the date specified by the board in the resolution, provided that the election occurs not less than ninety days after a certified copy of the resolution is transmitted to the board of elections. A resolution submitted to the electors under division (T) of this section shall not go into effect unless it is approved by a majority of those voting upon it. The resolution takes effect on the date the board of county commissioners receives notification from the board of elections of an affirmative vote.

The tax shall remain in effect for the period specified in the resolution, not to exceed five years, and may be extended for an additional period of time not to exceed years that is at least the number of years required for payment of the debt charges on bonds or notes in anticipation of bonds authorized under this division but not in excess of fifteen years thereafter by a resolution adopted by a majority of the members of the board. A resolution extending the period of time for which the tax is in effect is not subject to approval of the electors of the county, but is subject to referendum under

sections 305.31 to 305.99 of the Revised Code. All revenue arising from the tax shall be credited to one or more special funds in the county treasury and shall be spent solely for the purposes of paying the costs of such permanent improvements, including paying financing costs and debt charges on bonds, or notes in anticipation of bonds, and maintaining or operating the improvements. Revenue allocated for the use of a county agricultural society may be credited to the county agricultural society fund created in section 1711.16 of the Revised Code upon appropriation by the board. If revenue is credited to that fund, it shall be expended only as provided in that section.

The board of county commissioners shall adopt all rules necessary to provide for the administration of the tax. The rules may prescribe the time for payment of the tax, and may provide for the imposition or penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed in section 5703.47 of the Revised Code.

The board of county commissioners may issue bonds, or notes in anticipation thereof, pursuant to Chapter 133. of the Revised Code, for the purpose of paying the costs of permanent improvements as authorized in this division and pledge the revenue arising from the tax for that purpose. The board of county commissioners may pledge or contribute the revenue arising from the tax levied under this division to a port authority created under Chapter 4582. of the Revised Code, and the port authority may issue bonds, or notes in anticipation thereof, pursuant to that chapter, for the purpose of paying the costs of permanent improvements as authorized in this division.

(U) As used in division (U) of this section, "eligible county" means a county in which a tax is levied under division (A) of this section at a rate of three per cent and whose territory includes a part of Lake Erie the shoreline of which represents at least fifty per cent of the linear length of the county's border with other counties of this state.

The board of county commissioners of an eligible county that has entered into an agreement with a port authority in the county under section 4582.56 of the Revised Code may levy an additional lodging tax on transactions by which lodging by a hotel is or is to be furnished to transient guests for the purpose of financing lakeshore improvement projects constructed or financed by the port authority under that section. The resolution levying the tax shall specify the purpose of the tax, the rate of the tax, which shall not exceed two per cent, and the number of years the tax will be levied or that it will be levied for a continuing period of time. The tax shall be administered pursuant to the regulations adopted by the board

under division (A) of this section, except that all the proceeds of the tax levied under this division shall be pledged to the payment of the costs, including debt charges, of lakeshore improvements undertaken by a port authority pursuant to the agreement under section 4582.56 of the Revised Code. No revenue from the tax may be used to pay the current expenses of the port authority.

A resolution levying a tax under division (U) of this section is subject to referendum under sections 305.31 to 305.41 and 305.99 of the Revised Code.

(V)(1) As used in division (V) of this section:

(a) "Tourism development district" means a district designated by a municipal corporation under section 715.014 of the Revised Code or by a township under section 503.56 of the Revised Code.

(b) "Lodging tax" means a tax levied pursuant to this section or section 5739.08 of the Revised Code.

(c) "Tourism development district lodging tax proceeds" means all proceeds of a lodging tax derived from transactions by which lodging by a hotel located in a tourism development district is or is to be provided to transient guests.

(d) "Eligible county" has the same meaning as in section 307.678 of the Revised Code.

(2)(a) Notwithstanding division (A) of this section, the board of county commissioners, board of township trustees, or legislative authority of any county, township, or municipal corporation that levies a lodging tax on September 29, 2017, and in which any part of a tourism development district is located on or after that date shall amend the ordinance or resolution levying the tax to require either of the following:

(i) In the case of a tax levied by a county, that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district;

(ii) In the case of a tax levied by a township or municipal corporation, that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district.

(b) Notwithstanding division (A) of this section, any ordinance or resolution levying a lodging tax adopted on or after September 29, 2017, by a county, township, or municipal corporation in which any part of a tourism development district is located on or after that date shall require that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development

district.

(c) A county shall not use any of the proceeds described in division (V)(2)(a)(i) or (V)(2)(b) of this section unless the convention and visitors' bureau operating within the county approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the county may pay such proceeds to the bureau to use for the agreed-upon purpose.

A municipal corporation or township shall not use any of the proceeds described in division (V)(2)(a)(ii) or (V)(2)(b) of this section unless the convention and visitors' bureau operating within the municipal corporation or township approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the municipal corporation or township may pay such proceeds to the bureau to use for the agreed-upon purpose.

(3)(a) Notwithstanding division (A) of this section, the board of county commissioners of an eligible county that levies a lodging tax on March 23, 2018, may amend the resolution levying that tax to require that all or a portion of the proceeds of that tax otherwise required to be spent solely to make contributions to the convention and visitors' bureau operating within the county shall be used to foster and develop tourism in a tourism development district.

(b) Notwithstanding division (A) of this section, the board of county commissioners of an eligible county that adopts a resolution levying a lodging tax on or after March 23, 2018, may require that all or a portion of the proceeds of that tax otherwise required to be spent solely to make contributions to the convention and visitors' bureau operating within the county pursuant to division (A) of this section shall be used to foster and develop tourism in a tourism development district.

(c) A county shall not use any of the proceeds in the manner described in division (V)(3)(a) or (b) of this section unless the convention and visitors' bureau operating within the county approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the county may pay such proceeds to the bureau to use for the agreed upon purpose.

(W)(1) As used in division (W) of this section:

(a) "Eligible county" means a county with a population greater than three hundred thousand and less than three hundred fifty thousand that levies a tax under division (A) of this section at a rate of three per cent;

(b) "Cost" and "facility" have the same meanings as in section 351.01 of the Revised Code.

(2) A board of county commissioners of an eligible county, by resolution adopted by a majority of the members of the board, may levy an excise tax at the rate of up to three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. All of the revenue from the tax shall be used to pay the costs of administering the tax or pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and used by the authority to pay the cost of constructing a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter, or paying the expenses of maintaining, operating, or promoting such a facility. No portion of the revenue arising from the tax need be returned to municipal corporations or townships as required for taxes levied under division (A) of this section.

(3) A resolution adopted under division (W) of this section shall direct the board of elections to submit the question of the proposed lodging tax to the electors of the county at a special election held on the date specified by the board in the resolution, provided that the election occurs not less than ninety days after a certified copy of the resolution is transmitted to the board of elections. A resolution submitted to the electors under division (W) of this section shall not go into effect unless it is approved by a majority of those voting upon it. The resolution takes effect on the date the board of county commissioners receives notification from the board of elections of an affirmative vote.

(4) Once the tax is approved by the electors of the county pursuant to division (W)(3) of this section, it shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefore that is satisfactory to the trustee if a trust agreement secures the bonds.

(5) The tax authorized by division (W) of this section shall be in addition to any other tax that is levied pursuant to this section.

(X)(1) As used in division (X) of this section:

(a) "Convention facilities authority," "cost," and "facility" have the same meanings as in section 351.01 of the Revised Code, except that "facility" does not include a "sports facility," as that term is defined in that section, other than a facility intended to house a major league soccer team.

(b) "Eligible county" means a county with a population greater than eight hundred thousand but less than one million that levies a tax under

division (A) of this section.

(c) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(2) A board of county commissioners or the legislative authority of an eligible county may, by resolution adopted by a majority of the members of the board or legislative authority, levy an excise tax at a rate not to exceed one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. All revenue arising from the tax shall be used to pay the costs of administering the tax or pledged and contributed to the convention and visitors' bureau operating within the applicable eligible county, a convention facilities authority within the applicable eligible county, or a port authority and used by the convention and visitors' bureau, the convention facilities authority, or the port authority to pay the cost of acquiring, constructing, renovating, expanding, maintaining, or operating one or more facilities in the county, including paying bonds, or notes issued in anticipation of bonds, or paying the expenses of maintaining, operating, or promoting one or more facilities. No portion of the revenue arising from the tax need be returned to municipal corporations or townships as required for taxes levied under division (A) of this section.

(3) The tax authorized by division (X) of this section shall be in addition to any other tax that is levied pursuant to this section.

(4) Any board of county commissioners of an eligible county that, pursuant to division (D)(2) of this section, has amended a resolution levying the tax authorized by division (A) of this section may further amend the resolution to provide that all or a portion of the revenue referred to in division (D)(2)(b) of this section and division (A) of this section may be pledged and contributed to pay the costs of acquiring, constructing, renovating, expanding, maintaining, or operating one or more facilities in the county, including paying bonds, or notes issued in anticipation of bonds, or paying the expenses of maintaining, operating, or promoting one or more facilities.

Sec. 5739.093. (A) As used in this section:

(1) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) "Convention center headquarters hotel" means a hotel designated as such in authorizing legislation.

(3) "Convention center headquarters hotel facilities" means a convention center headquarters hotel, the convention center associated with the convention center headquarters hotel, and any improvements, buildings, outdoor space, infrastructure, and parking lots or garages directly adjacent to

or associated with the convention center headquarters hotel and convention center.

(4) "Eligible convention facilities authority" means a convention facilities authority created within an eligible county under Chapter 351. of the Revised Code.

(5) "Cost" and "facility" have the same meanings as in section 351.01 of the Revised Code.

(6) "Eligible county" means a county with a population greater than eight hundred thousand that levies a tax under division (A) of section 5739.09 of the Revised Code and in which one or more convention centers are located.

(7) "Eligible municipal corporation" means a municipal corporation that is located in an eligible county, that levies a tax under section 5739.08 of the Revised Code, and in which one or more convention centers are located.

(8) "Qualifying lodging tax" means, for authorizing legislation adopted by the legislative authority of an eligible municipal corporation, a tax levied by that municipal corporation under section 5739.08 of the Revised Code or, for authorizing legislation adopted by the legislative authority of an eligible county, a tax levied by that county under section 5739.09 of the Revised Code.

(9) "Eligible port authority" means a port authority created within an eligible county under Chapter 4582. of the Revised Code or a port authority created under Chapter 4582. of the Revised Code in a different county and that is partnering with a port authority located within an eligible county.

(10) "Issuing authority" means an eligible municipal corporation, an eligible county, an eligible convention facilities authority, or an eligible port authority.

(11) "Qualifying vendor" means the person responsible for collecting and remitting qualifying lodging taxes from a convention center headquarters hotel.

(12) "Authorizing legislation" means an ordinance or resolution adopted under division (B) of this section.

(13) "Eligible township" means a township that levies a tax under section 5739.08 of the Revised Code that applies to transactions for lodging at a convention center headquarters hotel.

(14) "Eligible convention and visitors' bureau" means a convention and visitors' bureau that receives revenue from a tax levied under section 5739.09 of the Revised Code that applies to transactions for lodging at a convention center headquarters hotel.

(15) "Minimum payment obligation" is an obligation, including a

contingent obligation, for a qualifying vendor to make a payment to an eligible municipal corporation, eligible county, or eligible port authority to ensure sufficient funds to finance the expenditures authorized under division (D)(2) of this section.

(B) The legislative authority of an eligible county or eligible municipal corporation, by ordinance or resolution, may declare all of the following:

(1) A hotel within that county or municipal corporation is designated as a convention center headquarters hotel;

(2) The name of the convention center that the hotel is associated with;

(3) That that hotel and any convention center headquarters hotel facilities associated with it are for a public purpose;

(4) That transactions by which lodging by the hotel is to be furnished to transient guests shall be wholly or partially exempt from the applicable qualifying lodging tax for a period not to exceed thirty years from the date the exemption begins;

(5) The date the exemption begins, which shall be the first day of a month;

(6) If the exemption is a partial exemption, the percentage of the qualifying lodging tax that is subject to exemption;

(7) Whether payments are to be required under division (D)(1) of this section and, if so, the issuing authority to which those payments are to be pledged.

Not more than one convention center headquarters hotel may be designated by the legislative authority of an eligible county or eligible municipal corporation for each convention center located in the county or municipal corporation.

(C) Not later than fourteen days before adopting authorizing legislation, the eligible municipal corporation shall give notice of the proposed authorizing legislation to the eligible county, eligible convention and visitors' bureau, and any eligible township. Not later than thirty days after adopting authorizing legislation, the municipal corporation shall deliver a copy of the authorizing legislation to the eligible county, eligible convention and visitors' bureau, and eligible township, as applicable.

Not later than fourteen days before adopting authorizing legislation, the eligible county shall give notice of the proposed authorizing legislation to the eligible convention and visitors' bureau and any eligible municipal corporation or eligible township. Not later than thirty days after adopting authorizing legislation, the county shall deliver a copy of the authorizing legislation to the eligible convention and visitors' bureau and eligible municipal corporation or eligible township, as applicable.

An exemption granted pursuant to authorizing legislation commences on the date specified in the authorizing legislation.

(D)(1) An eligible municipal corporation or eligible county that has adopted authorizing legislation may require the convention center headquarters hotel's qualifying vendor to make monthly payments in lieu of qualifying lodging taxes on or before the final dates for payment of such taxes. Each such payment shall be charged and collected in the same amount as the exempted qualifying lodging tax. The vendor shall remit all payments to the eligible municipal corporation or eligible county that adopted the authorizing legislation or, if applicable, to the issuing authority or agent designated under division (F) of this section. Such payments shall be used for the purpose of paying the cost of acquiring, constructing, renovating, or maintaining convention center headquarters hotel facilities located in the eligible county.

(2) An eligible municipal corporation or eligible county that adopts authorizing legislation shall establish a lodging tax equivalent fund into which shall be deposited all payments required under division (D)(1) of this section and all payments of minimum payment obligations made under agreements authorized pursuant to division (E) of this section.

Money in the lodging tax equivalent fund shall be pledged and contributed to the issuing authority designated in the authorizing legislation, or agent thereof, to pay the costs described in division (D)(1) of this section, including paying bonds or notes issued in anticipation of the issuance of bonds, or paying the expenses of maintaining, operating, or promoting one or more convention center headquarters facilities. If approved by the applicable issuing authority, money in the lodging tax equivalent fund may also be used by the eligible municipal corporation or eligible county, as applicable, for any other purpose the municipal corporation's or county's tax levied under section 5739.08 or 5739.09 of the Revised Code, respectively, may be used for.

The eligible municipal corporation or eligible county also may deposit or permit to be deposited into the lodging tax equivalent fund other money or taxes levied under section 5739.08 or 5739.09 of the Revised Code and lawfully available for those purposes as determined by the municipal corporation or county.

(3) A lodging tax equivalent fund established under division (D)(2) of this section may be held by and pledged by the eligible municipal corporation or eligible county to a trustee for bonds or notes issued by an issuing authority.

(4) Any incidental surplus remaining in the lodging tax equivalent fund,

upon dissolution of the fund, shall be transferred to the general fund of the eligible municipal corporation or eligible county to be used for any purpose for which the municipal corporation's or county's tax levied under section 5739.08 or 5739.09 of the Revised Code, respectively, may be used.

(E) An eligible municipal corporation, eligible county, or eligible port authority may enter into an agreement with a qualifying vendor to make payments of minimum payment obligations for deposit into the lodging tax equivalent fund established under division (D)(2) of this section. An agreement entered into under this division is binding and enforceable against all subsequent qualifying vendors for a convention center headquarters hotel without the necessity of a written assignment of the agreement.

(F) Payments required under division (D)(1) of this section and minimum payment obligations shall be collected and enforced by the eligible municipal corporation or eligible county. The municipal corporation or county may delegate this authority to the issuing authority designated in the authorizing legislation, or to an agent thereof, by including this delegation in the authorizing legislation or adopting a separate ordinance or resolution. Such issuing authority or agent shall be subject to any regulations or restrictions imposed upon the municipal corporation or county in collecting and enforcing qualifying lodging tax.

(G) A qualifying vendor may charge a consumer for any payments required under division (D)(1) of this section in the same amount as the consumer would have paid in qualifying lodging taxes had such taxes not been exempted, provided that the charges shall be separately stated on the invoice, bill of sale, or similar document given to the consumer.

Any charges paid by the consumer shall be considered taxes described in division (H)(1)(c)(iii) of section 5739.01 of the Revised Code.

(H) The adoption of authorizing legislation under this section for a hotel in which lodging has not been furnished to transient guests prior to the adoption of the legislation shall not be considered to be a diminution of the rate of taxation or of the revenue generated by the taxes under section 5739.08 or 5739.09 of the Revised Code.

Sec. 5739.19. The tax commissioner may revoke any retail vendor's license upon ascertaining that the vendor has no need for the license because the vendor is not engaged in making taxable retail sales. Notice of the revocation shall be delivered to the vendor ~~personally or by certified mail or by an alternative delivery service as authorized under~~ in the manner provided in section 5703.37 of the Revised Code. The revocation shall be effective on the first day of the month following the expiration of fifteen

days after the vendor received the notice of the revocation.

The revocation of the vendor's license shall be stayed if, within fifteen days after receiving notice of the revocation, the vendor objects, in writing, to the revocation. The commissioner shall consider the written objections of the vendor and issue a final determination on the revocation of the vendor's license. The commissioner's final determination may be appealed to the board of tax appeals pursuant to section 5717.02 of the Revised Code. The revocation shall be effective on the first day of the month following the expiration of all time limits for appeal.

Sec. 5739.30. (A) No person, including any officer, employee, or trustee of a corporation or business trust, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(B) If any vendor required to file monthly returns under section 5739.12 of the Revised Code fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the tax commissioner to file semiannual returns fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the commissioner may do any of the following:

(1) Require the vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the commissioner from a review of returns or other information pertaining to the vendor, which amount shall in no event be less than one thousand dollars. The security may be in the form of a corporate surety bond, satisfactory to the commissioner, conditioned upon payment of the tax due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the commissioner of its requirements.

(2) Suspend the license issued to the vendor pursuant to section 5739.17 of the Revised Code. The suspension shall be effective ten days after service of written notice to the vendor of the commissioner's intention to do so. The notice shall be served upon the vendor ~~personally, by certified mail, or by an alternative delivery service as authorized under~~ in the manner provided in section 5703.37 of the Revised Code. On the first day of the suspension, the commissioner shall cause to be posted, at every public entrance of the vendor's premises, a notice identifying the vendor and the location and informing the public that the vendor's license is under suspension and that no retail sales may be transacted at that location. No person, other than the

commissioner or the commissioner's agent or employee, shall remove, cover, or deface the posted notice. No license which has been suspended under this section shall be reinstated, and no posted notice shall be removed, until the vendor has filed complete and correct returns under this chapter and section 5747.07 of the Revised Code for all periods in which no return had been filed and has paid the full amount of the tax, penalties, or other charges due.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment with them within the time prescribed in section 5739.12 of the Revised Code.

(C) The tax commissioner may suspend a license issued to a vendor pursuant to section 5739.17 of the Revised Code if the vendor is required, as an employer, to file returns or make payments under section 5747.07 of the Revised Code and the vendor fails to do either of the following:

(1) File such returns when due on two consecutive occasions or on three or more occasions within a twelve-month period;

(2) Pay the undeposited taxes when due on two consecutive occasions or on three or more occasions within a twelve-month period.

Any such suspension shall comply with the provisions of division (B)(2) of this section.

(D) If a vendor whose license has been suspended under division (B)(2) of this section fails to file returns or make payments under section 5747.07 of the Revised Code during such suspension, the license may not be reinstated, and the notice required by that division shall not be removed, until the vendor files complete and correct returns and pays the amounts due, plus any penalties and other related charges, under section 5747.07 of the Revised Code for all periods for which the vendor failed to file such returns and make such payments.

Sec. 5739.41. If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code in a fiscal year, the commissioner shall designate the dates on which a sales tax holiday will be held in the following fiscal year. If the sales tax holiday will be held for three days, the commissioner shall designate the period that includes the first Friday of August and the following Saturday and Sunday of that fiscal year. If the sales tax holiday will be held for more than three days, the commissioner shall designate the three dates during that period and, as necessary, additional consecutive dates that either precede or follow that period. The commissioner shall notify vendors of the dates on which a sales tax holiday will be held not later than

the first day of June preceding the holiday.

Sec. 5741.11. (A) Except as otherwise provided in divisions (B) and (C) of this section, if any seller who is required or authorized to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code fails to do so, the seller shall be liable personally for such amount as the seller failed to collect. If any seller collects the tax imposed by or pursuant to any such section and fails to remit the same to the state as prescribed, the seller shall be personally liable for any amount collected that the seller failed to remit. The tax commissioner may make an assessment against such seller, based upon any information within the commissioner's possession. The commissioner shall give to the seller written notice of such assessment. Such notice ~~may~~ shall be served upon the seller ~~personally or by certified mail in the manner provided in section 5703.37 of the Revised Code.~~

(B) A marketplace facilitator is relieved of all liability under division (A) of this section for failure to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code on a sale facilitated by the marketplace facilitator on behalf of an unaffiliated marketplace seller if it is demonstrated to the satisfaction of the commissioner that the marketplace facilitator made a reasonable effort to obtain sufficient and accurate information about the sale from the marketplace seller and that the marketplace facilitator failed to collect the correct amount of tax because of insufficient or incorrect information provided by the marketplace seller.

If a marketplace facilitator is relieved of liability under this division, the marketplace seller for which the sale was facilitated and the purchaser are personally liable for any amount of tax that is not properly collected, paid, or remitted.

(C) Division (B) of this section does not absolve a marketplace facilitator, marketplace seller, or any other person from personal liability for collecting but failing to remit the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code.

(D) No class action may be brought against a marketplace facilitator in any court of this state on behalf of consumers arising from or in any way related to an overpayment of the tax imposed by or pursuant to ~~sections~~ section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code on sales facilitated by the marketplace facilitator, regardless of whether the claim is characterized as a tax refund claim.

Sec. 5743.01. As used in this chapter:

(A) "Person" includes individuals, firms, partnerships, associations,

joint-stock companies, corporations, combinations of individuals of any form, and the state and any of its political subdivisions.

(B) "Wholesale dealer" includes only those persons:

(1) Who bring in or cause to be brought into this state unstamped cigarettes purchased directly from the manufacturer, producer, or importer of cigarettes for sale in this state but does not include persons who bring in or cause to be brought into this state cigarettes with respect to which no evidence of tax payment is required thereon as provided in section 5743.04 of the Revised Code; or

(2) Who are engaged in the business of selling cigarettes, tobacco products, or vapor products to others for the purpose of resale.

"Wholesale dealer" does not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. 5713 if that person sells cigarettes in this state only to wholesale dealers holding valid and current licenses under section 5743.15 of the Revised Code or to an export warehouse proprietor or another manufacturer.

(C) "Retail dealer" includes:

(1) In reference to dealers in cigarettes, every person other than a wholesale dealer engaged in the business of selling cigarettes in this state, regardless of whether the person is located in this state or elsewhere, and regardless of quantity, amount, or number of sales;

(2) In reference to dealers in tobacco products, any person in this state engaged in the business of selling tobacco products to ultimate consumers in this state, regardless of quantity, amount, or number of sales;

(3) In reference to dealers in vapor products, any person in this state engaged in the business of selling vapor products to ultimate consumers in this state, regardless of quantity, amount, or number of sales.

(D) "Sale" includes exchange, barter, gift, offer for sale, and distribution, and includes transactions in interstate or foreign commerce.

(E) "Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

(F) "Package" means the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made.

(G) "Storage" includes any keeping or retention of cigarettes, tobacco products, or vapor products for use or consumption in this state.

(H) "Use" includes the exercise of any right or power incidental to the ownership of cigarettes, tobacco products, or vapor products.

(I) "Tobacco product" or "other tobacco product" means any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff.

(J) "Wholesale price" means the invoice price, including all federal excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, ~~at which the manufacturer of the vapor product sells the vapor product to vapor distributors, or at which the manufacturer or importer of cigarettes sells the packages of cigarettes to wholesale dealers,~~ excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. If the taxpayer buys ~~the tobacco products or vapor products from a person other than a manufacturer or buys the packages of cigarettes from a person other than a manufacturer or importer,~~ "wholesale price" means the invoice price, including all federal excise taxes and excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice.

(K) "Distributor" means:

(1) Any manufacturer who sells, barter, exchanges, or distributes tobacco products to a retail dealer in the state, except when selling to a retail dealer that has filed with the manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code;

(2) Any wholesale dealer located in the state who receives tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been paid;

(3) Any wholesale dealer located outside the state who sells, barter, exchanges, or distributes tobacco products to a wholesale or retail dealer in the state; or

(4) Any retail dealer who receives tobacco products on which the tax has not or will not be paid by another distributor, including a retail dealer that has filed a signed statement with a manufacturer in which the retail dealer agrees to pay and be liable for the tax that would otherwise be imposed on the manufacturer by section 5743.51 of the Revised Code.

(L) "Taxpayer" means any person liable for the tax imposed by section 5743.51, ~~5743.511, 5743.62, 5743.621, or 5743.63, or 5743.631~~ of the Revised Code.

(M) "Seller" means any person located outside this state engaged in the business of selling tobacco products or vapor products to consumers for storage, use, or other consumption in this state.

(N) "Manufacturer" means any person who manufactures and sells cigarettes, tobacco products, or vapor products.

(O) "Importer" means any person that is authorized, under a valid permit issued under Section 5713 of the Internal Revenue Code, to import finished cigarettes into the United States, either directly or indirectly.

(P) "Little cigar" means any roll for smoking, other than cigarettes, made wholly or in part of tobacco that uses an integrated cellulose acetate filter or other filter and is wrapped in any substance containing tobacco, other than natural leaf tobacco.

(Q) "Premium cigar" means any roll for smoking, other than cigarettes and little cigars, that is made wholly or in part of tobacco and that has all of the following characteristics:

(1) The binder and wrapper of the roll consist entirely of leaf tobacco.

(2) The roll contains no filter or tip, nor any mouthpiece consisting of a material other than tobacco.

(3) The weight of one thousand such rolls is at least six pounds.

(R) "Maximum tax amount" means fifty cents plus the tax adjustment factor computed under this division.

In April of each year beginning in 2018, the tax commissioner shall compute a tax adjustment factor by multiplying fifty cents by the cumulative percentage increase in the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor from January 1, 2017, to the last day of December of the preceding year and rounding the resulting product to the nearest one cent; provided, that the tax adjustment factor for any year shall not be less than that for the immediately preceding year. The maximum tax amount resulting from the computation of the tax adjustment factor applies on and after the ensuing first day of July through the thirtieth day of June thereafter.

(S) "Secondary manufacturer" means any person in this state engaged in the business of repackaging, reconstituting, diluting, or reprocessing a vapor product for resale to consumers.

(T) "Vapor product" means any liquid solution or other substance that (1) contains nicotine and (2) is depleted as it is used in an electronic smoking product. "Vapor product" does not include any solution or substance regulated as a drug, device, or combination product under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq.

(U) "Electronic smoking product" means any noncombustible product, other than a cigarette or tobacco product, that (1) contains or is designed to use vapor products and (2) employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,

regardless of shape or size, that can be used to produce vapor from the vapor product. "Electronic smoking product" includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, vaporizer, or similar product or device, but does not include any product regulated as a drug, device, or combination product under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq.

(V) "Vapor distributor" means any person that:

- (1) Sells vapor products to a retail dealer;
- (2) Is a retail dealer that receives vapor products with respect to which the tax imposed by this chapter has not or will not be paid by another person that is a vapor distributor;
- (3) Is a secondary manufacturer;
- (4) Is a wholesale dealer located in this state that receives vapor products from a manufacturer, or receives vapor products on which the tax imposed by this chapter has not been paid;
- (5) Is a wholesale dealer located outside this state that sells vapor products to a wholesale dealer in this state.

"Vapor distributor" does not include a qualifying vapor manufacturer or importer.

(W) "Vapor volume" means one of the following, as applicable:

- (1) If a vapor product is sold in liquid form, one-tenth of one milliliter of vapor product;
- (2) If the vapor product is sold in a nonliquid form, one-tenth of one gram of vapor product.

(X) "Qualifying vapor manufacturer or importer" means a manufacturer or importer of vapor products that meets all of the following criteria:

- (1) The person is validly registered with the federal bureau of alcohol, tobacco, firearms, and explosives pursuant to 15 U.S.C. 376 and with the tax commissioner under section 5743.66 of the Revised Code.
- (2) The person sells vapor products only to vapor distributors holding valid and current licenses under section 5743.61 of the Revised Code and to persons outside of this state.

Sec. 5743.021. (A) As used in this section, "qualifying regional arts and cultural district" means a regional arts and cultural district created under section 3381.04 of the Revised Code in a county having a population of one million two hundred thousand or more according to the 2000 federal decennial census.

(B) For one or more of the purposes for which a tax may be levied under section 3381.16 of the Revised Code and for the purposes of paying the

The above boxed and initialed text was
disapproved.

Date: JUL 3, 2023


Mike DeWine, Governor

expenses of administering the tax and the expenses charged by a board of elections to hold an election on a question submitted under this section, the board of county commissioners of a county that has within its territorial boundaries a qualifying regional arts and cultural district may levy a tax on the sale of cigarettes sold for resale at retail in the county composing the district as follows:

~~(1) If the tax begins to apply before the first day of the first month after the effective date of this amendment, the tax shall be computed on each cigarette sold, and the. The rate of the tax, when added to the rate of any other tax concurrently levied by the board under this section, shall not exceed equal one of the following:~~

(1) If the tax begins to apply before May 1, 2023, up to fifteen mills per cigarette;

(2) If the tax begins to apply on or after the first day of the first month after the effective date of this amendment, the tax shall be computed on packages of and the rate of the tax, when added to the rate of any other tax concurrently levied by the board under this section, shall not exceed nine per cent of the wholesale price of the package of cigarettes the rate, in mills per cigarette, specified in the resolution levying the tax.

Only one sale of the same article shall be used in computing the amount of tax due. The tax may be levied for any number of years not exceeding ten years.

The tax shall be levied pursuant to a resolution of the board of county commissioners approved by a majority of the electors in the county voting on the question of levying the tax. The resolution shall specify the rate of the tax, the number of years the tax will be levied, and the purposes for which the tax is levied. The election may be held on the date of a general, primary, or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. If approved by the electors, the tax shall take effect on the first day of the month specified in the resolution but not sooner than the first day of the month that is at least sixty days after the certification of the election results by the board of elections. A copy of the resolution levying the tax shall be certified to the tax commissioner at least sixty days prior to the date on which the tax is to become effective.

A board of county commissioners may adopt a resolution under this division proposing to replace a tax levied under division (B)(1) of this section with a tax levied under division (B)(2) of this section. Such a resolution shall state, in addition to other information required under this division, that the existing levy or levies terminate upon the passage of the

replacement levy. The failure of the electors to approve a replacement levy does not terminate the existing levy or levies.

~~A board of county commissioners that proposes to levy a tax under division (B)(2) of this section, including a tax that would replace a tax levied under division (B)(1) of this section, may combine that question with the question of a tax under section 5743.511 of the Revised Code.~~

(C)(1) The form of the ballot in an election held to propose a tax under division (B)(1) of this section shall be as follows, or in any other form acceptable to the secretary of state:

"For the purpose of _____ (insert the purpose or purposes of the tax), shall an excise tax be levied throughout _____ County for the benefit of the _____ (name of the qualifying regional arts and cultural district) on the sale of cigarettes at wholesale at the rate of _____ mills per cigarette for _____ years?"

☐	For the tax
☐	Against the tax

"

(2) The form of the ballot in an election held to propose a tax under division (B)(2) of this section shall be as follows, or in any other form acceptable to the secretary of state:

"For the purpose of _____ (insert the purpose or purposes of the tax), shall an excise tax be levied throughout _____ County for the benefit of the _____ (name of the qualifying regional arts and cultural district) on the sale of cigarettes at wholesale at the rate of _____ ~~of the wholesale price of a package of cigarettes~~ mills per cigarette for _____ years?"

☐	For the tax
☐	Against the tax

"

If the resolution of the board of county commissioners provides that an existing levy or levies will be terminated upon the passage of a replacement levy, the ballot must, for each levy that will be terminated, include a statement that: "An existing tax of _____ mills (stating the millage of the existing tax) per cigarette, having _____ years remaining, will be terminated and replaced upon the passage of this tax."

~~If the resolution combines the question of a tax under division (B)(2) of this section with the question of a tax under section 5743.511 of the Revised Code, the ballot shall contain both the language prescribed in this division and the language prescribed in division (C) of section 5743.511 of the Revised Code, and electors may cast a vote either "For both taxes" or~~

~~"Against both taxes."~~

(D) All money arising from taxes levied on behalf of each district under this section and section 5743.321 of the Revised Code shall be credited as follows:

(1) To the tax refund fund created by section 5703.052 of the Revised Code, amounts equal to the refunds from each tax levied under this section and section 5743.321 of the Revised Code and certified by the tax commissioner pursuant to section 5743.05 of the Revised Code;

(2) Following the crediting of amounts pursuant to division (D)(1) of this section:

(a) To the permissive tax distribution fund created under section 4301.423 of the Revised Code, an amount equal to ninety-eight per cent of the remainder collected;

(b) To the local excise tax administrative fund, which is hereby created in the state treasury, an amount equal to two per cent of such remainder, for use by the tax commissioner in defraying costs incurred in administering the tax.

On or before the tenth day of each month, the tax commissioner shall distribute the amount credited to the permissive tax distribution fund during the preceding month by providing for payment of the appropriate amount to the county treasurer of the county in which the tax is levied.

(E) No tax shall be levied under divisions (B)(1) and (2) of this section during the same month.

Sec. 5743.025. In addition to the return required by section 5743.03 of the Revised Code, each retail dealer of cigarettes in a county in which a tax is levied under section 5743.021, 5743.024, or 5743.026 of the Revised Code shall, within thirty days after the date on which the tax takes effect, make and file a return, on forms prescribed by the tax commissioner, showing the total number of cigarettes ~~or, in the case of a tax described in division (B)(2) of section 5743.021 of the Revised Code, the total number of packages of cigarettes and the wholesale price of each package~~ which such retail dealer had on hand as of the beginning of business on the date on which the tax takes effect, and such other information as the commissioner deems necessary for the administration of section 5743.021, 5743.024, or 5743.026 of the Revised Code. Each such retail dealer shall deliver the return together with a remittance of the additional amount of tax due on the cigarettes shown on such return to the commissioner. Any retail dealer of cigarettes who fails to file a return under this section shall, for each day the retail dealer so fails, forfeit and pay into the state treasury the sum of one dollar as revenue arising from the tax imposed by section 5743.021,

5743.024, or 5743.026 of the Revised Code, and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. For thirty days after the effective date of a tax imposed by section 5743.021, 5743.024, or 5743.026 of the Revised Code, a retail dealer may possess for sale or sell in the county in which the tax is levied cigarettes not bearing the stamp required by section 5743.03 of the Revised Code to evidence payment of the county tax but on which the tax has or will be paid.

Sec. 5743.03. (A) Except as provided in section 5743.04 of the Revised Code, the taxes imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid by the purchase of tax stamps. A tax stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The tax stamp, so affixed, shall be prima-facie evidence of payment of the tax.

Except as is provided in the rules prescribed by the tax commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, and unless tax stamps have been previously affixed, they shall be so affixed by each wholesale dealer, and canceled by writing or stamping across the face thereof the number assigned to such wholesale dealer by the tax commissioner for that purpose, prior to the delivery of any cigarettes to any person in this state, or in the case of a tax levied pursuant to section 5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the delivery of cigarettes to any person in the county in which the tax is levied.

(B) Except as provided in the rules prescribed by the commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, each retail dealer, within twenty-four hours after the receipt of any cigarettes at the retail dealer's place of business, shall inspect the cigarettes to ensure that tax stamps are affixed. The inspection shall be completed before the cigarettes are delivered to any person in this state, or, in the case of a tax levied pursuant to section 5743.021, 5743.024, or 5743.026 of the Revised Code, before the cigarettes are delivered to any person in the county in which the tax is levied.

(C) Whenever any cigarettes are found in the place of business of any retail dealer without proper tax stamps affixed thereto and canceled, it is presumed that such cigarettes are kept therein in violation of sections 5743.01 to 5743.20 of the Revised Code.

(D) Each wholesale dealer who purchases cigarettes without proper tax stamps affixed thereto shall, on or before the last day of each month, make and file a return for the preceding calendar month, on such form as is prescribed by the tax commissioner, showing the dealer's entire purchases and sales of cigarettes, ~~packages of cigarettes, including the wholesale price~~

~~of each package~~, and stamps for such month and accurate inventories as of the beginning and end of each month of cigarettes, stamped or unstamped; cigarette tax stamps affixed or unaffixed; and such other information as the commissioner finds necessary to the proper administration of sections 5743.01 to 5743.20 of the Revised Code. The commissioner may extend the time for making and filing returns and may remit all or any part of amounts of penalties that may become due under sections 5743.01 to 5743.20 of the Revised Code. The wholesale dealer shall deliver the return together with a remittance of the tax deficiency reported thereon to the commissioner.

(E) Any wholesale dealer who fails to file a return under this section and the rules of the commissioner, other than a report required pursuant to division (F) of this section, may be required, for each day the dealer so fails, to forfeit and pay into the state treasury the sum of one dollar as revenue arising from the tax imposed by sections 5743.01 to 5743.20 of the Revised Code and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code. If the commissioner finds it necessary in order to insure the payment of the tax imposed by sections 5743.01 to 5743.20 of the Revised Code, the commissioner may require returns and payments to be made other than monthly. The returns shall be signed by the wholesale dealer or an authorized agent thereof.

(F) Except as otherwise provided in this division, each person required to file a tax return under section 5743.03, 5743.52, or 5743.62 of the Revised Code shall report to the commissioner the quantity of all cigarettes; ~~packages of cigarettes~~; and roll-your-own cigarette tobacco sold in Ohio for each brand not covered by the tobacco master settlement agreement for which the person is liable for the taxes levied under section 5743.02, 5743.51, or 5743.62 of the Revised Code. A vapor distributor licensed to engage solely in the distribution of vapor products under section 5743.61 of the Revised Code is not required to file the report.

As used in this division, "tobacco master settlement agreement" has the same meaning as in section 183.01 of the Revised Code.

(G) The report required by division (F) of this section shall be made on a form prescribed by the commissioner and shall be filed not later than the last day of each month for the previous month, except that if the commissioner determines that the quantity reported by a person does not warrant monthly reporting, the commissioner may authorize reporting at less frequent intervals. The commissioner may assess a penalty of not more than two hundred fifty dollars for each month or portion thereof that a person fails to timely file a required report, and such sum may be collected by assessment in the manner provided in section 5743.081 of the Revised Code.

All money collected under this division shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

(H) The commissioner may sell tax stamps only to a licensed wholesale dealer, except as otherwise authorized by the commissioner. The commissioner may charge the costs associated with the shipment of tax stamps to the licensed wholesale dealer. Amounts collected from such charges shall be credited to the cigarette tax enforcement fund created under section 5743.15 of the Revised Code.

Sec. 5743.05. The tax commissioner shall sell all stamps provided for by section 5743.03 of the Revised Code. ~~Each stamp that is to be affixed to a package of cigarettes~~ The stamps shall be sold ~~for the amount of tax due on that package at their face value,~~ except the commissioner shall, by rule, authorize the sale of stamps to wholesale dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of ~~such tax due,~~ their face value, as a commission for affixing and canceling the stamps.

The commissioner, by rule, shall authorize the delivery of stamps to wholesale dealers in this state and to wholesale dealers outside this state on credit. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, with surety to the satisfaction of the commissioner, conditioned on payment to the treasurer of state or the commissioner within thirty days or the following twenty-third day of June, whichever comes first for stamps delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall not require that the dealer file such a bond but shall require payment for the stamps within thirty days after purchase of the stamps or the following twenty-third day of June, whichever comes first. ~~Each stamp that is~~ Stamps sold to a dealer not required to file a bond shall be sold ~~for the amount of tax due on that package of cigarettes at face value.~~ The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount shall be applicable to the period between the first day of July to the following twenty-third day of June. Payment by a

dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the required payment period, the commissioner shall not thereafter sell stamps to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed in this chapter, and the commissioner thereafter may require the dealer to file a bond until the dealer is restored to good standing. The commissioner shall limit delivery of stamps on credit to the period running from the first day of July of the fiscal year until the twenty-third day of the following June. Any discount allowed as a commission for affixing and canceling stamps shall be allowed with respect to sales of stamps on credit.

The commissioner shall redeem and pay for any destroyed, unused, or spoiled tax stamps at their net value, and shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes that have been sold in interstate or foreign commerce or that have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county.

An application for a refund of tax shall be filed with the commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled, payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

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

2nd Sec. 5743.06. (A) As used in this section, "bad debt" means any debt that arises from the sale by a wholesale dealer of cigarettes properly stamped under section 5743.03, 5743.031, or 5743.04 of the Revised Code.

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Date July 3, 2023


Mike DeWine, Governor

that has become worthless or uncollectible, that has been uncollected for at least six months, and that may be claimed as a deduction pursuant to the "Internal Revenue Code of 1954," 26 U.S.C. 166, and regulations adopted pursuant thereto, or that could be claimed as such a deduction if the wholesale dealer kept accounts on an accrual basis. "Bad debt" does not include any interest or financing charges on the debt, expenses incurred in attempting to collect the debt or for any portion of the debt recovered, any accounts receivable that have been sold or assigned to a third party, or repossessed property.

(B) A wholesale dealer may apply to the tax commissioner for a refund of the value of cigarette tax stamps, less any discounts provided under section 5743.05 of the Revised Code, that are part of bad debt of the dealer. The commissioner shall not refund any amount for bad debt under this section unless the dealer has charged off the bad debt on its books as uncollectible. If a purchaser or other person pays all or part of a bad debt with respect to which a wholesale dealer received a refund under this section, the dealer is liable for the prorated amount of taxes refunded in connection with that portion of the debt for which such payment was received and shall remit such taxes to the commissioner in the manner the commissioner prescribes. Any request for refund under this section shall be supported by such evidence the commissioner requires, including, but not limited to, all of the following:

(1) A copy of the original invoice;

(2) Evidence that the cigarettes described in the invoice were delivered to the person that ordered them;

(3) Evidence that the person who ordered and received such cigarettes did not pay the wholesale dealer for the cigarettes and that the dealer used reasonable collection practices in attempting to collect the debt.

(C) A request for refund under this section shall be filed within three years after the date the bad debt became uncollectible. For each request, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(D) The commissioner may adopt any rules necessary to administer this section.

(E) No person other than the wholesaler that purchased the tax stamps and generated the bad debt may claim the refund authorized under this

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July 3, 2023
Date:

Mike DeWine

Mike DeWine, Governor

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Sec. 5743.15. (A) Except as otherwise provided in this division, no person shall engage in this state in the wholesale or retail business of trafficking in cigarettes or in the business of a manufacturer or importer of cigarettes without having a license to conduct each such activity issued by a county auditor under division (B) of this section or the tax commissioner under divisions (C) and (F) of this section. On dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy if the partner or successor notifies the issuer of the license of the dissolution or succession within thirty days after the dissolution or succession.

(B)(1) Each applicant for a license to engage in the retail business of trafficking in cigarettes under this section, annually, on or before the ~~fourth Monday of May~~ first day of June, shall make and deliver to the county auditor of the county in which the applicant desires to engage in the retail business of trafficking in cigarettes, upon a blank form furnished by such auditor for that purpose, a statement showing the name of the applicant, each physical place in the county where the applicant's business is conducted, the nature of the business, and any other information the tax commissioner requires in the form of statement prescribed by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the application shall state the name and address of each of its members. If the applicant is a corporation, the application shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the retail business of trafficking in cigarettes shall pay an application fee in the sum of one hundred twenty-five dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators, which space may contain any number of points at which cigarettes are offered for sale, provided that each additional point at which cigarettes are offered for sale shall be listed in the application.

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July 3, 2023
Date: _____

Mike DeWine

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(2) Upon receipt of the application and exhibition of the county treasurer's receipt showing the payment of the application fee, the county auditor shall issue to the applicant a license for each place of business designated in the application, authorizing the applicant to engage in such business at such place for one year commencing on the ~~fourth Monday of May~~ first day of June. The form of the license shall be prescribed by the commissioner. A duplicate license may be obtained from the county auditor upon payment of a five-dollar fee if the original license is lost, destroyed, or defaced. When an application is filed after the ~~fourth Monday of May~~ first day of June, the application fee required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than twenty-five dollars in any one year.

(3) The holder of a retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license on condition that the licensee's ownership interest and business structure remain unchanged, and that the licensee applies to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of five dollars into the county treasury.

(C)(1) Each applicant for a license to engage in the wholesale business of trafficking in cigarettes under this section, annually, on or before the ~~fourth Monday in May~~ first day of June, shall make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, physical street address where the applicant's business is conducted, the nature of the business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the wholesale business of trafficking in cigarettes shall pay an application fee of one thousand dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators. A duplicate license may be obtained from the commissioner upon payment of a twenty-five-dollar fee if the original license is lost, destroyed, or defaced.

(2) Upon receipt of the application and payment of any application fee required by this section, the commissioner shall verify that the applicant is not in violation of any provision of Chapter 1346. or Title LVII of the Revised Code. The commissioner shall also verify that the applicant has filed any returns, submitted any information, and paid any outstanding taxes, charges, or fees as required for any tax, charge, or fee administered by the commissioner, to the extent that the commissioner is aware of the returns, information, or payments at the time of the application. Upon approval, the commissioner shall issue to the applicant a license for each physical place of business designated in the application authorizing the applicant to engage in business at that location for one year commencing on the ~~fourth Monday in May~~ first day of June. For licenses issued after the ~~fourth Monday in May~~ first day of June, the application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars in any one year.

(3) The holder of a wholesale dealer cigarette license may transfer the license to a place of business other than that designated on the license on condition that the licensee's ownership or business structure remains unchanged, and that the licensee applies to the commissioner for such a transfer upon a form promulgated by the commissioner and pays a fee of twenty-five dollars, which shall be deposited into the cigarette tax enforcement fund created in division (E) of this section.

(D)(1) The wholesale cigarette license application fees collected under this section shall be paid into the cigarette tax enforcement fund.

(2) The retail cigarette license application fees collected under this section shall be distributed as follows:

(a) Thirty per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located;

(b) Ten per cent shall be credited to the general fund of the county;

(c) Sixty per cent shall be paid into the cigarette tax enforcement fund.

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows:

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

(E) There is hereby created within the state treasury the cigarette tax

enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code.

The portion of cigarette license application fees received by a county auditor during the annual application period that ends on the ~~fourth Monday in May~~ first day of June and that is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year accompanied by the form prescribed by the tax commissioner. The portion of cigarette license application fees received by each county auditor after the ~~fourth Monday in May~~ first day of June and that is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the last day of the month following the month in which such fees were collected.

(F)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the ~~fourth Monday of May~~ first day of June, make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

(2) Upon receipt of the application required under this section, the commissioner shall verify that the applicant is not in violation of any provision of Chapter 1346. of the Revised Code. The commissioner shall also verify that the applicant has filed any returns, submitted any information, and paid any outstanding taxes, charges, or fees as required for any tax, charge, or fee administered by the commissioner, to the extent that the commissioner is aware of the returns, information, taxes, charges, or fees at the time of the application. Upon approval, the commissioner shall issue to the applicant a license authorizing the applicant to engage in the business of manufacturer or importer, whichever the case may be, for one year commencing on the ~~fourth Monday of May~~ first day of June.

(3) The issuing of a license under division (F)(1) of this section to a manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A manufacturer who is issued a license under division (F)(1) of this section and who is not listed on the directory required under section 1346.05 of the Revised Code shall not be permitted to sell cigarettes in this state other than to a licensed cigarette

wholesaler for sale outside this state. Such a manufacturer shall provide documentation to the commissioner evidencing that the cigarettes are legal for sale in another state.

(G) The tax commissioner may adopt rules necessary to administer this section.

Sec. 5743.33. Every person who has acquired cigarettes for use, storage, or other consumption subject to the tax levied under section 5743.32, 5743.321, 5743.323, or 5743.324 of the Revised Code, shall, on or before the fifteenth day of the month following receipt of such cigarettes, file with the tax commissioner a return showing the amount of cigarettes acquired, together with remittance of the tax thereon. ~~The return shall include, in the case of a tax described in division (B)(2) of section 5743.021 of the Revised Code, the number and wholesale price of packages of cigarettes acquired or, in the case of any other tax, the number of cigarettes acquired.~~ No such person shall transport within this state, cigarettes that have a wholesale value in excess of three hundred dollars, unless that person has obtained consent to transport the cigarettes from the department of taxation prior to such transportation. Such consent shall not be required if the applicable taxes levied under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the Revised Code have been paid. Application for the consent shall be in the form prescribed by the tax commissioner.

Every person transporting such cigarettes shall possess the consent while transporting or possessing the cigarettes within this state and shall produce the consent upon request of any law enforcement officer or authorized agent of the tax commissioner.

Any person transporting such cigarettes without the consent required by this section, shall be subject to the provisions of this chapter, including the applicable taxes imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the Revised Code.

Sec. 5743.51. (A) To provide revenue for the general revenue fund of the state, an excise tax on tobacco products and vapor products is hereby levied at one of the following rates:

(1) For tobacco products other than little cigars or premium cigars, seventeen per cent of the wholesale price of the tobacco product received by a distributor or sold by a manufacturer to a retail dealer located in this state.

(2) Thirty-seven per cent of the wholesale price of little cigars received by a distributor or sold by a manufacturer to a retail dealer located in this state.

(3) For premium cigars received by a distributor or sold by a manufacturer to a retail dealer located in this state, the lesser of seventeen

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July 3, 2023
Date:

Mike DeWine

Mike DeWine, Governor

per cent of the wholesale price of such premium cigars or the maximum tax amount per each such premium cigar.

(4) For vapor products, one cent multiplied by the vapor volume of vapor products the first time the products are received by a vapor distributor in this state.

Each distributor or vapor distributor who brings tobacco products or vapor products, or causes tobacco products or vapor products to be brought, into this state for distribution within this state, or any out-of-state distributor or vapor distributor who sells tobacco products or vapor products to wholesale or retail dealers located in this state for resale by those wholesale or retail dealers is liable for the tax imposed by this section. Only one sale of the same article shall be used in computing the amount of the tax due. If a vapor product is repackaged, reconstituted, diluted, or reprocessed, the subsequent sale of that vapor product shall be considered another sale of the same article for purposes of computing the amount of tax due.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of the receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.53 of the Revised Code. The balance of the taxes collected under this section shall be paid into the general revenue fund.

(C) The commissioner may adopt rules as are necessary to assist in the enforcement and administration of sections 5743.51 to 5743.66 of the Revised Code, including rules providing for the remission of penalties imposed.

(D) A manufacturer is not liable for payment of the tax imposed by this section for sales of tobacco products or vapor products to a retail dealer that has filed a signed statement with the manufacturer in which the retail dealer agrees to pay and be liable for the tax, as long as the manufacturer has provided a copy of the statement to the tax commissioner.

(E) A qualifying vapor manufacturer or importer may agree to be liable for the tax imposed by this section with respect to sales of vapor products to a vapor distributor, provided that the manufacturer or importer has filed a signed statement with the vapor distributor in which the manufacturer or importer agrees to pay and be liable for the tax, and provided that the manufacturer or importer has provided a copy of the statement to the tax commissioner.

Sec. 5743.52. (A) Each distributor of tobacco products or vapor distributor subject to the tax levied by section 5743.51 ~~or 5743.511~~ of the Revised Code, on or before the twenty-third day of each month, shall file

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5073, 2023
Date: _____

Mike DeWine

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with the tax commissioner a return for the preceding month showing any information the tax commissioner finds necessary for the proper administration of this chapter, together with remittance of the tax due. The return and payment of the tax required by this section shall be filed and made electronically on or before the twenty-third day of the month following the reporting period. If the return is filed and the amount of tax shown on the return to be due is paid on or before the date the return is required to be filed, the distributor or vapor distributor is entitled to a discount equal to two and five-tenths per cent of the amount shown on the return to be due.

(B) Any person who fails to timely file the return and make payment of taxes as required under this section, section 5743.62, or section 5743.63 of the Revised Code may be required to pay an additional charge not exceeding the greater of fifty dollars or ten per cent of the tax due. Any additional charge imposed under this section may be collected by assessment as provided in section 5743.56 of the Revised Code.

(C) If any tax due is not paid timely in accordance with this section or section 5743.62 or 5743.63 of the Revised Code, the person liable for the tax shall pay interest, calculated at the rate per annum as prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment is issued under section 5743.56 of the Revised Code, whichever occurs first. The commissioner may collect such interest by assessment pursuant to section 5743.56 of the Revised Code.

(D) The commissioner may authorize the filing of returns and the payment of the tax required by this section, section 5743.62, or section 5743.63 of the Revised Code for periods longer than a calendar month.

(E) The commissioner may order any taxpayer to file with the commissioner security to the satisfaction of the commissioner conditioned upon filing the return and paying the taxes required under this section, section 5743.62, or section 5743.63 of the Revised Code if the commissioner believes that the collection of the tax may be in jeopardy.

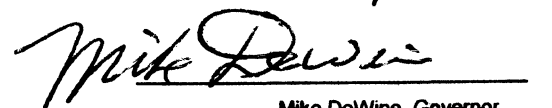
Sec. 5743.53. (A) The treasurer of state shall refund to a taxpayer any of the following:

(1) Amounts imposed under this chapter that were paid illegally or erroneously or paid on an illegal or erroneous assessment;

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

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Date: JUL 3, 2023


Mike DeWine, Governor

(3) In accordance with division (E) of this section, any tax paid by a distributor or vapor distributor on tobacco or vapor products, less any discounts provided under section 5743.52 of the Revised Code, that are part of bad debt of the distributor or vapor distributor.

Any application for refund shall be filed with the commissioner on a form prescribed by the commissioner for that purpose. The commissioner may not pay any refund on an application for refund filed with the commissioner more than three years from the date of the payment.

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

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

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

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

(E)(1) As used in this section, "bad debt" means any debt that arises from the sale by a distributor or vapor distributor of tobacco or vapor products for which the distributor or vapor distributor remitted the tax due under section 5743.51 of the Revised Code, that has become worthless or uncollectible, that has been uncollected for at least six months, and that may be claimed as a deduction pursuant to the "Internal Revenue Code of 1954," 26 U.S.C. 166, and regulations adopted pursuant thereto, or that could be claimed as such a deduction if the distributor or vapor distributor kept account on an accrual basis. "Bad debt" does not include any interest or

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JUL 3, 2023
Date: _____

Mike DeWine
Mike DeWine, Governor

financing charges on the debt, expenses incurred in attempting to collect the debt or for any portion of the debt recovered, any accounts receivable that have been sold or assigned to a third party, or repossessed property.

(2) The commissioner shall not refund any amount for bad debt under division (A)(3) of this section unless the distributor or vapor distributor has charged off the bad debt on its books as uncollectible. If a purchaser or other person pays all or part of a bad debt with respect to which a distributor or vapor distributor received a refund under this section, the distributor or vapor distributor is liable for the prorated amount of taxes refunded in connection with that portion of the debt for which such payment was received and shall remit such taxes to the commissioner in the manner the commissioner prescribes. Any request for refund under division (A)(3) of this section shall be supported by such evidence the commissioner requires, including, but not limited to, all of the following:

(a) A copy of the original invoice;

(b) Evidence that the tobacco or vapor products described in the invoice were delivered to the person that ordered them;

(c) Evidence that the person who ordered and received such tobacco or vapor products did not pay the distributor or vapor distributor for the tobacco or vapor products and that the distributor or vapor distributor used reasonable collection practices in attempting to collect the debt;

(d) Evidence of the wholesale price or vapor volume, as applicable to the product, at the time the product was subjected to the tax imposed under section 5743.51 of the Revised Code.

(3) No person other than the distributor or vapor distributor that paid the tax imposed under section 5743.51 of the Revised Code to the state and generated the bad debt may claim the bad debt refund authorized under division (E) of this section.

(F) The commissioner may adopt any rules necessary to administer this section.

Sec. 5743.54. (A) Each distributor of tobacco products and each vapor distributor of vapor products shall maintain complete and accurate records of all purchases and sales of tobacco products or vapor products, and shall procure and retain all invoices, bills of lading, and other documents relating to the purchases and sales of those products. The distributor or vapor distributor shall keep open records and documents during business hours for the inspection of the tax commissioner, and shall preserve them for a period of three years from the date the return was due or was filed, whichever is later, unless the commissioner, in writing, consents to their destruction within that period, or orders that they be kept for a longer period of time.

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Date:


Mike DeWine, Governor

(B)(1) Each distributor of tobacco products and each vapor distributor of vapor products subject to the tax levied by section 5743.51 ~~or 5743.511~~ of the Revised Code shall mark on the invoices of tobacco products or vapor products sold that the tax levied by that section has been paid and shall indicate the distributor's or vapor distributor's account number as assigned by the commissioner.

(2) Each vapor distributor subject to the tax imposed by section 5743.51 of the Revised Code shall mark on all invoices the total weight of the vapor product, rounded to the nearest one-tenth of one gram, if the vapor product is not sold in liquid form. If the vapor product is sold in liquid form, the invoice shall instead indicate the total volume of the vapor product, rounded to the nearest one-tenth of one milliliter.

(C) No person shall make a false entry upon any invoice or record upon which an entry is required by this section and no person shall present any false entry for the inspection of the commissioner with the intent to evade the tax levied under section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code.

Sec. 5743.55. Whenever the tax commissioner discovers any tobacco products or vapor products, subject to the tax levied under section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code upon which the tax has not been paid or the commissioner has reason to believe the tax is being avoided, the commissioner may seize and take possession of the tobacco products or vapor products, which, upon seizure, shall be forfeited to the state. Within a reasonable time after seizure, the commissioner may sell the forfeited products. From the proceeds of this sale, the commissioner shall pay the costs incurred in the seizure and sale, and any proceeds remaining after the sale shall be considered as revenue arising from the tax. The seizure and sale shall not relieve any person from the fine or imprisonment provided for violation of sections 5743.51 to 5743.66 of the Revised Code. The commissioner shall make the sale where it is most convenient and economical, but may order the destruction of the forfeited products if the quantity or quality is not sufficient to warrant their sale.

Sec. 5743.56. (A) Any person required to pay the tax imposed by section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code is personally liable for the tax. The tax commissioner may make an assessment, based upon any information in the commissioner's possession, against any person who fails to file a return or pay any tax, interest, or additional charge as required by this chapter. The commissioner shall give the person assessed written notice of such assessment in the

manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) When the information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5743.51; ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on such audit.

(C) A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The tax commissioner may adopt rules providing for the imposition and remission of such penalties.

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

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which the person assessed conducts business. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state tobacco products tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment is issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47

of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(F) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (E) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the legal representative of the person assessed, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (D) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(G) All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the tax imposed by sections 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, and 5743.63, ~~and 5743.631~~ of the Revised Code.

Sec. 5743.57. (A) If any corporation, limited liability company, or business trust required to file returns pursuant to section 5743.52, 5743.62, or 5743.63 of the Revised Code fails to remit to the state any tax due under section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, and any of its officers, members, managers, trustees, or other persons who are responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, is personally liable for the failure to remit the tax. The dissolution, termination, or bankruptcy of the corporation, limited liability company, or business trust does not

discharge a responsible person's liability for the corporation's, limited liability company's, or business trust's failure to remit the tax due. The tax commissioner may assess a responsible person under section 5743.56 of the Revised Code.

(B) Except for assessments against responsible persons under division (A) of this section, no assessment of the tax imposed by section 5743.51; ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code shall be made by the tax commissioner more than three years after the date on which the return for the period assessed was due or was filed, whichever date is later. This section does not bar an assessment when any of the following occurs:

- (1) The person assessed failed to file a return required by section 5743.52, 5743.62, or 5743.63 of the Revised Code;
- (2) The person assessed knowingly filed a false or fraudulent return;
- (3) The person assessed and the tax commissioner have waived in writing the time limitation.

Sec. 5743.59. (A) No retail dealer of tobacco products or vapor products shall have in the retail dealer's possession tobacco products or vapor products on which the tax imposed by section 5743.51 ~~and, if applicable, section 5743.511~~ of the Revised Code has not been paid unless the retail dealer is licensed under section 5743.61 of the Revised Code. Payment may be evidenced by invoices from distributors or vapor distributors stating the tax has been paid.

(B) The tax commissioner may inspect any place where tobacco products or vapor products subject to the tax levied under section 5743.51 ~~or 5743.511~~ of the Revised Code are sold or stored.

(C) No person shall prevent or hinder the commissioner from making a full inspection of any place where tobacco products or vapor products subject to the tax imposed by section 5743.51 or 5743.511 of the Revised Code are sold or stored, or prevent or hinder the full inspection of invoices, books, or records required to be kept by section 5743.54 of the Revised Code.

Sec. 5743.60. No person shall prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute tobacco products or vapor products, or otherwise engage or participate in the business of distributing tobacco products or vapor products, with the intent to avoid payment of the tax levied by section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code, when the wholesale price of the tobacco products ~~or, in the case of a tax levied under section 5743.511, 5743.621, or 5743.631 of the Revised Code, the vapor products~~ exceeds three hundred

dollars, or when the vapor volume of the vapor products exceeds five hundred milliliters or five hundred grams, as applicable, during any twelve-month period.

Sec. 5743.61. (A)(1) No distributor or vapor distributor shall engage in the business of distributing tobacco products, vapor products, or both within this state without having a license issued by the department of taxation to engage in that business.

(2) On the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until the expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by the heir, representative, receiver, or trustee in bankruptcy if the partner or successor notifies the department of taxation of the dissolution or succession within thirty days after the dissolution or succession.

(B)(1) Each applicant for a license described by division (A)(1) of this section, annually, on or before the first day of February, shall make and deliver to the tax commissioner, upon a form furnished by the commissioner for that purpose, a statement showing the name of the applicant, each physical place from which the applicant distributes to distributors, vapor distributors, retail dealers, or wholesale dealers, and any other information the commissioner considers necessary for the administration of sections 5743.51 to 5743.66 of the Revised Code.

(2) At the time of making the application for a license to engage either in the business of distributing tobacco products or in the business of distributing both tobacco products and vapor products, the applicant shall pay an application fee of one thousand dollars for each place listed on the application where the applicant proposes to carry on that business. The application fee for a license to engage solely in the business of distributing vapor products shall be one hundred twenty-five dollars for each place listed on the application where the applicant proposes to carry on that business. The fee charged for the application shall accompany the application and shall be made payable to the treasurer of state for deposit into the cigarette tax enforcement fund.

(3) Upon receipt of the application and payment of any licensing fee required by this section, the commissioner shall verify that the applicant has filed all returns, submitted all information, and paid all outstanding taxes, charges, or fees as required for any taxes, charges, or fees administered by the commissioner, to the extent the commissioner is aware of the returns, information, taxes, charges, or fees at the time of the application. Upon

approval, the commissioner shall issue to the applicant a license for each place of distribution designated in the application authorizing the applicant to engage in business at that location for one year commencing on the first day of February. For licenses issued after the first day of February, the license application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars. If the original license is lost, destroyed, or defaced, a duplicate license may be obtained from the commissioner upon payment of a license replacement fee of twenty-five dollars.

(C) The holder of a tobacco or vapor products license may transfer the license to a place of business on condition that the licensee's ownership and business structure remains unchanged and the licensee applies to the commissioner for the transfer on a form issued by the commissioner, and pays a transfer fee of twenty-five dollars.

(D) If a distributor or vapor distributor fails to file forms as required under Chapter 1346. or section 5743.52 of the Revised Code or pay the tax due for two consecutive periods or three periods during any twelve-month period, the commissioner may suspend the license issued to the distributor or vapor distributor under this section. The suspension is effective ten days after the commissioner notifies the distributor or vapor distributor of the suspension in writing ~~personally or by certified mail~~ in the manner provided in section 5703.37 of the Revised Code. The commissioner shall lift the suspension when the distributor or vapor distributor files the delinquent forms and pays the tax due, including any penalties, interest, and additional charges. The commissioner may refuse to issue the annual renewal of the license required by this section and may refuse to issue a new license for a location of the distributor until all delinquent forms are filed and outstanding taxes are paid. This division does not apply to any unpaid or underpaid tax liability that is the subject of a petition or appeal filed pursuant to section 5743.56, 5717.02, or 5717.04 of the Revised Code.

(E)(1) The tax commissioner may impose a penalty of up to one thousand dollars on any person found to be engaging in the business of distributing tobacco products or vapor products without a license as required by this section.

(2) Any person engaging in the business of distributing tobacco products or vapor products without a license as required by this section shall comply with divisions (B)(1) and (2) of this section within ten days after being notified of the requirement to do so. Failure to comply with division (E)(2) of this section subjects a person to penalties imposed under section

5743.99 of the Revised Code.

Sec. 5743.62. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the seller of tobacco products or vapor products in this state at one of the following rates:

(1) For tobacco products other than little cigars or premium cigars, seventeen per cent of the wholesale price of the tobacco product whenever the tobacco product is delivered to a consumer in this state for the storage, use, or other consumption of such tobacco products.

(2) For little cigars, thirty-seven per cent of the wholesale price of the little cigars whenever the little cigars are delivered to a consumer in this state for the storage, use, or other consumption of the little cigars.

(3) For premium cigars, whenever the premium cigars are delivered to a consumer in this state for the storage, use, or other consumption of the premium cigars, the lesser of seventeen per cent of the wholesale price of such premium cigars or the maximum tax amount per each such premium cigar.

(4) For vapor products, one cent multiplied by the vapor volume of vapor products when the vapor products are delivered to a consumer in this state for the storage, use, or other consumption of the vapor products.

The tax imposed by this section applies only to sellers having substantial nexus with this state, as defined in section 5741.01 of the Revised Code.

(B) A seller of tobacco products or vapor products who has substantial nexus with this state as defined in section 5741.01 of the Revised Code shall register with the tax commissioner and supply any information concerning the seller's contacts with this state as may be required by the tax commissioner. A seller who does not have substantial nexus with this state may voluntarily register with the tax commissioner. A seller who voluntarily registers with the tax commissioner is entitled to the same benefits and is subject to the same duties and requirements as a seller required to be registered with the tax commissioner under this division.

(C) Each seller of tobacco products or vapor products subject to the tax levied by this section ~~or section 5743.621 of the Revised Code~~, on or before the twenty-third day of each month, shall file with the tax commissioner a return for the preceding month showing any information the tax commissioner finds necessary for the proper administration of sections 5743.51 to 5743.66 of the Revised Code, together with remittance of the tax due, payable to the treasurer of state. The return and payment of the tax required by this section shall be filed in such a manner that it is received by the tax commissioner on or before the twenty-third day of the month

following the reporting period. If the return is filed and the amount of the tax shown on the return to be due is paid on or before the date the return is required to be filed, the seller is entitled to a discount equal to two and five-tenths per cent of the amount shown on the return to be due.

(D) The tax commissioner shall immediately forward to the treasurer of state all money received from the tax levied by this section, and the treasurer shall credit the amount to the general revenue fund.

(E) Each seller of tobacco products or vapor products subject to the tax levied by this section ~~or section 5743.621 of the Revised Code~~ shall mark on the invoices of tobacco products or vapor products sold that the tax levied by that section has been paid and shall indicate the seller's account number as assigned by the tax commissioner.

Sec. 5743.63. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption of tobacco products or vapor products at one of the following rates:

(1) For tobacco products other than little cigars or premium cigars, seventeen per cent of the wholesale price of the tobacco product.

(2) For little cigars, thirty-seven per cent of the wholesale price of the little cigars.

(3) For premium cigars, the lesser of seventeen per cent of the wholesale price of the premium cigars or the maximum tax amount per each premium cigar.

(4) For vapor products, one cent multiplied by the vapor volume of the vapor products.

The tax levied under division (A) ~~of this section~~ is imposed only if the tax has not been paid by the seller ~~as provided in section 5743.62 of the Revised Code, or by the distributor or vapor distributor~~ or qualifying vapor manufacturer or importer as provided in section 5743.51 of the Revised Code.

(B) Each person subject to the tax levied by this section ~~or section 5743.631 of the Revised Code~~, on or before the twenty-third day of each month, shall file with the tax commissioner a return for the preceding month showing any information the commissioner finds necessary for the proper administration of sections 5743.51 to 5743.66 of the Revised Code, together with remittance of the tax due, payable to the treasurer of state. The return and payment of the tax required by this section shall be filed in such a manner that it is received by the commissioner on or before the twenty-third day of the month following the reporting period.

(C) The tax commissioner shall immediately forward to the treasurer of

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disapproved.

Date: July 31, 2023

Mike DeWine

Mike DeWine, Governor

state all money received from the tax levied by this section, and the treasurer shall credit the amount to the general revenue fund.

(D) The tax imposed under this section shall not be imposed on vapor products held by a qualifying vapor manufacturer or importer for sale to persons outside of this state.

Sec. 5743.64. No person shall transport within this state tobacco products that have a wholesale value in excess of three hundred dollars, or vapor products with a vapor volume in excess of five hundred milliliters or five hundred grams, as applicable, unless the person has obtained consent to transport the tobacco products or vapor products from the tax commissioner prior to transportation. The consent is not required if the applicable tax levied under section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code has been paid or will be paid by the distributor, vapor distributor, or seller. The consent is also not required when a qualifying vapor manufacturer or importer transfers vapor products into this state. Application for the consent shall be in the form prescribed by the commissioner.

Every person transporting tobacco products or vapor products with the department's consent shall have the consent with the person while transporting or possessing the tobacco products or vapor products within this state and shall produce the consent upon request of any law enforcement officer or authorized agent of the tax commissioner.

Any person transporting tobacco products or vapor products without the consent required by this section shall be subject to the provisions of sections 5743.51 to 5743.66 of the Revised Code, including the tax imposed by section 5743.51, ~~5743.511~~, 5743.62, ~~5743.621~~, or 5743.63, ~~or 5743.631~~ of the Revised Code.

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

As used in this chapter:

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

(1) Add interest or dividends on obligations or securities of any state or

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July 3, 2023
Date:



Mike DeWine, Governor

of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

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

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

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

(5) Deduct the following, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income:

(a) Benefits under Title II of the Social Security Act and tier 1 railroad retirement;

(b) Railroad retirement benefits, other than tier 1 railroad retirement benefits, to the extent such amounts are exempt from state taxation under federal law.

(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the work opportunity tax credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

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

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

(9) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions made to or tuition units purchased under a qualified tuition program established pursuant to section 529 of the Internal Revenue Code.

(10)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the

taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(10)(a) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(10)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(10)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

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

(c) For purposes of division (A)(10) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of division (A)(10)(a) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(11)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(11)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

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

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

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

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

(13) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(13) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

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

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

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

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

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

(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish

the amount deducted under division (A)(16) of this section.

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(17)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A)(17)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(17)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A)(17) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(17)(a)(i) and (ii) of this section.

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

(b) Nothing in division (A)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(17)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(17)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(17) and (18) of this section:

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

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

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

(18)(a) If the taxpayer was required to add an amount under division (A)(17)(a) of this section for a taxable year, deduct one of the following:

(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;

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

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

(b) If the amount deducted under division (A)(18)(a) of this section is attributable to an add-back allocated under division (A)(17)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(18)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(18)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(17)(a) of this section has been deducted.

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

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

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

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

beginning with taxable years beginning in 2007.

For the purposes of division (A)(22) of this section:

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

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

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired personnel pay for service in the uniformed services or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's uniformed service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's uniformed service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(23) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(23) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

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

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

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any

income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.

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

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

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

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

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

(iii) Income received by an out-of-state disaster business for disaster work conducted in this state during a disaster response period, or, if the out-of-state disaster business is a pass-through entity, a taxpayer's distributive share of the pass-through entity's income from the business conducting disaster work in this state during a disaster response period, if, in either case, the disaster work is conducted pursuant to a qualifying

solicitation received by the business.

(b) All terms used in division (A)(30) of this section have the same meanings as in section 5703.94 of the Revised Code.

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

(32) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as a disability severance payment, computed under 10 U.S.C. 1212, following discharge or release under honorable conditions from the armed forces, as defined by 10 U.S.C. 101.

(33) Deduct, to the extent not otherwise deducted or excluded in computing federal adjusted gross income or Ohio adjusted gross income, amounts not subject to tax due to an agreement entered into under division (A)(2) of section 5747.05 of the Revised Code.

(34) Deduct amounts as provided under section 5747.79 of the Revised Code related to the taxpayer's qualifying capital gains and deductible payroll.

To the extent a qualifying capital gain described under division (A)(34) of this section is business income, the taxpayer shall deduct those gains under this division before deducting any such gains under division (A)(28) of this section.

(35)(a) For taxable years beginning in or after 2026, deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year:

(i) One hundred per cent of the capital gain received by the taxpayer in the taxable year from a qualifying interest in an Ohio venture capital operating company attributable to the company's investments in Ohio businesses during the period for which the company was an Ohio venture operating company; and

(ii) Fifty per cent of the capital gain received by the taxpayer in the taxable year from a qualifying interest in an Ohio venture capital operating company attributable to the company's investments in all other businesses during the period for which the company was an Ohio venture operating company.

(b) Add amounts previously deducted by the taxpayer under division (A)(35)(a) of this section if the director of development certifies to the tax commissioner that the requirements for the deduction were not met.

(c) All terms used in division (A)(35) of this section have the same meanings as in section 122.851 of the Revised Code.

(d) To the extent a capital gain described in division (A)(35)(a) of this section is business income, the taxpayer shall apply that division before applying division (A)(28) of this section.

(36) Add, to the extent not otherwise included in computing federal or Ohio adjusted gross income for any taxable year, the taxpayer's proportionate share of the amount of the tax levied under section 5747.38 of the Revised Code and paid by an electing pass-through entity for the taxable year.

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)(36) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A)(28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A)(4)(a) of section 5747.02 of the Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this division.

(37) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts delivered to a qualifying institution pursuant to section 3333.128 of the Revised Code for the benefit of the taxpayer or the taxpayer's spouse or dependent.

(38) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received under the Ohio adoption grant program pursuant to section 5101.191 of the Revised Code.

~~(39) Deduct, to the extent included in federal adjusted gross income, income attributable to loan repayments on behalf of the taxpayer under the rural practice incentive program under section 3333.135 of the Revised Code~~ Deduct, to the extent included in federal adjusted gross income, income attributable to amounts provided to a taxpayer for any of the purposes for which a deduction is authorized under section 139 of the Internal Revenue Code, assuming that the train derailment near the city of East Palestine on February 3, 2023, is a qualified disaster pursuant to that

section, or to compensate for lost business resulting from that derailment, if such amounts are provided by any of the following:

- (a) A federal, state, or local government agency;
- (b) A railroad company, as that term is defined in section 5727.01 of the Revised Code;
- (c) Any subsidiary, insurer, or agent of a railroad company or any related person.

(40) Deduct, to the extent included in federal adjusted gross income, income attributable to loan repayments on behalf of the taxpayer under the rural practice incentive program under section 3333.135 of the Revised Code.

(41) Add any income taxes deducted in computing federal or Ohio adjusted gross income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)(41) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A)(28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A)(4)(a) of section 5747.02 of the Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this division.

(42) Deduct amounts contributed to a homeownership savings account and calculated pursuant to divisions (B) and (C) of section 5747.85 of the Revised Code.

(43) If the taxpayer is the account owner, add the amount of funds withdrawn from a homeownership savings account not used for eligible expenses, regardless of who deposited those funds. As used in division (A)(43) of this section, "homeownership savings account," "account owner," and "eligible expenses" have the same meanings as in section 5747.85 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a

trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill or the sale of an equity or ownership interest in a business.

As used in this division, the "sale of an equity or ownership interest in a business" means sales to which either or both of the following apply:

(1) The sale is treated for federal income tax purposes as the sale of assets.

(2) The seller materially participated, as described in 26 C.F.R. 1.469-5T, in the activities of the business during the taxable year in which the sale occurs or during any of the five preceding taxable years.

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

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

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

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

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following:

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

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

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

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

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

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

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

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

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

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

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

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

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

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

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

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

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

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

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

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

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent

or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

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

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

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

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

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

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

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

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

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

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

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

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

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs

services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

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

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

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

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

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

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

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

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

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

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

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States,

but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

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

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

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

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

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

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported

income received under a claim of right, that meets both of the following requirements:

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

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

(11) Add any amount claimed as a credit under section 5747.05 of the Revised Code to the extent that the amount satisfies either of the following:

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

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

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income.

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

(14) ~~Add or deduct~~ Deduct the amount the taxpayer would be required to ~~add or deduct~~ under division ~~(A)(17) or (18)~~ (A)(18) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section.

(15) Add, to the extent not otherwise included in computing taxable income or Ohio taxable income for any taxable year, the taxpayer's proportionate share of the amount of the tax levied under section 5747.38 of

the Revised Code and paid by an electing pass-through entity for the taxable year.

(16) Add any income taxes deducted in computing federal taxable income or Ohio taxable income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.

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

(U) As used in divisions (A)(7), (A)(8), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under former Chapter 1705. ~~or of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706.~~ of the Revised Code, or ~~under~~ the laws of any other state.

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

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

(Y) "Month" means a calendar month.

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

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

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

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

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

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

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

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

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

(i) The trust's modified business income;

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

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (AA)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

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

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (AA)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with

division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (AA)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

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

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

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (AA)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly

owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (AA)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

(DD)(1) For the purposes of division (DD) of this section:

(a) "Qualifying person" means any person other than a qualifying

corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

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

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

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

(EE) 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 (EE)(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.

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

(GG) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized

to deduct under division (A)(28) of this section for the taxable year.

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

(II) "Modified adjusted gross income" means Ohio adjusted gross income plus any amount deducted under divisions (A)(28) and (34) of this section for the taxable year.

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

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino or sports gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured as prescribed in divisions (A)(1) to (4) of this section.

(1) In the case of trusts, the tax imposed by this section shall be measured by modified Ohio taxable income under division (D) of this section and levied in the same amount as the tax is imposed on estates as prescribed in division (A)(2) of this section.

(2) In the case of estates, the tax imposed by this section shall be measured by Ohio taxable income. The tax shall be levied at the rate of 1.38462% for the first ~~twenty-five~~ twenty-six thousand fifty dollars of such income and, for income in excess of that amount, the tax shall be levied at the same rates prescribed in division (A)(3) of this section for individuals.

(3) In the case of individuals, the tax imposed by this section on income other than taxable business income shall be measured by Ohio adjusted gross income, less taxable business income and less an exemption for the

taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code. If the balance thus obtained is equal to or less than ~~twenty-five~~ twenty-six thousand fifty dollars, no tax shall be imposed on that balance. If the balance thus obtained is greater than ~~twenty-five~~ twenty-six thousand fifty dollars, the tax is hereby levied as follows:

(a) For taxable years beginning in 2023:

OHIO ADJUSTED GROSS TAX
INCOME LESS TAXABLE
BUSINESS INCOME AND
EXEMPTIONS (INDIVIDUALS)
OR MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR OHIO TAXABLE INCOME
(ESTATES)

More than \$25,000 <u>\$26,050</u> but	\$346.16 <u>\$360.69</u> plus 2.765%
not more than \$44,250 <u>\$100,000</u>	<u>2.75%</u> of the amount in excess of \$25,000 <u>\$26,050</u>
More than \$44,250 but not more	\$878.42 plus 3.226% of the
than \$88,450	amount in excess of \$44,250
More than \$88,450 <u>\$100,000</u> but	\$2,304.31 <u>\$2,394.32</u> plus 3.688%
not more than \$110,650 <u>\$115,300</u>	of the amount in excess of \$88,450 <u>\$100,000</u>
More than \$110,650 <u>\$115,300</u>	\$3,123.05 <u>\$2,958.58</u> plus 3.990%
	<u>3.75%</u> of the amount in excess of \$110,650 <u>\$115,300</u>

(b) For taxable years beginning in 2024 and thereafter:

OHIO ADJUSTED GROSS TAX
INCOME LESS TAXABLE
BUSINESS INCOME AND
EXEMPTIONS (INDIVIDUALS)
OR MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR OHIO TAXABLE INCOME
(ESTATES)

More than <u>\$26,050</u> but not more	<u>\$360.69</u> plus <u>2.75%</u> of the amount
<u>than \$100,000</u>	<u>in excess of \$26,050</u>
More than <u>\$100,000</u>	<u>\$2,394.32</u> plus <u>3.5%</u> of the
	<u>amount in excess of \$100,000</u>

(4)(a) In the case of individuals, the tax imposed by this section on

taxable business income shall equal three per cent of the result obtained by subtracting any amount allowed under division (A)(4)(b) of this section from the individual's taxable business income.

(b) If the exemptions allowed to an individual under division (A)(3) of this section exceed the taxpayer's Ohio adjusted gross income less taxable business income, the excess shall be deducted from taxable business income before computing the tax under division (A)(4)(a) of this section.

RMD (5) Except as otherwise provided in this division and division (A)(6) of this section, in August of each year, the tax commissioner shall make a new adjustment to the income amounts prescribed in divisions (A)(2) and (3) of this section by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the new adjustment of the income amounts. To recompute the tax dollar amount corresponding to the lowest tax rate in division (A)(3) of this section, the commissioner shall multiply the tax rate prescribed in division (A)(2) of this section by the income amount specified in that division and as adjusted according to this paragraph. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made and to taxable years beginning in each ensuing calendar year until a calendar year in which a new adjustment is made pursuant to this division. The tax commissioner shall not make a new adjustment in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

RMD (6) The tax commissioner shall not make the adjustments described in section 5747.025 of the Revised Code or division (A)(5) of this section if the tax rate prescribed in division (A)(2) of this section, as adjusted under this division, is greater than zero. If that tax rate is greater than zero, the tax commissioner, in August of 2025 and each year thereafter, shall make adjustments to that rate and to the tax dollar amounts prescribed in division (A)(3) of this section as follows:

(a) The commissioner, in consultation with the director of budget and management, shall estimate and calculate the difference between (i) the amount of revenue that would be collected from the tax levied under this

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Date July 3, 2023

Mike DeWine

Mike DeWine, Governor

section for taxable years beginning in the current calendar year, if no adjustments were made under this division, division (A)(5) of this section, or section 5747.025 of the Revised Code and (ii) the amount of such revenue that would be collected for those taxable years, if no adjustment were made under this division but adjustments were made under section 5747.025 of the Revised Code and division (A)(5) of this section.

(b) If the amount determined under division (A)(6)(a) of this section is greater than zero, the commissioner shall determine the amount by which reductions can be made to the tax rate prescribed in division (A)(2) of this section and the tax dollar amounts prescribed in division (A)(3) of this section, as described and previously adjusted under this division, so that the estimated loss in revenue from the tax levied under this section resulting from those reductions equals the amount calculated under division (A)(6)(a) of this section.

Based upon the determination made in division (A)(6)(b) of this section, the tax commissioner shall compute a new tax rate under division (A)(2) of this section; recompute the tax dollar amount corresponding to the lowest tax rate in division (A)(3) of this section by multiplying that adjusted tax rate by the income amount specified in division (A)(2) of this section; and recompute the other tax dollar amounts under division (A)(3) of this section to the extent necessary to reflect the reduction in the tax dollar amount corresponding to the lowest tax rate in that division.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made and to taxable years beginning in each ensuing calendar year until a calendar year in which a new adjustment is made pursuant to this division.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under divisions (A)(1) to (3) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C)(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A resident trust may claim a credit against the tax computed under division (C) of this section equal to the lesser of (a) the tax paid to another state or the District of Columbia on the resident trust's modified nonbusiness income, other than the portion of the resident trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the

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disapproved.

Date JUL 13, 2023



Mike DeWine, Governor

Revised Code, or (b) the effective tax rate, based on modified Ohio taxable income, multiplied by the resident trust's modified nonbusiness income other than the portion of the resident trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) Any credit authorized against the tax imposed by this section applies to a trust subject to division (C) of this section only if the trust otherwise qualifies for the credit. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(D) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to sections 4717.31 to 4717.38 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

(E) Nothing in division (A)(3) of this section shall prohibit an individual with an Ohio adjusted gross income, less taxable business income and exemptions, of ~~twenty-five~~ twenty-six thousand fifty dollars or less from filing a return under this chapter to receive a refund of taxes withheld or to claim any refundable credit allowed under this chapter.

Sec. 5747.025. (A) The personal exemption for the taxpayer, the taxpayer's spouse, and each dependent shall be one of the following amounts:

(1) Two thousand three hundred fifty dollars if the taxpayer's modified adjusted gross income for the taxable year as shown on an individual or joint annual return is less than or equal to forty thousand dollars;

(2) Two thousand one hundred dollars if the taxpayer's modified adjusted gross income for the taxable year as shown on an individual or joint annual return is greater than forty thousand dollars but less than or equal to eighty thousand dollars;

(3) One thousand eight hundred fifty dollars if the taxpayer's modified adjusted gross income for the taxable year as shown on an individual or joint annual return is greater than eighty thousand dollars.

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Date JUL 3, 2023


Mike DeWine, Governor

(B) ~~For taxable years beginning in 2020 and thereafter~~ Except as provided in division (A)(6) of section 5747.02 of the Revised Code, the personal exemption amounts prescribed in division (A) of this section shall be adjusted each year in the manner prescribed in division (C) of this section. In the case of an individual with respect to whom an exemption under section 5747.02 of the Revised Code is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

(C) Except as otherwise provided in this division, in August of each year, the tax commissioner shall determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding year, and make a new adjustment to the personal exemption amount for taxable years beginning in the current calendar year by multiplying that amount by the percentage increase in the gross domestic product deflator for that period; adding the resulting product to the personal exemption amount for taxable years beginning in the preceding calendar year; and rounding the resulting sum upward to the nearest multiple of fifty dollars. The adjusted amount applies to taxable years beginning in the calendar year in which the adjustment is made and to taxable years beginning in each ensuing calendar year until a calendar year in which a new adjustment is made pursuant to this division. The commissioner shall not make a new adjustment in any calendar year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding calendar year.

RMD

Sec. 5747.05. As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the aggregate income tax liability imposed by section 5747.02 of the Revised Code on individuals and estates:

(A)(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the combined adjusted gross income and business income of any nonresident taxpayer that is not allocable or apportionable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code. The credit provided under this division shall not exceed the total tax due under section 5747.02 of the Revised Code.

(2) The tax commissioner may enter into an agreement with the taxing authorities of any state or of the District of Columbia that imposes an

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Date JULY 3, 2023



Mike DeWine, Governor

income tax to provide that compensation paid in this state to a nonresident taxpayer shall not be subject to the tax levied in section 5747.02 of the Revised Code so long as compensation paid in such other state or in the District of Columbia to a resident taxpayer shall likewise not be subject to the income tax of such other state or of the District of Columbia.

(B) The lesser of division (B)(1) or (2) of this section:

(1) The aggregate amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the combined adjusted gross income and business income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the total tax due under section 5747.02 of the Revised Code.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the combined adjusted gross income and business income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the total amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) For the purpose of divisions (B)(1) and (2) of this section, a resident taxpayer's combined adjusted gross income and business income that is subject to an income tax levied in another state or in the District of Columbia includes income that is subject to either (a) a tax similar to the tax imposed by division (D)(1)(a) of section 5747.08 of the Revised Code or (b) a tax enacted for purposes of complying with internal revenue service notice 2020-75. In computing a resident taxpayer's income tax paid or accrued to another state or the District of Columbia, the deduction authorized by division (A)(28) of section 5747.01 of the Revised Code shall first be deducted against business income apportioned to this state.

(4) If the credit provided under division (B) of this section is affected by a change in either the portion of the combined adjusted gross income and business income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within ninety days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together

with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the ninety-day period prescribed for filing the report even if it is beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

~~(4)(5)~~ No credit shall be allowed under division (B) of this section:

(a) For income tax paid or accrued to another state or to the District of Columbia if the taxpayer, when computing federal adjusted gross income, has directly or indirectly deducted, or was required to directly or indirectly deduct, the amount of that income tax;

Division (B)(5)(a) of this section does not apply to income taxes included in the computation of Ohio adjusted gross income under division (A)(41) of section 5747.01 of the Revised Code and not deducted from Ohio adjusted gross income under division (A)(28) of that section or to income taxes included in Ohio taxable income under division (S)(16) of section 5747.01 of the Revised Code.

(b) For compensation that is not subject to the income tax of another state or the District of Columbia as the result of an agreement entered into by the tax commissioner under division (A)(3) of this section; or

(c) For income tax paid or accrued to another state or the District of Columbia if the taxpayer fails to furnish such proof as the tax commissioner shall require that such income tax liability has been paid.

(C) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits.

(D) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit

under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code.

(E)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the lesser of six hundred fifty dollars or the percentage shown in column B that corresponds with the taxpayer's modified adjusted gross income, less exemptions for the taxable year, of the total amount of tax due after allowing for any other credit that precedes this credit as required under section 5747.98 of the Revised Code:

A.	B.
IF THE MODIFIED ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:
\$25,000 or less	20%
More than \$25,000 but not more than \$50,000	15%
More than \$50,000 but not more than \$75,000	10%
More than \$75,000	5%

(2) The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

(F) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules.

RMD

Sec. 5747.06. (A) Except as provided in division (E)(3) of this section, every employer, including the state and its political subdivisions, maintaining an office or transacting business within this state and making payment of any compensation to an employee who is a taxpayer shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, as far as practicable, in withholding from the employee's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under this chapter and Chapter 5748. of the Revised Code with respect to the amount of such compensation included in the employee's

The above boxed and initialed text was disapproved.

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Mike DeWine

Mike DeWine, Governor

adjusted gross income during the calendar year. The employer shall deduct and withhold the tax on the date that the employer directly, indirectly, or constructively pays the compensation to, or credits the compensation to the benefit of, the employee.

~~The method of determining the amount to be withheld shall be prescribed by rule of the tax commissioner. The rule shall require that taxes are withheld on a taxpayer's compensation at rates sufficient to ensure payment of the appropriate amount of tax reasonably estimated to be due.~~

In addition to any other exclusions from withholding permitted under this section, no tax shall be withheld by an employer from the compensation of an employee when such compensation is paid for:

(1) Agricultural labor as defined in division G of section 3121 of Title 26 of the United States Code;

(2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(3) Service performed in any calendar quarter by an employee unless the cash remuneration paid for such service is three hundred dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service;

(4) Services performed for a foreign government or an international organization;

(5) Services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or when performed by such individual under the age of eighteen under an arrangement where newspapers or magazines are to be sold by the individual at a fixed price, the individual's compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to the individual;

(6) Services not in the course of the employer's trade or business to the extent paid in any medium other than cash.

(B) Every employer required to deduct and withhold tax from the compensation of an employee under this chapter shall furnish to each employee, with respect to the compensation paid by such employer to such employee during the calendar year, on or before the thirty-first day of January of the succeeding year, or, if the employee's employment is terminated before the close of such calendar year, within thirty days from the date on which the last payment of compensation was made, a written statement as prescribed by the tax commissioner showing the amount of compensation paid by the employer to the employee, the amount deducted

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Date: 4 JULY 2013


Mike DeWine, Governor

and withheld as state income tax, any amount deducted and withheld as school district income tax for each applicable school district, and any other information as the commissioner prescribes.

(C) The failure of an employer to withhold tax as required by this section does not relieve an employee from the liability for the tax. The failure of an employer to remit the tax as required by law does not relieve an employee from liability for the tax if the tax commissioner ascertains that the employee colluded with the employer with respect to the failure to remit the tax.

(D) If an employer fails to deduct and withhold any tax as required, and thereafter the tax is paid, the tax so required to be deducted and withheld shall not be collected from the employer, but the employer is not relieved from liability for penalties and interest otherwise applicable in respect to the failure to deduct and withhold the tax.

(E) To ensure that taxes imposed pursuant to Chapter 5748. of the Revised Code are deducted and withheld as provided in this section:

(1) An employer shall request that each employee furnish the name of the employee's school district of residence;

(2) Each employee shall furnish the employer with sufficient and correct information to enable the employer to withhold the taxes imposed under Chapter 5748. of the Revised Code. The employee shall provide additional or corrected information whenever information previously provided to the employer becomes insufficient or incorrect.

(3) If the employer complies with the requirements of division (E)(1) of this section and if the employee fails to comply with the requirements of division (E)(2) of this section, the employer is not required to withhold and pay the taxes imposed under Chapter 5748. of the Revised Code and is not subject to any penalties and interest otherwise applicable for failing to deduct and withhold such taxes.

(F)(1) The method of determining the amount to be withheld under this section shall be prescribed by rule of the tax commissioner. Subject to division (F)(2) of this section, the rule shall require that taxes are withheld on a taxpayer's compensation at rates sufficient to ensure payment of the appropriate amount of tax reasonably estimated to be due.

(2) If the director of budget and management certifies an amount to the tax commissioner under section 131.43 of the Revised Code in any year, beginning in fiscal year 2025, the commissioner shall reduce the rates of withholding determined pursuant to division (F)(1) of this section. The commissioner shall estimate the amount that would be withheld during the period beginning on the first day of September of that year and ending on

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JUL 4, 2023

Date:

Mike DeWine

Mike DeWine, Governor

the thirty-first day of August of the following year, before any adjustment under this section, and shall reduce the withholding rates so that the difference between that amount and the estimated amount that would be withheld during that period after the adjustment equals the amount certified.

The adjusted withholding rates apply to amounts withheld on or after the first day of September of the year in which the certification was made.

Nothing in division (F)(2) of this section shall be construed to require the commissioner to reduce the withholding rates to an amount that would result in payment of less than the amount of tax reasonably estimated to be due. Division (F)(2) of this section does not apply to the rates of withholding for taxes imposed pursuant to Chapter 5748, of the Revised Code.

Sec. 5747.07. (A) As used in this section:

(1) "Partial weekly withholding period" means a period during which an employer directly, indirectly, or constructively pays compensation to, or credits compensation to the benefit of, an employee, and that consists of a consecutive Saturday, Sunday, Monday, and Tuesday or a consecutive Wednesday, Thursday, and Friday. There are two partial weekly withholding periods each week, except that a partial weekly withholding period cannot extend from one calendar year into the next calendar year; if the first day of January falls on a day other than Saturday or Wednesday, the partial weekly withholding period ends on the thirty-first day of December and there are three partial weekly withholding periods during that week.

(2) "Undeposited taxes" means the taxes an employer is required to deduct and withhold from an employee's compensation pursuant to section 5747.06 of the Revised Code that have not been remitted to the tax commissioner pursuant to this section or to the treasurer of state pursuant to section 5747.072 of the Revised Code.

(3) A "week" begins on Saturday and concludes at the end of the following Friday.

(4) "Professional employer organization," "professional employer organization agreement," and "professional employer organization reporting entity" have the same meanings as in section 4125.01 of the Revised Code.

(5) "Alternate employer organization" and "alternate employer organization agreement" have the same meanings as in section 4133.01 of the Revised Code.

(6) "Client employer" has the same meaning as in section 4125.01 of the Revised Code in the context of a professional employer organization or a professional employer organization reporting entity, or the same meaning as in section 4133.01 of the Revised Code in the context of an alternate

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Date: _____


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employer organization.

(B) Except as provided in divisions (C) and (D) of this section and in division (A) of section 5747.072 of the Revised Code, every employer required to deduct and withhold any amount under section 5747.06 of the Revised Code shall file a return and shall pay the amount required by law as follows:

(1) An employer who accumulates or is required to accumulate undeposited taxes of one hundred thousand dollars or more during a partial weekly withholding period shall make the payment of the undeposited taxes by the close of the first banking day after the day on which the accumulation reaches one hundred thousand dollars. If required under division (I) of this section, the payment shall be made by electronic funds transfer under section 5747.072 of the Revised Code.

(2) Except as required by division (B)(1) of this section, an employer whose actual or required payments under this section were at least eighty-four thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year shall make the payment of undeposited taxes within three banking days after the close of a partial weekly withholding period during which the employer was required to deduct and withhold any amount under this chapter. If required under division (I) of this section, the payment shall be made by electronic funds transfer under section 5747.072 of the Revised Code.

(3) Except as required by divisions (B)(1) and (2) of this section, if an employer's actual or required payments were more than two thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year, the employer shall make the payment of undeposited taxes for each month during which they were required to be withheld no later than fifteen days following the last day of that month. The employer shall file the return prescribed by the tax commissioner with the payment.

(4) Except as required by divisions (B)(1), (2), and (3) of this section, an employer shall make the payment of undeposited taxes for each calendar quarter during which they were required to be withheld no later than the last day of the month following the last day of March, June, September, and December each year. The employer shall file the return prescribed by the tax commissioner with the payment.

(C) The return and payment schedules prescribed by divisions (B)(1) and (2) of this section do not apply to the return and payment of undeposited school district income taxes arising from taxes levied pursuant to Chapter 5748. of the Revised Code. Undeposited school district income taxes shall

be returned and paid pursuant to divisions (B)(3) and (4) of this section, as applicable.

(D)(1) The requirements of division (B) of this section are met if the amount paid is not less than ninety-five per cent of the actual tax withheld or required to be withheld for the prior quarterly, monthly, or partial weekly withholding period, and the underpayment is not due to willful neglect. Any underpayment of withheld tax shall be paid within thirty days of the date on which the withheld tax was due without regard to division (D)(1) of this section. An employer described in division (B)(1) or (2) of this section shall make the payment by electronic funds transfer under section 5747.072 of the Revised Code.

(2) If the tax commissioner believes that quarterly or monthly payments would result in a delay that might jeopardize the remittance of withholding payments, the commissioner may order that the payments be made weekly, or more frequently if necessary, and the payments shall be made no later than three banking days following the close of the period for which the jeopardy order is made. An order requiring weekly or more frequent payments shall be delivered to the employer ~~personally or by certified mail~~ in the manner provided in section 5703.37 of the Revised Code and remains in effect until the commissioner notifies the employer to the contrary.

(3) If compelling circumstances exist concerning the remittance of undeposited taxes, the commissioner may order the employer to make payments under any of the payment schedules under division (B) of this section. The order shall be delivered to the employer ~~personally or by certified mail~~ in the manner provided in section 5703.37 of the Revised Code and shall remain in effect until the commissioner notifies the employer to the contrary. For purposes of division (D)(3) of this section, "compelling circumstances" exist if either or both of the following are true:

(a) Based upon annualization of payments made or required to be made during the preceding calendar year and during the current calendar year, the employer would be required for the next calendar year to make payments under division (B)(2) of this section.

(b) Based upon annualization of payments made or required to be made during the current calendar year, the employer would be required for the next calendar year to make payments under division (B)(2) of this section.

~~(E)(1) An employer described in division (B)(1) or (2) of this section shall file, not later than the last day of the month following the end of each calendar quarter, a return covering, but not limited to, both the actual amount deducted and withheld and the amount required to be deducted and withheld for the tax imposed under section 5747.02 of the Revised Code~~

~~during each partial weekly withholding period or portion of a partial weekly withholding period during that quarter. The employer shall file the quarterly return even if the aggregate amount required to be deducted and withheld for the quarter is zero dollars. At the time of filing the return, the employer shall pay any amounts of undeposited taxes for the quarter, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. If required under division (I) of this section, the payment shall be made by electronic funds transfer. The tax commissioner shall prescribe the form and other requirements of the quarterly return.~~

(2) In addition to other returns required to be filed and payments required to be made under this section, every employer required to deduct and withhold taxes shall file, not later than the thirty-first day of January of each year, an annual return covering, but not limited to, both the aggregate amount deducted and withheld and the aggregate amount required to be deducted and withheld during the entire preceding year for the tax imposed under section 5747.02 of the Revised Code and for each tax imposed under Chapter 5748. of the Revised Code. At the time of filing that return, the employer shall pay over any amounts of undeposited taxes for the preceding year, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. The employer shall make the annual report, to each employee and to the tax commissioner, of the compensation paid and each tax withheld, as the commissioner by rule may prescribe.

(2) Each employer required to deduct and withhold any tax is liable for the payment of that amount required to be deducted and withheld, whether or not the tax has in fact been withheld, unless the failure to withhold was based upon the employer's good faith in reliance upon the statement of the employee as to liability, and the amount shall be deemed to be a special fund in trust for the general revenue fund.

(F) Each employer shall file with the employer's annual return the following items of information on employees for whom withholding is required under section 5747.06 of the Revised Code:

(1) The full name of each employee, the employee's address, the employee's school district of residence, and in the case of a nonresident employee, the employee's principal county of employment;

(2) The social security number of each employee;

(3) The total amount of compensation paid before any deductions to each employee for the period for which the annual return is made;

(4) The amount of the tax imposed by section 5747.02 of the Revised Code and the amount of each tax imposed under Chapter 5748. of the

Revised Code withheld from the compensation of the employee for the period for which the annual return is made. The commissioner may extend upon good cause the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions of time. If the extension results in an extension of time for the payment of the amounts withheld with respect to which the return is filed, the employer shall pay, at the time the amount withheld is paid, an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that amount withheld, from the day that amount was originally required to be paid to the day of actual payment or to the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

(5) In addition to all other interest charges and penalties imposed, all amounts of taxes withheld or required to be withheld and remaining unpaid after the day the amounts are required to be paid shall bear interest from the date prescribed for payment at the rate per annum prescribed by section 5703.47 of the Revised Code on the amount unpaid, in addition to the amount withheld, until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

(G) An employee of a corporation, limited liability company, or business trust having control or supervision of or charged with the responsibility of filing the report and making payment, or an officer, member, manager, or trustee of a corporation, limited liability company, or business trust who is responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for failure to file the report or pay the tax due as required by this section. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay tax due.

(H) If an employer required to deduct and withhold income tax from compensation and to pay that tax to the state under sections 5747.06 and 5747.07 of the Revised Code sells the employer's business or stock of merchandise or quits the employer's business, the taxes required to be deducted and withheld and paid to the state pursuant to those sections prior to that time, together with any interest and penalties imposed on those taxes, become due and payable immediately, and that person shall make a final return within fifteen days after the date of selling or quitting business. The employer's successor shall withhold a sufficient amount of the purchase money to cover the amount of the taxes, interest, and penalties due and

unpaid, until the former owner produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid or a certificate indicating that no such taxes are due. If the purchaser of the business or stock of merchandise fails to withhold purchase money, the purchaser shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the former owner. If the amount of taxes, interest, and penalties outstanding at the time of the purchase exceeds the total purchase money, the tax commissioner in the commissioner's discretion may adjust the liability of the seller or the responsibility of the purchaser to pay that liability to maximize the collection of withholding tax revenue.

(I) An employer whose actual or required payments under this section exceeded eighty-four thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year shall make all payments required by this section for the year by electronic funds transfer under section 5747.072 of the Revised Code.

(J)(1) Every professional employer organization, professional employer organization reporting entity, and alternate employer organization shall file a report with the tax commissioner within thirty days after commencing business in this state that includes all of the following information:

(a) The name, address, number the employer receives from the secretary of state to do business in this state, if applicable, and federal employer identification number of each client employer of the organization or entity;

(b) The date that each client employer became a client of the organization or entity;

(c) The names and mailing addresses of the chief executive officer and the chief financial officer of each client employer for taxation of the client employer.

(2) Beginning with the calendar quarter ending after a professional employer organization, professional employer organization reporting entity, or alternate employer organization files the report required under division (J)(1) of this section, and every calendar quarter thereafter, the organization or entity shall file an updated report with the tax commissioner. The organization or entity shall file the updated report not later than the last day of the month following the end of the calendar quarter and shall include all of the following information in the report:

(a) If an entity became a client employer of the professional employer organization, professional employer organization reporting entity, or alternate employer organization at any time during the calendar quarter, all of the information required under division (J)(1) of this section for each new

client employer;

(b) If an entity terminated the professional employer organization agreement or the alternate employer organization agreement between the entity and the professional employer organization, professional employer organization reporting entity, or alternate employer organization, as applicable, at any time during the calendar quarter, the information described in division (J)(1)(a) of this section for that entity, the date during the calendar quarter that the entity ceased being a client of the organization or reporting entity, if applicable, or the date the entity ceased business operations in this state, if applicable;

(c) If the name or mailing address of the chief executive officer or the chief financial officer of a client employer has changed since the professional employer organization, professional employer organization reporting entity, or alternate employer organization previously submitted a report under division (J)(1) or (2) of this section, the updated name or mailing address, or both, of the chief executive officer or the chief financial officer, as applicable;

(d) If none of the events described in divisions (J)(2)(a) to (c) of this section occurred during the calendar quarter, a statement of that fact.

Sec. 5747.072. (A) Any employer required by section 5747.07 of the Revised Code to remit undeposited taxes by electronic funds transfer shall do so in the manner prescribed by rules adopted by the treasurer of state under section 113.061 of the Revised Code and on or before the dates specified under that division. The tax commissioner shall notify each such employer of the employer's obligation to remit undeposited taxes by electronic funds transfer, shall maintain an updated list of those employers, and shall provide the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify an employer subject to this section to remit taxes by electronic funds transfer does not relieve the employer of its obligation to remit taxes by electronic funds transfer.

Except as otherwise provided in this paragraph, the payment of taxes by electronic funds transfer does not affect an employer's obligation to file the ~~quarterly return as required under division (E)(1) of section 5747.07 of the Revised Code or the~~ annual return as required under divisions ~~(E)(2)(E)~~ and (F) of ~~that~~ section 5747.07 of the Revised Code. If the employer remits estimated tax payments in a manner, designated by the treasurer of state, that permits the inclusion of all information necessary for the treasurer of state to process the tax payment, the employer need not file the return required under division (B) of section 5747.07 of the Revised Code. The

treasurer of state, in consultation with the tax commissioner, may adopt rules governing the format for filing the returns under section 5747.07 of the Revised Code by employers who remit undeposited taxes by electronic funds transfer. The rules may permit the filing of returns at less frequent intervals than required by that division if the treasurer of state and the tax commissioner determine that remittance by electronic funds transfer warrants less frequent filing of returns.

An employer required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state to be excused from that requirement. The treasurer of state may excuse the employer from remittance by electronic funds transfer for good cause shown for the period of time requested by the employer or a portion of that period. The treasurer shall notify the tax commissioner and the employer of the treasurer's decision as soon as is practicable.

(B) If an employer required by this section to remit undeposited taxes by electronic funds transfer remits those taxes by some means other than electronic funds transfer as prescribed by the rules adopted by the treasurer of state, and the treasurer determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5747.13 of the Revised Code. The additional charge shall equal five per cent of the amount of the undeposited taxes, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed by this chapter, and shall be considered as revenue arising from the taxes imposed by this chapter. The tax commissioner may remit all or a portion of such a charge and may adopt rules governing such remission.

No additional charge shall be assessed under this division against an employer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the employer remits by some means other than electronic funds transfer.

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

(B)(1) Except as otherwise provided under divisions (D) and (E) of this section, applications for refund shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years from the date of the illegal, erroneous, or excessive payment, or within any additional period allowed by division ~~(B)(3)(b)~~ (B)(4)(b) of section 5747.05, division (E) of section 5747.10, division (A) of section 5747.13, or division (C) of section 5747.45 of the Revised Code.

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

(2) If an individual taxpayer is deceased, a refund may be issued in the name of the decedent and of the executor, administrator, or other person charged with the decedent's property, upon the request of that person. Such a request shall include any documentation, including a copy of the taxpayer's death certificate and any fiduciary or court documents, that the tax commissioner considers necessary to prove that the person making the request is qualified to receive the refund. If the request is for a refund that was previously issued in only the decedent's name, the person making the request must also provide the previously issued payment to the commissioner.

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

(2) Interest shall be allowed at the rate per annum prescribed by section 5703.47 of the Revised Code on amounts refunded with respect to the taxes

imposed under sections 5733.41 and 5747.41 or under section 5747.38 of the Revised Code. The interest shall run from whichever of the following days is the latest until the day the refund is paid: the day the illegal, erroneous, or excessive payment was made; the ninetieth day after the final day the annual report was required to be filed under section 5747.42 of the Revised Code; or the ninetieth day after the day that report was filed.

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

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

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

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

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

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

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

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

(2) A taxpayer shall file an application for refund pursuant to division (E) of this section within one year after the date the payment described in division (E)(1)(a) of this section is made. An application filed under division (E)(2) of this section shall claim refund only of overpayments resulting from the taxpayer's failure to claim the credit described in division (E)(1)(c) of this section. Nothing in division (E) of this section shall be construed to relieve a taxpayer from complying with division (A)(15) of section 5747.01 of the Revised Code.

Sec. 5747.13. (A) If any employer collects the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code and fails to remit the tax as required by law, or fails to collect the tax, the employer is personally liable for any amount collected that the employer fails to remit, or any amount that the employer fails to collect. If any taxpayer fails to file a return or fails to pay the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code, the taxpayer is personally liable for the amount of the tax.

If any employer, taxpayer, qualifying entity, or electing pass-through

entity required to file a return under this chapter fails to file the return within the time prescribed, files an incorrect return, fails to remit the full amount of the taxes due for the period covered by the return, or fails to remit any additional tax due as a result of a reduction in the amount of the credit allowed under division (B) of section 5747.05 of the Revised Code together with interest on the additional tax within the time prescribed by that division, the tax commissioner may make an assessment against any person liable for any deficiency for the period for which the return is or taxes are due, based upon any information in the commissioner's possession.

An assessment issued against either the employer or the taxpayer pursuant to this section shall not be considered an election of remedies or a bar to an assessment against the other for failure to report or pay the same tax. No assessment shall be issued against any person if the tax actually has been paid by another.

No assessment shall be made or issued against an employer, a taxpayer, a qualifying entity, or an electing pass-through entity more than four years after the final date the return subject to assessment was required to be filed or the date the return was filed, whichever is later. However, the commissioner may assess any balance due as the result of a reduction in the credit allowed under division (B) of section 5747.05 of the Revised Code, including applicable penalty and interest, within four years of the date on which the taxpayer reports a change in either the portion of the taxpayer's adjusted gross income subjected to an income tax or tax measured by income in another state or the District of Columbia, or the amount of liability for an income tax or tax measured by income to another state or the District of Columbia, as required by division ~~(B)(3)~~(B)(4) of section 5747.05 of the Revised Code. Such time limits may be extended if both the employer, taxpayer, qualifying entity, or electing pass-through entity and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limits has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the four-year time limit in division (B) of section 5747.11 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against an employer for taxes withheld from employees and not remitted to the state, against an employer, a taxpayer, a qualifying entity, or an electing pass-through entity that fails to file a return subject to assessment as required by this chapter, or against an employer, a taxpayer, a qualifying entity, or an electing pass-through entity that files a fraudulent return.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code.

With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the party assessed to the commissioner with remittance made payable to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the employer's, taxpayer's, qualifying entity's, or electing pass-through entity's place of business is located or the county in which the party assessed resides. If the party assessed is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the party assessed in the amount shown on the entry. The judgment shall be filed by the clerk in one of two loose-leaf books, one entitled "special judgments for state and school district income taxes," and the other entitled "special judgments for qualifying entity and electing pass-through entity taxes." The judgment shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of

certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter or Chapter 5733. or 5748. of the Revised Code, as appropriate.

(E) If the party assessed files a petition for reassessment under division (B) of this section, the person, on or before the last day the petition may be filed, shall pay the assessed amount, including assessed interest and assessed penalties, if any of the following conditions exists:

(1) The person files a tax return reporting Ohio adjusted gross income, less the exemptions allowed by section 5747.025 of the Revised Code, in an amount less than one cent, and the reported amount is not based on the computations required under division (A) of section 5747.01 or section 5747.025 of the Revised Code.

(2) The person files a tax return that the tax commissioner determines to be incomplete, false, fraudulent, or frivolous.

(3) The person fails to file a tax return, and the basis for this failure is not either of the following:

(a) An assertion that the person has no nexus with this state;

(b) The computations required under division (A) of section 5747.01 of the Revised Code or the application of credits allowed under this chapter has the result that the person's tax liability is less than one dollar and one cent.

(F) Notwithstanding the fact that a petition for reassessment is pending, the petitioner may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the portion paid, there shall be issued to the petitioner or to the petitioner's assigns or legal representative a refund in the amount of the overpayment as provided by section 5747.11 of the Revised Code, with interest on that amount as provided by such section, subject to section 5747.12 of the Revised Code.

Sec. 5747.501. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall estimate and certify to each county auditor the amount to be distributed from the local government fund to each undivided local government fund during the following calendar year under

section 5747.50 of the Revised Code. The estimate shall equal the sum of the separate amounts computed under divisions (B)(1) and (2) of this section.

(B)(1) The product obtained by multiplying the percentage described in division (B)(1)(a) of this section by the amount described in division (B)(1)(b) of this section.

(a) Each county's proportionate share of the total amount distributed to the counties from the local government fund and the local government revenue assistance fund during calendar year 2007. ~~In fiscal year 2014 and thereafter, the~~ The amount distributed to any county undivided local government fund shall be an amount not less than ~~seven~~ eight hundred fifty thousand dollars ~~or the amount distributed to such fund in fiscal year 2013, whichever amount is smaller.~~ To the extent necessary to implement this minimum distribution requirement, the proportionate shares computed under this division shall be adjusted accordingly.

(b) The total amount distributed to counties from the local government fund and the local government revenue assistance fund during calendar year 2007 adjusted downward if, and to the extent that, total local government fund distributions to counties for the following year are projected to be less than what was distributed to counties from the local government fund and local government revenue assistance fund during calendar year 2007.

(2) The product obtained by multiplying the percentage described in division (B)(2)(a) of this section by the amount described in division (B)(2)(b) of this section.

(a) Each county's proportionate share of the state's population as reflected in the most recent federal decennial census or the federal government's most recent census estimates, whichever represents the most recent year.

(b) The amount by which total estimated distributions from the local government fund during the immediately succeeding calendar year, less the total estimated amount to be distributed from the fund to municipal corporations under division (C) of section 5747.50 of the Revised Code during the immediately succeeding calendar year, exceed the total amount distributed to counties from the local government fund and local government revenue assistance fund during calendar year 2007.

Sec. 5747.53. (A) As used in this section:

(1) "City, located wholly or partially in the county, with the greatest population" means the city, located wholly or partially in the county, with the greatest population residing in the county; however, if the county budget commission on or before January 1, 1998, adopted an alternative method of

apportionment that was approved by the legislative authority of the city, located partially in the county, with the greatest population but not the greatest population residing in the county, "city, located wholly or partially in the county, with the greatest population" means the city, located wholly or partially in the county, with the greatest population whether residing in the county or not, if this alternative meaning is adopted by action of the board of county commissioners and a majority of the boards of township trustees and legislative authorities of municipal corporations located wholly or partially in the county.

(2) "Participating political subdivision" means a municipal corporation or township that satisfies all of the following:

(a) It is located wholly or partially in the county.

(b) It is not the city, located wholly or partially in the county, with the greatest population.

(c) Undivided local government fund moneys are apportioned to it under the county's alternative method or formula of apportionment in the current calendar year.

(B) In lieu of the method of apportionment of the undivided local government fund of the county provided by section 5747.51 of the Revised Code, the county budget commission may provide for the apportionment of the fund under an alternative method or on a formula basis as authorized by this section. The commissioner shall reduce or increase the amount of funds from the undivided local government fund to a subdivision required to receive reduced or increased funds under section 5747.502 of the Revised Code.

Except as otherwise provided in division (C) of this section, the alternative method of apportionment shall have first been approved by all of the following governmental units: the board of county commissioners; the legislative authority of the city, located wholly or partially in the county, with the greatest population; and a majority of the boards of township trustees and legislative authorities of municipal corporations, located wholly or partially in the county, excluding the legislative authority of the city, located wholly or partially in the county, with the greatest population. In granting or denying approval for an alternative method of apportionment, the board of county commissioners, boards of township trustees, and legislative authorities of municipal corporations shall act by motion. A motion to approve shall be passed upon a majority vote of the members of a board of county commissioners, board of township trustees, or legislative authority of a municipal corporation, shall take effect immediately, and need not be published.

Any alternative method of apportionment adopted and approved under this division shall be reviewed by the county budget commission at a public hearing held at least once in the year following the effective date of this amendment and in every fifth year thereafter. The county budget commission shall provide reasonable advance notice of the hearing to all political subdivisions eligible to participate in the fund and shall take public testimony from any such political subdivision that wishes to testify.

Any alternative method of apportionment adopted and approved under this division may be revised, amended, or repealed in the same manner as it may be adopted and approved. If an alternative method of apportionment adopted and approved under this division is repealed, the undivided local government fund of the county shall be apportioned among the subdivisions eligible to participate in the fund, commencing in the ensuing calendar year, under the apportionment provided in section 5747.52 of the Revised Code, unless the repeal occurs by operation of division (C) of this section or a new method for apportionment of the fund is provided in the action of repeal.

(C) This division applies only in counties in which the city, located wholly or partially in the county, with the greatest population has a population of twenty thousand or less and a population that is less than fifteen per cent of the total population of the county. In such a county, the legislative authorities or boards of township trustees of two or more participating political subdivisions, which together have a population residing in the county that is a majority of the total population of the county, each may adopt a resolution to exclude the approval otherwise required of the legislative authority of the city, located wholly or partially in the county, with the greatest population. All of the resolutions to exclude that approval shall be adopted not later than the first Monday of August of the year preceding the calendar year in which distributions are to be made under an alternative method of apportionment.

A motion granting or denying approval of an alternative method of apportionment under this division shall be adopted by a majority vote of the members of the board of county commissioners and by a majority vote of a majority of the boards of township trustees and legislative authorities of the municipal corporations located wholly or partially in the county, other than the city, located wholly or partially in the county, with the greatest population, shall take effect immediately, and need not be published. The alternative method of apportionment under this division shall be adopted and approved annually, not later than the first Monday of August of the year preceding the calendar year in which distributions are to be made under it. A motion granting approval of an alternative method of apportionment under

this division repeals any existing alternative method of apportionment, effective with distributions to be made from the fund in the ensuing calendar year. An alternative method of apportionment under this division shall not be revised or amended after the first Monday of August of the year preceding the calendar year in which distributions are to be made under it.

(D) In determining an alternative method of apportionment authorized by this section, the county budget commission may include in the method any factor considered to be appropriate and reliable, in the sole discretion of the county budget commission.

(E) The limitations set forth in section 5747.51 of the Revised Code, stating the maximum amount that the county may receive from the undivided local government fund and the minimum amount the townships in counties having a population of less than one hundred thousand may receive from the fund, are applicable to any alternative method of apportionment authorized under this section.

(F) On the basis of any alternative method of apportionment adopted and approved as authorized by this section, as certified by the auditor to the county treasurer, the county treasurer shall make distribution of the money in the undivided local government fund to each subdivision eligible to participate in the fund, and the auditor, when the amount of those shares is in the custody of the treasurer in the amounts so computed to be due the respective subdivisions, shall at the same time certify to the tax commissioner the percentage share of the county as a subdivision. All money received into the treasury of a subdivision from the undivided local government fund in a county treasury shall be paid into the general fund and used for the current operating expenses of the subdivision. If a municipal corporation maintains a municipal university, the university, when the board of trustees so requests the legislative authority of the municipal corporation, shall participate in the money apportioned to the municipal corporation from the total local government fund, however created and constituted, in the amount requested by the board of trustees, provided that amount does not exceed nine per cent of the total amount paid to the municipal corporation.

(G) The actions of the county budget commission taken pursuant to this section are final and may not be appealed to the board of tax appeals, except on the issues of abuse of discretion and failure to comply with the formula.

Sec. 5747.67. (A) Any term used in this section has the same meaning as in section 122.852 of the Revised Code.

(B) There is allowed a credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for any individual who, on the last day of the individual's taxable year, is the certificate owner of a tax

credit certificate issued under section 122.852 of the Revised Code. The credit shall be claimed for the taxpayer's taxable year that includes the date the certificate was issued by the director of development. The credit amount equals the amount stated in the certificate or the portion of that amount owned by the certificate owner. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the credit amount exceeds the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

(C) Nothing in this section limits or disallows pass-through treatment of the credit.

Sec. 5747.73. (A) As used in this section, "scholarship granting organization" means an entity that is certified as such by the attorney general under division (C) of this section.

(B) There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that donates cash to scholarship granting organizations during the taxable year or on or before the due date, unextended under division (G) of section 5747.08 of the Revised Code, for filing the tax return for the taxable year as described in that division. A credit may not be claimed for two taxable years on the basis of the same contribution. The credit shall equal the amount of cash donations made by the taxpayer and, if filing a joint return, the taxpayer's spouse, except that the credit shall not exceed, for any taxable year, one thousand five hundred dollars for spouses filing a joint return or seven hundred fifty dollars for all other taxpayers. If a taxpayer files a joint return, the credit amount attributable to donations made by each spouse shall not exceed seven hundred fifty dollars. The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

If the taxpayer is a direct or indirect investor in a pass-through entity that donates cash to scholarship granting organizations during the taxable year, the taxpayer may claim its proportionate or distributive share of the credit allowed under this section, except that the share that may be claimed by all such investors may not exceed seven hundred fifty dollars for any taxable year.

The credit authorized by this section is not allowed unless the taxpayer claiming the credit provides to the tax commissioner, in the form and manner required by the commissioner, a copy of a receipt or other document issued by the scholarship granting organization acknowledging the taxpayer's contribution to the organization and the amount of the contribution. The commissioner may require a taxpayer to furnish any other

information necessary to support a claim for the credit. No credit shall be allowed unless a copy of such document or other required information is provided.

(C) An entity may apply to the attorney general, on forms and in the manner prescribed by the attorney general, to be certified so that contributions to the entity qualify for the tax credit authorized under this section. The attorney general shall certify an entity as a scholarship granting organization if the entity submits information and documentation, to the attorney general's satisfaction, establishing that the entity satisfies the following:

(1) It is a religious or nonreligious nonprofit organization exempt from federal taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) of the Internal Revenue Code.

(2) It primarily awards academic scholarships for primary and secondary school students.

(3) It prioritizes awarding its scholarships to low-income primary and secondary school students.

The attorney general shall notify the applicant of the attorney general's determination within thirty days after the attorney general receives the application. The attorney general shall maintain a list of all scholarship granting organizations. As soon as is practicable after compiling or updating this list, the attorney general shall furnish the list to the tax commissioner, who shall post the list or updated list to the department of taxation's web site.

The attorney general shall adopt rules necessary to determine eligibility for and administer the credit authorized under this section.

Sec. 5747.75. A nonrefundable credit is allowed against a taxpayer's aggregate liability under section 5747.02 of the Revised Code for taxpayers with one or more dependents who attend a nonchartered nonpublic school. ~~To qualify for the credit, the total federal adjusted gross income of the taxpayer and, if filing a joint return, the taxpayer's spouse for the taxable year must be less than one hundred thousand dollars.~~ The amount of the credit shall equal the lesser of the total tuition paid by the taxpayer and, if filing a joint return, the taxpayer's spouse during the taxable year for all of the taxpayer's dependents to attend such a school or the following amount, as applicable:

(A) If the taxpayer's or, if filing a joint return, the taxpayer's and the taxpayer's spouses' total federal adjusted gross income is less than fifty thousand dollars for the taxable year, ~~five hundred one thousand~~ dollars;

(B) If the taxpayer's or, if filing a joint return, the taxpayer's and the

taxpayer's spouses' total federal adjusted gross income equals or exceeds fifty thousand dollars ~~but is less than one hundred thousand dollars for the taxable year~~, one thousand five hundred dollars.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code.

Sec. 5747.83. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such taxpayer for the taxable year that begins in the calendar year for which the designated reporter files the form prescribed by division (I) of section 175.16 of the Revised Code.

The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the credit exceeds the taxpayer's aggregate tax due under section 5747.02 of the Revised Code for that taxable year after allowing for credits that precede the credit under this section in that order, such excess shall be allowed as a credit in each of the ensuing five taxable years, but the amount of any excess credit allowed in any such taxable year shall be deducted from the balance carried forward to the ensuing taxable year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5726.58, or 5729.19 of the Revised Code.

Sec. 5747.84. (A) Terms used in this section have the same meanings as in section 175.17 of the Revised Code.

(B) There is allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.17 of the Revised Code. The credit equals the amount allocated to such taxpayer for the taxable year that begins in the calendar year for which the designated reporter files the form prescribed by division (H) of section 175.17 of the Revised Code that allocates the credit to the taxpayer.

The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the credit exceeds the taxpayer's aggregate tax due under section 5747.02 of the Revised Code for that taxable year after allowing for credits that precede the credit under this section in that order, such excess shall be allowed as a credit in each of the ensuing five taxable years, but the amount of any excess credit allowed in any such taxable year

shall be deducted from the balance carried forward to the ensuing taxable year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.37, 5726.60, or 5729.20 of the Revised Code.

Sec. 5747.85. (A) As used in this section:

(1) "Homeownership savings account" has the same meaning as in section 135.70 of the Revised Code.

(2) "Account owner" means "eligible participant" as defined by section 135.70 of the Revised Code.

(3) "Contributor" means the account owner or a parent, spouse, sibling, stepparent, or grandparent of the account owner who deposits funds into the homeownership savings account.

(4) "Lifetime contribution limit" means twenty-five thousand dollars of contributions per contributor per homeownership savings account.

(5) "Eligible expenses" means unreimbursed expenses paid by the account owner for home purchase costs for the account owner's primary residence and account fees imposed on the account owner.

(6) "Primary residence" means a home located in this state that is or will be the account owner's principal place of residence at the time the eligible expenses are incurred and for which the account owner receives or will receive a reduction in real property taxes under division (B) of section 323.152 of the Revised Code.

(7) "Home purchase costs" means "closing costs" as defined in section 135.70 of the Revised Code.

(8) "Employer contribution" means the amount an employer contributes to a homeownership savings account.

(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for amounts contributed to a homeownership savings account to the extent that the amounts contributed have not already been deducted in computing the contributor's federal or Ohio adjusted gross income for the taxable year. The deduction shall equal the amount of contributions made by the taxpayer and, if filing a joint return, the taxpayer's spouse, except that the deduction shall not exceed, for any taxable year, ten thousand dollars for spouses filing a joint return or five thousand dollars for all other taxpayers for each homeownership savings account to which contributions are made. If a taxpayer files a joint return, the deduction amount attributable to contributions made by each spouse shall not exceed five thousand dollars for each homeownership savings account to which contributions are made. A contributor is not entitled to a deduction under this section to the extent the deduction causes the

contributor to exceed the lifetime contribution limit.

(C) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to an account owner for the following items:

(1) Interest earned on a homeownership savings account to the extent the interest has not been otherwise deducted or excluded in computing an account owner's federal or Ohio adjusted gross income.

(2) Employer contributions made by an employer to an account owner's homeownership savings account to the extent the employer contributions have not been otherwise deducted or excluded in computing an account owner's federal or Ohio adjusted gross income.

(D) The tax commissioner may request that a taxpayer claiming a deduction calculated under division (B) or (C) of this section furnish information necessary to support the claim for the deduction under this section, and no deduction shall be allowed unless the requested information is provided.

(E) The commissioner may adopt rules necessary to administer this section.

Sec. 5747.98. (A) To provide a uniform procedure for calculating a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;

Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;

The dependent care credit under section 5747.054 of the Revised Code;

The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

The campaign contribution credit under section 5747.29 of the Revised Code;

The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

The joint filing credit under division (G) of section 5747.05 of the Revised Code;

The earned income credit under section 5747.71 of the Revised Code;

The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;

The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;

The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;

The nonrefundable vocational job credit under section 5747.057 of the Revised Code;

The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

The enterprise zone credit under section 5709.66 of the Revised Code;

The credit for beginning farmers who participate in a financial management program under division (B) of section 5747.77 of the Revised Code;

The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;

The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;

The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;

The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

The small business investment credit under section 5747.81 of the Revised Code;

The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;

The opportunity zone investment credit under section 122.84 of the Revised Code;

The enterprise zone credits under section 5709.65 of the Revised Code;

The research and development credit under section 5747.331 of the Revised Code;

The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;

The nonrefundable affordable single-family home credit under section 5747.84 of the Revised Code;

The nonresident credit under division (A) of section 5747.05 of the Revised Code;

The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

The refundable motion picture and Broadway theatrical production

credit under section 5747.66 of the Revised Code;

The refundable credit for film and theater capital improvement projects under section 5747.67 of the Revised Code;

The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;

The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.

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

Sec. 5749.06. (A)(1) Each severer liable for the tax imposed by section 5749.02 of the Revised Code and each severer or owner liable for the amounts due under section 1509.50 of the Revised Code, except for any amount due under division (B)(2) of that section, shall make and file returns with the tax commissioner in the prescribed form and at the prescribed times, computing and reflecting therein the tax as required by this chapter and amounts due under section 1509.50 of the Revised Code.

(2) The returns shall be filed for every calendar quarter, as required by this section, unless a different return period is prescribed for a taxpayer by the commissioner.

(B)(1) A separate return shall be filed for each calendar quarter, or other period, or any part thereof, during which the severer holds a permit or has registered as provided by section 5749.04 of the Revised Code, or is required to hold the permit or registration, or during which an owner is

required to file a return. The return shall be filed on or before the fifteenth day of the second month following the end of each return period. The tax due is payable along with the return. All such returns shall contain such information as the commissioner may require to fairly administer the tax.

(2) All returns shall be signed by the severer or owner, as applicable, shall contain the full and complete information requested, and shall be made under penalty of perjury.

(C) If the commissioner believes that quarterly payments of tax would result in a delay that might jeopardize the collection of such tax payments, the commissioner may order that such payments be made weekly, or more frequently if necessary, such payments to be made not later than seven days following the close of the period for which the jeopardy payment is required. Such an order shall be delivered to the taxpayer ~~personally or by certified mail~~ in the manner provided in section 5703.37 of the Revised Code and shall remain in effect until the commissioner notifies the taxpayer to the contrary.

(D) Upon good cause the commissioner may extend for thirty days the period for filing any notice or return required to be filed under this section, and may remit all or a part of penalties that may become due under this chapter.

(E) Any tax and any amount due under section 1509.50 of the Revised Code not paid by the day the tax or amount is due shall bear interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that amount due from the day that the amount was originally required to be paid to the day of actual payment or to the day an assessment was issued under section 5749.07 or 5749.10 of the Revised Code, whichever occurs first.

(F) A severer or owner, as applicable, that fails to file a complete return or pay the full amount due under this chapter within the time prescribed, including any extensions of time granted by the commissioner, shall be subject to a penalty not to exceed the greater of fifty dollars or ten per cent of the amount due for the period.

(G)(1) A severer or owner, as applicable, shall remit payments electronically and, if required by the commissioner, file each return electronically. The commissioner may require that the severer or owner use the Ohio business gateway, as defined in section 718.01 of the Revised Code, or another electronic means to file returns and remit payments electronically.

(2) A severer or owner that is required to remit payments electronically under this section may apply to the commissioner, in the manner prescribed

by the commissioner, to be excused from that requirement. The commissioner may excuse a severer or owner from the requirements of division (G) of this section for good cause.

(3) If a severer or owner that is required to remit payments or file returns electronically under this section fails to do so, the commissioner may impose a penalty on the severer or owner not to exceed the following:

(a) For the first or second payment or return the severer or owner fails to remit or file electronically, the greater of five per cent of the amount of the payment that was required to be remitted or twenty-five dollars;

(b) For every payment or return after the second that the severer or owner fails to remit or file electronically, the greater of ten per cent of the amount of the payment that was required to be remitted or fifty dollars.

(H)(1) All amounts that the commissioner receives under this section shall be deemed to be revenue from taxes imposed under this chapter or from the amount due under section 1509.50 of the Revised Code, as applicable, and shall be deposited in the severance tax receipts fund, which is hereby created in the state treasury.

(2) The director of budget and management shall transfer from the severance tax receipts fund, as necessary, to the tax refund fund amounts equal to the refunds certified by the commissioner under section 5749.08 of the Revised Code. Any amount transferred under division (H)(2) of this section shall be derived from receipts of the same tax or other amount from which the refund arose.

(3) After the director of budget and management makes any transfer required by division (H)(2) of this section, but not later than the twenty-fifth day of each month, the commissioner shall certify to the director the total amount remaining in the severance tax receipts fund organized according to the amount attributable to each natural resource and according to the amount attributable to a tax imposed by this chapter and the amounts due under section 1509.50 of the Revised Code, and shall provide for payment to the funds specified in division (B) of section 5749.02 of the Revised Code.

(I) Penalties imposed under this section are in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax levied under this chapter or the amount due under section 1509.50 of the Revised Code, as applicable. The commissioner may collect any penalty or interest imposed under this section in the same manner as provided for the making of an assessment in section 5749.07 of the Revised Code. The commissioner may abate all or a portion of such interest or penalties and may adopt rules governing such abatements.

Sec. 5749.17. Any information provided to the department of natural

resources by the department of taxation in accordance with ~~division (C)(12)~~ of section 5703.21 of the Revised Code shall not be disclosed publicly by the department of natural resources. However the department of natural resources may provide such information to the attorney general for purposes of enforcement of Chapter 1509. of the Revised Code.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

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

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

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

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

(1) Any person with not more than one hundred fifty thousand dollars of whose taxable gross receipts during the calendar year do not exceed the exclusion amount. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer.

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except ~~that a~~ in the following circumstances:

(a) A public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a)(i) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b)(ii) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division ~~(E)(2)(a)~~ (E)(2)(a)(i) of this section and whose

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disapproved.

JULY 3, 2023

Date: _____



Mike DeWine, Governor

denominator is the total taxable gross receipts that can be directly attributed to any activity;

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

(b) A heating company that became exempt from the excise tax imposed by section 5727.30 of the Revised Code on May 1, 2023, shall not be an excluded person for tax periods beginning on or after July 1, 2023.

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

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

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

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

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

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1706.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

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

(5) A domestic insurance company or foreign insurance company, as

defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

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

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

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

(1) The following are examples of gross receipts:

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

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

- (a) Interest income except interest on credit sales;
- (b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;
- (c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.
- (d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;
- (e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;
- (f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;
- (g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;
- (h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; ~~and~~ payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes, tobacco products, or vapor products by a wholesale dealer, retail dealer, distributor, manufacturer, vapor distributor, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes, tobacco products, or vapor products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

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

another person;

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

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

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

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

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, 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, or an alternate employer organization, as defined in section 4133.01 of the Revised Code, from a client employer, as defined in either of those sections as applicable, in excess of the administrative fee charged by the professional employer organization or the alternate 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 as determined under section 5751.40 of the Revised Code;

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

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

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

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

(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code;

(gg) Qualified uranium receipts as determined under section 5751.41 of the Revised Code;

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

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

(jj) Qualifying integrated supply chain receipts as determined under section 5751.42 of the Revised Code-;

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

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

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

(nn) Amounts of excess surplus of the state insurance fund received by the taxpayer from the Ohio bureau of workers' compensation pursuant to rules adopted under section 4123.321 of the Revised Code-;

(oo) Except as otherwise provided in division (B) of section 5751.091 of the Revised Code, receipts of a megaproject supplier from sales of tangible personal property directly to a megaproject operator in this state for use at the site of the megaproject operator's megaproject, provided that the sale occurs during the period that the megaproject operator has an agreement with the tax credit authority for the megaproject under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated, and provided the megaproject supplier holds a certificate for such megaproject issued under section 5751.052 of the Revised Code for the calendar year in which the sales are made and, if the megaproject supplier meets the requirements described in division (A)(13)(b) of section 122.17 of the Revised Code, the megaproject supplier holds a certificate for such megaproject issued under division (D)(11) of

section 122.17 of the Revised Code on the first day of that calendar year;

(pp) Receipts from the sale of each new piece of capital equipment that has a cost in excess of one hundred million dollars and that is used at the site of a megaproject that satisfies the criteria described in division (A)(11)(a)(ii) of section 122.17 of the Revised Code, provided that the sale occurs during the period that a megaproject operator has an agreement for that megaproject with the tax credit authority under division (D) of section 122.17 of the Revised Code that remains in effect and has not expired or been terminated;

(qq) In the case of amounts collected by a sports gaming proprietor from sports gaming, amounts in excess of the proprietor's sports gaming receipts. As used in this division, "sports gaming proprietor" has the same meaning as in section 3775.01 of the Revised Code and "sports gaming receipts" has the same meaning as in section 5753.01 of the Revised Code.

(rr) Amounts received from any federal, state, or local grant, and amounts of indebtedness discharged or forgiven pursuant to federal, state, or local law, for providing or expanding access to broadband service in this state. As used in this division, "broadband service" has the same meaning as in section 188.01 of the Revised Code.

(ss) Receipts provided to a taxpayer to compensate for lost business resulting from the train derailment near the city of East Palestine on February 3, 2023, by any of the following:

(i) A federal, state, or local government agency;

(ii) A railroad company, as that term is defined in section 5727.01 of the Revised Code;

(iii) Any subsidiary, insurer, or agent of a railroad company or any related person.

(tt) An amount equal to the fee imposed by section 3743.22 of the Revised Code billed to the purchaser, collected by the taxpayer, and remitted to the fire marshal during the tax period, provided that the fee is separately stated on the invoice, bill of sale, or similar document given to the purchaser of 1.4G fireworks in this state.

(uu) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division,

"real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

- (1) Owns or uses a part or all of its capital in this state;
- (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;
- (3) Has bright-line presence in this state;
- (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

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

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

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

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

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

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

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

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

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

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

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

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

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

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

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

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

- (1) A person receiving a fee to sell financial instruments;
- (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;
- (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;
- (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;
- (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

~~(Q)~~(O) "Received" includes amounts accrued under the accrual method of accounting.

~~(R)~~(P) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a

member of such a group.

Read (S)(Q) "Megaproject," "megaproject operator," and "megaproject supplier" have the same meanings as in section 122.17 of the Revised Code.

(R) "Exclusion amount" means three million dollars for tax periods beginning in 2024 and six million dollars for tax periods beginning in 2025. Thereafter, the tax commissioner shall adjust the exclusion amount as described in this division.

In August of each year, the commissioner shall multiply the exclusion amount applicable to the current tax period by the gross domestic deflator computed under section 5747.025 of the Revised Code, add the resulting product to the exclusion amount applicable to the current tax period, and round the resulting sum to the nearest fifty dollars. The adjusted amount applies to tax periods beginning in the following calendar year and to each ensuing calendar year until a new adjustment is made pursuant to this division. The tax commissioner shall not make a new adjustment in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

Sec. 5751.02. (A) For the purpose of funding the needs of this state and its local governments, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of doing business in this state. For the purposes of this chapter, "doing business" means engaging in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during a calendar year. Persons on which the commercial activity tax is levied include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, ~~in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year.~~ A taxpayer is subject to the annual privilege tax for doing business during any portion of such calendar year.

(B) The tax imposed by this section is a tax on the taxpayer and shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section

The above boxed and initialed text was disapproved.

JUL 3, 2023
Date: _____

Mike DeWine

Mike DeWine, Governor

prohibits:

(1) A person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section; or

(2) A lessor from including an amount sufficient to recover the tax imposed by this section in a lease payment charged, or from including such an amount on a billing or invoice pursuant to the terms of a written lease agreement providing for the recovery of the lessor's tax costs. The recovery of such costs shall be based on an estimate of the total tax cost of the lessor during the tax period, as the tax liability of the lessor cannot be calculated until the end of that period.

(C)(1) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Sixty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the revenue enhancement fund and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder of the money in the commercial activities tax receipts fund shall first be credited to the ~~commercial activity tax motor fuel receipts fund, pursuant to funds described in~~ division (C)(2) of this section, as provided in that division, and the remainder shall be credited ~~in the following percentages each fiscal year to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5709.92 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5709.93 of the Revised Code, in the following percentages:~~

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund
2014 and 2015	50.0%	35.0%	15.0%
2016 and 2017	75.0%	20.0%	5.0%
2018 and thereafter	85.0%	13.0%	2.0%

(2) Not later than the twentieth day of February, May, August, and November of each year, the commissioner shall provide for payment of the following amounts from the commercial activities tax receipts fund ~~to the~~:

(a) To the commercial activity tax motor fuel receipts fund, an amount that bears the same ratio to the balance in the commercial activities tax receipts fund that (a) the taxable gross receipts attributed to motor fuel used for propelling vehicles on public highways as indicated by returns filed by the tenth day of that month for a liability that is due and payable on or after July 1, 2013, for a tax period ending before July 1, 2014, bears to (b) all taxable gross receipts as indicated by those returns for such liabilities;

(b) To the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5709.92 of the Revised Code, an amount necessary to make those payments;

(c) To the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5709.93 of the Revised Code, an amount necessary to make those payments.

~~(D)(1) If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under section 5709.92 of the Revised Code at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund.~~

~~(2) If the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under section 5709.93 of the Revised Code at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund.~~

~~(E)(1)~~ On or after the first day of June of each year, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund.

(2) On or after the first day of June of each year, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

~~(F)(1)(E)(1)~~ There is hereby created in the state treasury the commercial activity tax motor fuel receipts fund.

(2) On or before the fifteenth day of June of each fiscal year beginning with fiscal year 2015, the director of the Ohio public works commission shall certify to the director of budget and management the amount of debt

service paid from the general revenue fund in the current fiscal year on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, 2p, and 2s of Article VIII, Ohio Constitution, that are attributable to costs for construction, reconstruction, maintenance, or repair of public highways and bridges and other statutory highway purposes. That certification shall allocate the total amount of debt service paid from the general revenue fund and attributable to those costs in the current fiscal year according to the applicable section of the Ohio Constitution under which the bonds were originally issued.

(3) On or before the thirtieth day of June of each fiscal year beginning with fiscal year 2015, the director of budget and management shall determine an amount up to but not exceeding the amount certified under division ~~(F)(2)~~(E)(2) of this section and shall reserve that amount from the cash balance in the petroleum activity tax public highways fund or the commercial activity tax motor fuel receipts fund for transfer to the general revenue fund at times and in amounts to be determined by the director. The director shall transfer the cash balance in the petroleum activity tax public highways fund or the commercial activity tax motor fuel receipts fund in excess of the amount so reserved to the highway operating fund on or before the thirtieth day of June of the current fiscal year.

Sec. 5751.03. ~~(A) Except as provided in division (B) of this section, the~~
The rate of tax levied under this section 5751.02 of the Revised Code for
each tax period shall be ~~the product of two and six-tenths mills per dollar~~
times ~~the remainder of the taxpayer's taxable gross receipts for the tax~~
period after subtracting the exclusion amount ~~provided for in division (C) of~~
~~this section for the calendar year.~~

~~(B) Notwithstanding division (C) of this section, the tax on the first one~~
~~million dollars in taxable gross receipts each calendar year shall be~~
~~calculated as follows:~~

~~(1) For taxpayers with annual taxable gross receipts of one million~~
~~dollars or less for the immediately preceding calendar year, one hundred~~
~~fifty dollars;~~

~~(2) For taxpayers with annual taxable gross receipts greater than one~~
~~million dollars, but less than or equal to two million dollars for the~~
~~immediately preceding calendar year, eight hundred dollars;~~

~~(3) For taxpayers with annual taxable gross receipts greater than two~~
~~million dollars, but less than or equal to four million dollars for the~~
~~immediately preceding calendar year, two thousand one hundred dollars;~~

~~(4) For taxpayers with annual taxable gross receipts greater than four~~