

IN THE SUPREME COURT

AMERICAN FIBER SYSTEMS, INC.,)	SUPREME COURT CASE
)	NUMBER 2008-1338
)	
Appellants,)	
)	
vs.)	Appeal from the Ohio Board of Tax
)	Appeals BTA Case No. 2006-B-118
RICHARD A. LEVIN, FORMERLY)	
WILLIAM J. WILKINS, TAX)	
COMMISSIONER OF THE STATE)	
OF OHIO,)	
)	
Appellees.)	

**REPLY BRIEF OF APPELLANT
AMERICAN FIBER SYSTEMS, INC.**

Todd W. Sleggs (0040921)
COUNSEL OF RECORD
Sleggs, Danzinger & Gill Co., LPA
820 W. Superior Avenue, Suite 400
Cleveland, Ohio 44113
(216) 771-8990
(216) 771-8992 – FAX

ATTORNEY FOR APPELLANT
AMERICAN FIBER SYSTEMS, INC.

Barton A. Hubbard (0023141)
COUNSEL OF RECORD
Assistant Ohio Attorney General
State Office Tower, 16th Floor
30 East Broad Street
Columbus, Ohio 43215-3428
(614) 466-5967
(614) 466-8226 - FAX

ATTORNEY FOR APPELLEE
TAX COMMISSIONER OF THE STATE OF OHIO

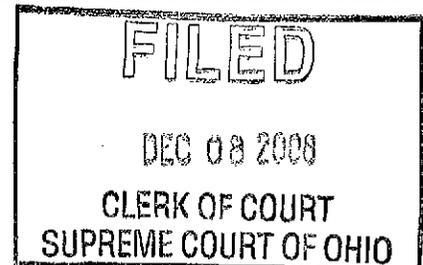


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INTRODUCTION

The Appellee, Tax Commissioner of Ohio has filed a brief in this appeal. This reply brief of the Appellant responds to the issues and arguments raised by the Appellees in their brief.

The Appellee mischaracterizes the Appellant's business at page 15 in their brief and the citations to Gary J. Azzolina's testimony by the Appellee do not support their description of the facts in this case. Strands relate to the capacity of a network, the more strands you have the more capacity. Supp. at page 77 (Transcript at page 70). The Appellant sells conduit activity or capacity on its network to customers. Supp. at page 78 (Transcript at page 70). In order to provide conduit activity or capacity to customers the Appellant lights a certain number of strands to provide the necessary capacity. Supp. at page 90 (Transcript at page 83). If a customer is not already "on-net" (i.e. "has a lateral build to our system or happens to be in a telecom tower we are built into") the Appellant would connect the new customer via a "splicing history" and the new customer would have access to the Appellant's network. Supp. at page 96 (Transcript at page 89). Appellant would handle the set up for a customer if such a customer existed but they have not been able to find any customers of this type. Supp. at pages 90-91 (Transcript at pages 83-84). The customers of Appellant "can buy only what's required to carry out service..." Supp. at page 77 (Transcript at page 69). This is not the type of wholesale leasing of dark fiber that the Appellee describes in their brief. Characterizing the Appellant's business as a wholesaler of dark fiber is necessary to the inventory theory of assessment espoused by the Appellee in this case. As discussed below and in Appellant's initial brief at page 11, the inventory theory of the Appellee has no basis in law or fact. If the Appellant had customers with capacity requirements for the full 288 strand capacity of the network, all the strands of fiber would be lit, they don't have enough customers with capacity requirements for the 288 strand capacity and that is why

only 36 strands are lit. Supp. at pages 134 and 135. If the Appellant lights additional strands for use in the future those strands will be “used in business” and become subject to tax. The 252 dark strands are not “used in business” under Revised Code Section 5701.08(A) and were so found by the Tax Commissioner in its 2003 tax year final determination. Supp. at page 127. The Tax Commissioner and Board of Tax Appeals failure to follow this prior determination in this 2004 tax year appeal is unreasonable and unlawful.

The Appellee’s 2004 tax year theory of assessment is discussed at page 14 in their brief: “subsequent to his September 15, 2004 issuance of AFS’ final determination for the 2003 tax year, the Commissioner’s legal counsel and administrative personnel undertook a thorough review of the case law and determined that dark-fiber wire strand inventories held for lease are ‘used in business’ within the meaning of R.C. 5701.08.” Apparently the Tax Commissioner’s final determination for the tax year 2003 was not very final. Although the facts and law did not change over the twelve (12) months between the tax years 2003 and 2004, the Tax Commissioner’s assessment of the Appellant’s property did because of the “thorough review” that apparently was not done in reviewing the Appellant’s 2003 tax year assessment. It is important for the Court to note that there was no change in the law in Ohio and the facts of the Appellant’s case did not change (the Appellee specifically held in its 2004 tax year final determination that “petitioner’s assets and business have not changed materially since the Board’s ruling on petitioner’s public utility property tax for the 2003 tax year.” (Supp. at page 5), it is just that the Tax Commissioner after the “thorough review” in the 2004 case decided to advance a different theory of assessment than they used in their 2003 final determination. The Appellant submits that this is the type of activity that collateral estoppel is designed to prevent. The Appellant has seven (7) more years to report and pay tax on personal property in Ohio,

should the Tax Commissioner be allowed to advance a different theory of assessment in each of those years in the absence of a change in the law or facts? The Appellant submits that the answer is no.

The Tax Commissioner provides no examples of the “consequences” of applying collateral estoppel in this case at page 38 in their brief. The Appellant submits that the facts in this case supply a compelling example of why collateral estoppel should apply. The “comprehensive administrative practice” that the Appellee makes reference to at page 38 in their brief does not provide any support for their claim that collateral estoppel does not apply. The Tax Commissioner provides no basis in law or fact that would justify not applying collateral estoppel in this appeal.

I. THE DOCTRINE OF COLLATERAL ESTOPPEL APPLIES IN THE APPEAL.

A review of the statutes and procedures for the filing of a petition for reassessment support the application of collateral estoppel in this case. The Appellant filed its 2004 Annual Report on March 31, 2004. Supp. at page 150. The Public Utility Tax Section then reviewed the annual report and issued a valuation notice to the Appellant on June 17, 2004. Supp. at page 145. On October 4, 2004 the preliminary assessment notice was mailed to the Appellant along with a description of the procedures for filing a petition for reassessment. Supp. at page 121-123. The notice specifically identifies the 60 day deadline for the filing a petition for reassessment, that the assessment notice (all pages) must be attached to the petition, objections along with the reduction requested must be noted, and that a hearing may be requested. Supp. at page 123. These instructions are consistent with the language contained in Revised Code Section 5727.47 which requires that objections to the assessment be raised, that a hearing be conducted if a petitioner requests one (See Revised Code Section 5727.47(D), and that the Tax

Commissioner issue a final determination, that can be appealed to the Ohio Board of Tax Appeals under Revised Code Section 5717.02. Revised Code Section 5727.47(E). As the Court can see in this case, a final determination by the Tax Commissioner contains findings of fact and conclusions of law, much like those made by the Board of Tax Appeals or a trial court. Supp. at pages 3-7 (Tax year 2004) and 126-127 (Tax year 2003). When an appeal is filed from a final determination of the Tax Commissioner under Revised Code Section 5717.02 the Tax Commissioner certifies “a complete transcript of the record of the proceedings before the Tax Commissioner of Ohio, together with all evidence, documentary or otherwise, considered in connection with the matter” appealed. See Supp. at pages 1-167. The Board of Tax Appeals in deciding an appeal from a final determination of the Tax Commissioner can, but is not required to conduct a hearing for the taking of additional evidence. See Revised Code Section 5717.02. In the Appellant’s appeal the Board of Tax Appeals hearing on the 2003 tax year appeal was heard in the morning on April 13, 2005, after which the Appellant took the elevator from the 24th floor of the State Office Tower (the Board of Tax Appeals) down to the 22nd floor to the Tax Commissioner’s office and submitted the exact same evidence (including the Court reporter transcript from that morning’s Board of Tax Appeals hearing – See Supp. at pages 12-106) at the Tax Commissioner hearing on the 2004 tax year petition for reassessment. This is why the Tax Commissioner found in its 2004 final determination that “petitioner’s assets and business have not changed since the Board’s ruling on the petitioner’s public utility tax for the 2003 tax year.” Supp. at page 5. Nothing had changed.

The issues, facts and law in the 2003 and 2004 tax years were identical. The cases cited by the Appellee at pages 34 and 35 in their brief do not support a different conclusion. Hubbard Press v. Tracy (1993), 67 Ohio St. 3d 564 (hereinafter Hubbard Press) was an exemption case where 32 years had passed between the earlier litigation (1951) and the tax year at issue in the case (1983), only one year (1) has passed in this case and the Tax Commissioner explicitly acknowledged that nothing had “changed materially” with respect to the Appellant’s assets for business. Supp. at page 5. Similarly, in Limbach v. Hooven & Allison Co. (1984), 466 U.S. 353 there as a change in the law that precluded the application of collateral estoppel that we do not have in this case. TBC Westlake v. Cuyahoga Cty. Bd. of Revision, 81 Ohio St. 3d 58, 66, involved a settlement via a stipulation by the parties (not all of who were the same in the two cases) that was not given the effect of collateral estoppel for a subsequent tax year. These are not the facts in this appeal, the Tax Commissioner’s 2003 final determination made specific findings on the exact same assessment issues under appeal in this case. See Supp. at pages 127-127. No change in the facts, no change in the law, no change in the issues in this appeal, but a dramatically different result. This is not right, it is not fair, and the Board of Tax Appeals failure to recognize this in its decision and order is unreasonable and unlawful.

The statutory scheme and procedures for the filing and prosecution of a petition for reassessment and the facts in this appeal support the application of collateral estoppel in this case. See Superior’s Brand v. Lindley (1980), 62 Ohio St. 2d 133 (hereinafter Superior’s Brand).

It is interesting to note that the Tax Commissioner in this appeal, who was the proponent of the application of the doctrine of collateral estoppel in Superior’s Brand, claims at page 37 in its brief that taxpayers will somehow be harmed by its application in this and similar cases. The facts in this appeal and the procedures before the Tax Commissioner as outlined above do not

support the Tax Commissioner's vague claim regarding the "consequences" of its application in this case. The Board of Tax Appeals applied the doctrine of collateral estoppel at the request of the Tax Commissioner in Superior's Brand and the Court affirmed the Board of Tax Appeals decision in that case. Superior's Brand, supra at 137. A similar result should apply here, where there has been no change in the facts, law, or issues between the tax years 2003 and 2004. The proceeding before the Tax Commissioner on Appellant's 2003 tax year petition for reassessment was clearly "(1) an administrative proceeding of a judicial nature, [with] (2) an identity of the parties, and (3) an identity of the issues." Hubbard Press, supra at 565. The Board of Tax Appeals decision and order failing to recognize and apply collateral estoppel with respect to the taxability of Appellant's dark fiber was unreasonable and unlawful.

II. THE APPELLANT DID NOT WAIVE OR FAIL TO RAISE COLLATERAL ESTOPPEL IN THIS CASE.

The time line of events in this case is as follows:

<u>September 15, 2004</u>	<u>November 5, 2004</u>	<u>December 2, 2004</u>	<u>September 16, 2005</u>
2003 Final Determination Excluding 87.5% of dark fiber.	2003 Appeal to BTA	2004 Petition filed	2003 BTA decision
Supp. at pages 124-125.	Supp. at page 13.	2003 FD and Appeal incorporated.	Supp. at 117, 124-130. Supp. at 207-213.

The Appellant's 2004 petition for reassessment incorporated its 2003 tax year notice of appeal to the Ohio Board of Tax Appeals and the Tax Commissioner's 2003 tax year final determination. Supp. at pages 117, 124-130. The Appellant clearly asserted that the Tax Commissioner's 2003 tax year determination should have application in its 2004 tax year petition. In its May 11, 2005 correspondence following the hearing on its 2004 petition the Appellant specifically requested that "the reduction of our fiber cost by the 87.5% figure

previously approved by the Tax Commissioner” be applied to its tax year 2004 petition. Supp. at page 10. The written objection requirement of Revised Code Section 5727.47 was clearly satisfied in this appeal and the Board of Tax Appeals finding to the contrary at page 8 in its decision and order is unreasonable and unlawful.

III. THE APPELLANT’S DARK FIBER IS NOT ASSESSABLE AS INVENTORY.

Just as the Tax Commissioner attempts to preclude the Appellant from raising the issue of collateral estoppel, the Tax Commissioner’s failure to raise their alternative theory of assessment was waived by failing to raise it in the 2003 tax year proceeding. Further, the Tax Commissioner’s new theory of assessment has no merit.

The taxable property of public utilities is assessed in Ohio under Chapter 5727 of the Revised Code. “Taxable property” is defined by Revised Code Sections 5727.01(E) and 5727.06. The taxable property of non-public utility taxpayers is assessed in Ohio under Chapter 5711 of the Revised Code. Revised Code Section 5727.06(E) allows the tax commissioner to “adopt rules governing the listing of the taxable property of public utilities and interchange telecommunications companies and the determination of true value.” The Appellee’s inventory theory of assessment was not adopted under this Section. The rules giving rise to the “Guidelines for filing Ohio Public Utility Tax Reports” (Supp. at pages 179-199) and Form U-IX (Long Distance) (Supp. at pages 150-167) used by the Appellant to report its assets were adopted under this Section.

The “Guidelines for Filing Ohio Public Utility Tax Reports” published by the Ohio Department of Taxation does not discuss the reporting of inventory. See Supp. at pages 178-199. Form U-IX (Long Distance) prescribed by the Tax Commissioner for the reporting of the Appellant’s assets does not provide for the reporting or listing of inventory. See Supp. at pages

150-167. Compare this with Tax Form 945, also prescribed by the Tax Commissioner for use by non-public utility taxpayers, included in the appendix to this brief. The instructions to form 945 specifically discuss the reporting of inventory by non-public utility taxpayers under Revised Code 5711.15 and 5711.16 (See Appendix at pages 16 and 17), makes a distinction that is further discussed in Ohio Administrative Code Rules 5703-3-16, 5703-3-17, and 5703-3-27 between manufacturing and merchandising inventory (See Appendix at page 18), and provides for the monthly reporting of these assets in schedules 3 and 3A (See Appendix at pages 26-29). The Appellant submits that the Tax Commissioner's "inventory theory" of assessment is clearly not contemplated by the statutes governing the assessment of public utility taxpayers, the Tax Commissioner's own form for the reporting of Appellant's assets, and is nothing more than an attempt to take away the tax treatment that the Appellant properly received for the tax year 2003

IV. THE APPELLANT'S EVIDENCE SUPPORTS ITS CLAIM REGARDING THE FACT THAT 87.5% OF ITS ASSETS (FIBER) ARE NOT USED IN BUSINESS.

Contrary to the Appellee's claim in their brief, the Appellant's dark fiber does not fall within the plain language of Revised Code 5701.08(A). The dark fiber is not "employed or utilized" as contemplated by the statute, it is not "kept or maintained as a part of plant capable of operation", nor is it "material, parts, products or merchandise", it is cable buried under the ground that is not hooked up to anything. Supp. at pages 68-69 (Transcript at pages 60-61).

The Tax Commissioner attempts to criticize the Appellant's evidence in this appeal, the same evidence that they accepted, in part, in deciding Appellant's 2003 tax year petition for reassessment. The Tax Commissioner did not submit any evidence or testimony in the Appellant's 2003 and 2004 tax year appeals. They repeatedly criticize Appellant's methodology and evidence but chose not to offer any evidence of their own. In sum, the Appellant's evidence

on the value and utilization of the Appellant's fiber optic network was unrebutted, accepted by the Tax Commissioner on the issue of the value and assessment of the dark fiber for tax year 2003, and should have been accepted by the Tax Commissioner and the Board of Tax Appeals in this 2004 tax year appeal.

CONCLUSION

For the foregoing reasons the Appellant, American Fiber Systems, Inc. respectfully requests that the Court reverse the decision and order of the Ohio Board of Tax Appeals and remand the case with instructions to reverse the final determination of the Tax Commissioner and assess the Appellant's property in accord with the Tax Commissioner's 2003 tax year final determination. In the alternative, the Appellant respectfully requests that the conduit, pole and make ready fees, and monitoring equipment be treated in the same manner as the unused and unlit fiber and that American Fiber Systems, Inc. should only be assessed for that portion of the costs utilized to support the lit fiber ($\$4,925,514 \times 12.5\% \times .25 = \$153,922$ total taxable value).
Supp. at page 140.

Respectfully submitted,

SLEGGs, DANZINGER & GILL CO., LPA



Todd W. Sleggs, Esq. (0040921)
COUNSEL OF RECORD
820 W. Superior Avenue, Suite 400
Cleveland, Ohio 44113
(216) 771-8990
(216) 771-8992 – FAX

ATTORNEY FOR APPELLANT
AMERICAN FIBER SYSTEMS, INC.

CERTIFICATE OF SERVICE

A copy of the foregoing Reply Brief of Appellant American Fiber Systems, Inc. was mailed via regular U.S. mail postage prepaid, the 5th day of December 2008, to Barton A. Hubbard, Attorney General'S Office, Tax Division, State Office Tower, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215-3428, Attorney for the Appellee Tax Commissioner of Ohio.



Todd W. Sleggs, Esq. (0040921)

income by way of interest or dividends in excess of four per cent of the principal sum withdrawable; and other similar evidences of indebtedness, whether negotiable or not, and whether or not secured by mortgage or lien upon real or personal property or income, by whomsoever issued, excepting those issued:

(1) By the United States or any of its territories, districts, or dependencies;

(2) By any instrumentality of the federal government;

(3) Prior to January 1, 1913, by the state of Ohio or any political or other subdivision or school district in this state;

(4) Pursuant to Section 2a of Article VIII, Ohio Constitution;

(5) Which are defined in sections 5701.05 and 5701.07 of the Revised Code as deposits and current accounts.

[§ 125-180]

(C) Annuities, royalties, and other contractual obligations for the periodical payment of money and all contractual and other incorporeal rights of a pecuniary nature from which income is or may be derived, however evidenced, excepting:

(1) Interests in land and rents and royalties derived therefrom, other than equitable interests divided into shares evidenced by transferable certificates;

(2) Contracts of employment or partnership, salaries, wages, commissions, seniority and other incorporeal rights derived from any such contract, and retirement annuities or plans that result from contracts of employment;

(3) Contracts of insurance, and dividends paid or applied thereunder; but dividends under contracts commonly known as "combination life and annuity policies" or "cash refund annuities" shall not be excluded from taxation;

(4) Stock purchase, pension, or profit-sharing plans established by an employer for the benefit of his employees or those of his subsidiaries;

(5) Ownership interests of the depositors in an incorporated financial institution, the capital of which is not divided into shares, or which has no capital stock.

(As added by H.B. 944, Laws 1955, 2nd Sp. Sess.; as amended by H.B. 694, Laws 1981, effective January 1, 1983.)

[§ 125-195]

(D) All equitable interests, life or other limited estates, and annuity interests in any investment described in this section, or in any fund made up in whole or in part of any such investments, wherever located.

Ohio Tax Reports

(Sec. 5701.06 is as amended by H.B. 944, Laws 1955, 2nd Sp. Sess.; H.B. 694, Laws 1981, effective January 1, 1983.)

[§ 125-225]

⚡ *Caution: The tax on intangibles, except for the tax on dealers in intangibles, has been repealed. See ¶ 20-223 in the "Property" division. CCH.*

Sec. 5701.07: Credits; current accounts; prepaid items defined.—As used in Title LVII of the Revised Code:

(A) "Credits" means the excess of the sum of all current accounts receivable and prepaid items used in business when added together, estimating every such account and item at its true value in money, over and above the sum of current accounts payable of the business, other than taxes and assessments.

(B) "Current accounts" includes items receivable or payable on demand or within one year from the date of inception, however evidenced.

(C) "Prepaid Items" does not include tangible property.

The sum of current accounts payable shall not take into account an acknowledgment of indebtedness, unless founded on some consideration actually received, and believed at the time of making such acknowledgment to be a full consideration therefor, nor an acknowledgment for the purpose of diminishing the amount of credits to be listed for taxation.

[§ 125-255]

⚡ *Caution: The tax on intangibles, except for the tax on dealers in intangibles, has been repealed. See ¶ 20-223 in the "Property" division. CCH.*

Sec. 5701.08: "Used in business" and "business" defined.—As used in Title LVII of the Revised Code:

(A) Personal property is "used" within the meaning of "used in business" when employed or utilized in connection with ordinary or special operations, when acquired or held as means or instruments for carrying on the business, when kept and maintained as a part of a plant capable of operation, whether actually in operation or not, or when stored or kept on hand as material, parts, products, or merchandise. Machinery and equipment classifiable upon completion as personal property while under construction or installation to become part of a new or existing plant or other facility is not considered to be "used" by the owner of such plant or other facility within the meaning of "used in business" until such machinery and equipment is installed and in operation or

§ 5701.08 ¶ 125-255

capable of operation in the business for which acquired. Agricultural products in storage in a grain elevator, a warehouse, or a place of storage which products are subject to control of the United States government and are to be shipped on order of the United States government are not used in business in this state.

¶ 125-258]

(B) Merchandise or agricultural products shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state are not used in business in this state. Such property qualifies for this exception if division (B)(1) or (2) of this section applies:

(1) During any period that a person owns such property in this state:

(a) The property is to be shipped from a warehouse or place of storage in this state to the owner of the property or persons other than customers at locations outside this state for use, processing, or sale; or

(b) The property is located in public or private warehousing facilities in this state which are not subject to the control of or under the supervision of the owner of the property or manned by its employees and from which the property is to be shipped to any person, including a customer, outside this state.

(2) During the first twenty-four calendar months that a person first owns such property in this state, the property is held in a warehouse or place of storage in this state located within one mile of the closest boundary of an airport, and is shipped to any person, including a customer, outside this state.

For the purposes of division (B)(2) of this section, "airport" means any airport, as defined in division (C) of section 4561.01 of the Revised Code, which is approved by the department of transportation under section 4561.11 of the Revised Code to be used for commercial purposes, is regularly served by only one air carrier authorized to do so under 14 C.F.R., and is not a public airport as defined in 49 U.S.C. Appx. 2202(a)(17) as existing on the effective date of this amendment.

(3) For property that may meet the condition for the exception provided in division (B)(2) of this section, if it is not known at the conclusion of a reporting period whether the property yet qualifies for such exception, the owner of such property shall return it for taxation. If it is later determined that the returned property does so qualify, the owner may apply for a final assessment and

¶ 125-258 § 5701.09

refund on the property as provided in section 5711.26 of the Revised Code.

(As added by H.B. 298, Laws 1991, effective July 26, 1991.)

¶ 125-261]

(C) Leased property used by the lessee exclusively for agricultural purposes and new or used machinery and equipment and accessories therefor that are designed and built for agricultural use and owned by a merchant as defined in section 5711.15 of the Revised Code are not considered to be "used" within the meaning of "used in business."

(As amended by H.B. 298, Laws 1991, effective July 26, 1991.)

¶ 125-264]

(D) Moneys, deposits, investments, accounts receivable, and prepaid items, and other taxable intangibles are "used" when they or the avails thereof are being applied, or are intended to be applied, in the conduct of the business, whether in this state or elsewhere.

(As amended by S.B. 107, Laws 1955; H.B. 291, Laws 1983; H.B. 298, Laws 1991, effective July 26, 1991.)

¶ 125-270]

(E) "Business" includes all enterprises, except agricultural, conducted for gain, profit, or income and extends to personal service occupations.

(As amended by H.B. 480, Laws 1967; H.B. 298, Laws 1991, effective July 26, 1991.)

(Sec. 5701.08 is as amended by S.B. 107, Laws 1955; H.B. 480, Laws 1967; H.B. 291, Laws 1983; H.B. 298, Laws 1991, effective July 26, 1991.)

¶ 125-300]

⚡→ *Caution: The tax on intangibles, except for the tax on dealers in intangibles, has been repealed. See ¶ 20-223 in the "Property" division. CCH.*

Sec. 5701.09. Other taxable intangibles; other intangible property defined.—As used in Title LVII of the Revised Code, "other taxable intangibles" and "other intangible property" include every valuable right, title, or interest not comprised within or expressly excluded from any of the other definitions set forth in sections 5701.01 to 5701.09, inclusive, of the Revised Code.

¶ 125-330]

⚡→ *Caution: The tax on intangibles, except for the tax on dealers in intangibles, has been repealed. See ¶ 20-223 in the "Property" division. CCH.*

Sec. 5701.10. Income yield defined.—As used in Title LVII of the Revised Code, "income yield"

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listed therein, and in computing the amount of taxable credits such obligations shall be eliminated.

(As amended by H.B. 535, Laws 1959, effective October 19, 1959.)

[§ 132-100]

Sec. 5711.15. Valuation of merchandise offered for sale.—A merchant in estimating the value of the personal property held for sale in the course of his business shall take as the criterion the average value of such property, as provided in this section of the Revised Code, which he has had in his possession or under his control during such year ending on the day such property is listed for taxation, or the part of such year during which he was engaged in business. Such average shall be ascertained by taking the amount in value on hand, as nearly as possible, in each month of such year, in which he has been engaged in business, adding together such amounts, and dividing the aggregate amount by the number of months that he has been in business during such year.

As used in this section a "merchant" is a person who owns or has in possession or subject to his control personal property within this state with authority to sell it, which has been purchased either in or out of this state, with a view to being sold at an advanced price or profit, or which has been consigned to him from a place out of this state for the purpose of being sold at a place within this state.

(As amended by H.B. 311, Laws 1957, effective August 15, 1957.)

[§ 132-120]

[***] **Caution: Sec. 5711.16, as reproduced immediately below, is effective through June 29, 2005. For provisions effective June 30, 2005, see below CCH.]**

Sec. 5711.16. Listing of personal property by manufacturer; average value of articles.—(A) As used in this section, "manufacturer" means a person who purchases, receives, or holds personal property for the purpose of adding to its value by manufacturing, refining, rectifying, or combining different materials with a view of making a gain or profit by so doing.

When a manufacturer is required to return a statement of the amount of the manufacturer's personal property used in business, the manufacturer shall include the average value, estimated as provided in this section, of all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in manufacturing, combining, rectifying, or refining, and of all articles that were at any time manufactured or changed in any way by the manufacturer, either by combining, rectifying, refining, or adding thereto, that the manufacturer has had on hand during the year ending on the day the property is listed for taxation annually, or the part of such year during which the manufac-

turer was engaged in business. The manufacturer shall separately list finished products not kept or stored at the place of manufacture or at a warehouse in the same county.

The average value of such property shall be ascertained by taking the value of all property subject to be listed on the average basis, owned by the manufacturer on the last business day of each month the manufacturer was engaged in business during the year, adding the monthly values together, and dividing the result by the number of months the manufacturer was engaged in such business during the year. The result shall be the average value to be listed.

(B) A manufacturer also shall list all engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing, and owned or used by the manufacturer.

[***] **Caution: Sec. 5711.16, as reproduced below, amended by H.B. 66, Laws 2005, is effective June 30, 2005. For provisions effective through June 29, 2005, see above CCH.]**

Sec. 5711.16. Listing of personal property by manufacturer; average value of articles.—(A) As used in this section:

(1) "Manufacturer" means a person who purchases, receives, or holds personal property for the purpose of adding to its value by manufacturing, refining, rectifying, or combining different materials with a view of making a gain or profit by so doing.

(2) "Manufacturing equipment" means machinery and equipment, and tools and implements, including any associated patterns, jigs, dies, drawings, and business fixtures, used at a manufacturing facility by a manufacturer, and includes any such property leased to the manufacturer. "Manufacturing equipment" excludes property used for general office purposes. Nothing in this division is to be construed to change the definition of personal property, as defined in section 5701.03 of the Revised Code.

(3) "Manufacturing facility" means a facility or portion of a facility used for manufacturing, mining, refining, rectifying, or combining different materials with a view of making a gain or profit by so doing. "Manufacturing facility" includes that portion of a facility used to store or transport raw materials, work-in-process, or finished goods inventory, for packaging, for research, or to test for quality control, as long as manufacturing, mining, refining, rectifying, or combining is also performed at the facility. "Manufacturing facility" does not include any portion of a facility used primarily for making retail sales.

(4) "Manufacturing inventory" means all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in manufacturing, mining, combining, rectifying, or refining, and of all articles that were at any time manufactured or changed in any way by a manufacturer,

CHAPTER 5717—APPEALS

[§ 135-100]

Sec. 5717.01. Appeal from county board of revision to board of tax appeals; procedure; hearing.—An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after notice of the decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code. Such an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor. Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals and with the county board of revision. If notice of appeal is filed by certified mail, express mail, or authorized delivery service, as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt, recorded by the authorized delivery service shall be treated as the date of filing. Upon receipt of such notice of appeal such county board of revision shall by certified mail notify all persons thereof who were parties to the proceeding before such county board of revision, and shall file proof of such notice with the board of tax appeals. The county board of revision shall thereupon certify to the board of tax appeals a transcript of the record of the proceedings of the county board of revision pertaining to the original complaint; and all evidence offered in connection therewith. Such appeal may be heard by the board of tax appeals at its offices in Columbus or in the county where the property is listed for taxation, or the board of tax appeals may cause its examiners to conduct such hearing and to report to it their findings for affirmation or rejection.

The board of tax appeals may order the appeal to be heard on the record and the evidence certified to it by the county board of revision, or it may order the hearing of additional evidence, and it may make such investigation concerning the appeal as it deems proper.

(As amended by H.B. 920, Laws 1976; S.B. 6, Laws 1981; H.B. 260, Laws 1983; H.B. 612, Laws 2000; (H.B. 675), Laws 2002, effective March 14, 2003.)

[§ 135-101]

Sec. 5717.011: Appeals from municipal board of appeal.—(A) As used in this chapter, "tax administrator" has the same meaning as in section 718.01 of the Revised Code.

(B) Appeals from a municipal board of appeal created under section 718.11 of the Revised Code may be taken by the taxpayer or the tax administrator to the board of tax appeals or may be taken by

the taxpayer or the tax administrator to a court of common pleas as otherwise provided by law. If the taxpayer or the tax administrator elects to make an appeal to the board of tax appeals or court of common pleas, the appeal shall be taken by the filing of a notice of appeal with the board of tax appeals or court of common pleas, the municipal board of appeal, and the opposing party. The notice of appeal shall be filed within sixty days after the day the appellant receives notice of the decision issued under section 718.11 of the Revised Code. The notice of appeal may be filed in person or by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the decision issued under section 718.11 of the Revised Code and shall specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) Upon the filing of a notice of appeal with the board of tax appeals, the municipal board of appeal shall certify to the board of tax appeals a transcript of the record of the proceedings before it, together with all evidence considered by it in connection therewith. Such appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper.

(D) If an issue being appealed under this section is addressed in a municipal corporation's ordinance or regulation, the tax administrator, upon the request of the board of tax appeals, shall provide a copy of the ordinance or regulation to the board of tax appeals.

(As added by H.B. 95, Laws 2003, effective January 1, 2004.)

[§ 135-120]

Sec. 5717.02. Appeals from final determination; procedure; hearing.—Except as otherwise provided by law, appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations,

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or orders made by the commissioner may be taken to the board of tax appeals by the taxpayer, by the person to whom notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner is required by law to be given, by the director of budget and management if the revenues affected by such decision would accrue primarily to the state treasury, or by the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue. Appeals from the redetermination by the director of development under division (B) of section 5709.64 or division (A) of section 5709.66 of the Revised Code may be taken to the board of tax appeals by the enterprise to which notice of the redetermination is required by law to be given. Appeals from a decision of the tax commissioner concerning an application for a property tax exemption may be taken to the board of tax appeals by a school district that filed a statement concerning such application under division (C) of section 5715.27 of the Revised Code. Appeals from a redetermination by the director of job and family services under section 5733.42 of the Revised Code may be taken by the person to which the notice of the redetermination is required by law to be given under that section.

Such appeals shall be taken by the filing of a notice of appeal with the board, and with the tax commissioner if the tax commissioner's action is the subject of the appeal, with the director of development if that director's action is the subject of the appeal, or with the director of job and family services if that director's action is the subject of the appeal. The notice of appeal shall be filed within sixty days after service of the notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner or redetermination by the director has been given as provided in section 5703.37, 5709.64, 5709.66, or 5733.42 of the Revised Code. The notice of such appeal may be filed in person or by certified mail, express mail, or authorized delivery service. If the notice of such appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the notice sent by the commissioner or director to the taxpayer, enterprise, or other person of the final determination or redetermination complained of, and shall also specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

Upon the filing of a notice of appeal, the tax commissioner or the director, as appropriate, shall

certify to the board a transcript of the record of the proceedings before the commissioner or director, together with all evidence considered by the commissioner or director in connection therewith. Such appeals or applications may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the commissioner or director, but upon the application of any interested party the board shall order the hearing of additional evidence, and it may make such investigation concerning the appeal as it considers proper.

(As amended by S.B. 174, Laws 1973; H.B. 920, Laws 1976; H.B. 634, Laws 1977; H.B. 351, Laws 1981; H.B. 260, Laws 1983; S.B. 124, Laws 1985; H.B. 321, Laws 1985; S.B. 19, Laws 1994; H.B. 612, and S.B. 287, Laws 2000; S.B. 200, Laws 2002, effective September 6, 2002.)

§ 135-150

Sec. 5717.03: Decisions of the board of tax appeals; certification effect.—(A) A decision of the board of tax appeals on an appeal filed with it pursuant to section 5717.01, 5717.011, or 5717.02 of the Revised Code shall be entered of record on the journal together with the date when the order is filed with the secretary for journalization.

(B) In case of an appeal from a decision of a county board of revision, the board of tax appeals shall determine the taxable value of the property whose valuation or assessment by the county board of revision is complained of, or in the event the complaint and appeal is against a discriminatory valuation, shall determine a valuation which shall correct such discrimination, and shall determine the liability of the property for taxation, if that question is in issue, and the board of tax appeals's decision and the date when it was filed with the secretary for journalization shall be certified by the board by certified mail to all persons who were parties to the appeal before the board, to the person in whose name the property is listed, or sought to be listed, if such person is not a party to the appeal, to the county auditor of the county in which the property involved in the appeal is located, and to the tax commissioner.

In correcting a discriminatory valuation, the board of tax appeals shall increase or decrease the value of the property whose valuation or assessment by the county board of revision is complained of by a percent or amount which will cause such property to be listed and valued for taxation by an equal and uniform rule.

(C) In the case of an appeal from a review, redetermination, or correction of a tax assessment, valuation, determination, finding, computation, or order of the tax commissioner, the order of the board of tax appeals and the date of the entry thereof upon its

and other procedural requirements of this chapter for the reporting and assessment of property of electric companies apply to persons required to file a report under this section.

(B) A person subject to this section shall report the true value of the boilers, machinery, equipment, and any personal property used to supply electricity to others, which shall be the sum of the following:

(1) The true value of the property that is production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it; plus

(2) The true value of the property that is not production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it.

(C) The property reported under division (B) of this section shall be listed and assessed at an amount equal to the sum of the products determined under divisions (C)(1) and (2) of this section.

(1) Multiply the portion of the true value determined under division (B)(1) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(2) Multiply the portion of the true value determined under division (B)(2) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

(As added by H.B. 66, Laws 2005, effective June 30, 2005.)

¶ 138-985

Sec. 5727.04. Public utilities or interexchange telecommunications company not exempt.—The provisions of this chapter do not exempt any public utility or interexchange telecommunications company from the assessment and taxation of its property in the manner provided by law.

(As amended by H.B. 145, Laws 1979; S.B. 156, Laws 1989, effective December 31, 1989, applicable to the 1990 tax year.)

¶ 139-000

Sec. 5727.05. Exemption of nonprofit and municipal corporations.—Sections 5727.01 to 5727.61 of the Revised Code do not apply to either of the following:

(A) Nonprofit corporations as defined in division (C) of section 1702.01 of the Revised Code that are engaged exclusively in the treatment, distribution, and sale of water to consumers;

(B) Municipal corporations within this state.

(As amended by H.B. 720, Laws 1986; S.B. 156, Laws 1989; S.B. 3, Laws 1999, effective July 6, 1999, as unofficially determined by the Legislative Service Commission's Division of Legal Review and Technical Services.)

¶ 139-020

[Caution: There are three versions of Sec. 5727.06. The first version, as reproduced immediately below, is effective through June 29, 2005. For alternate versions, see below. CCH.]

Sec. 5727.06. Taxable property of public utility or interexchange telecommunications company.—(A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility and interexchange telecommunications company that shall be assessed by the tax commissioner:

(1) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(2) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(3) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and:

(a) Owned by the public utility or interexchange telecommunications company; or

(b) Leased by the public utility or interexchange telecommunications company under a sale and lease-back transaction.

(B) In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under chapter 5711 of the Revised Code.

(E) The tax commissioner may adopt rules governing the listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value.

[**Caution:** There are three versions of Sec. 5727.06. The second version, as reproduced immediately below, amended by H.B. 66, Laws 2005, is effective June 30, 2005. For alternate versions, see above and below CCH.]

Sec. 5727.06. Taxable property of public utility or interexchange telecommunications company.—(A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility, interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner:

(1) For tax years before tax year 2006:

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and:

(I) Owned by the public utility or interexchange telecommunications company; or

(II) Leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction.

(2) For tax years 2006, 2007, and 2008:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft

owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction;

(3) For tax year 2009 and each tax year thereafter:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction;

(d) In the case of a public utility property lessor, all personal property that on the thirty-first day of December of the preceding year was both located in this state and leased, in other than a sale and leaseback transaction, to an interexchange telecommunications company or a public utility other than a railroad company or water transportation company. The assessment rate used under section 5727.111 of the Revised Code shall be based on the assessment rate that would apply if the interexchange telecommunications company or public utility owned the property.

(4) For tax years 2005 and 2006, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the telephone, telegraph, or interexchange telecommunications company or leased by the telephone, telegraph, or interexchange telecommunications company under a sale and leaseback transaction.

(5) For tax year 2007 and thereafter, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property shall be listed and assessed for taxation under Chapter 5711 of the Revised Code.

† 139-020 § 5727.06

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(D) Within twenty days after receipt of any excise tax assessment certified to the treasurer of state for the tax imposed by section 5727.30 of the Revised Code, the treasurer of state shall:

(1) Ascertain the difference between the total taxes shown on such assessment and the sum of all estimated payments, exclusive of any penalties thereon, previously made for that year.

(2) If the difference is a deficiency, the treasurer of state shall issue a tax bill.

(3) If the difference is an excess, the treasurer of state shall certify the name of the taxpayer and the amount to be refunded to the director of budget and management for payment to the taxpayer.

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 treasurer of state may determine the net result and, depending on such result, proceed to mail a tax bill or certify a refund.

(E) If a taxpayer fails to pay all taxes on or before the due date shown on the tax bill, 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, but makes payment within ten calendar days of such date, the treasurer of state shall add a penalty equal to five per cent of the amount that should have been timely paid. If payment is not made within ten days of such date, the treasurer of state shall add a penalty equal to fifteen per cent of the amount that should have been timely paid. The treasurer of state shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general and tax commissioner. The attorney general shall proceed to collect the delinquent taxes and penalties thereon in the manner prescribed by law and notify the treasurer of state and tax commissioner of all collections.

(As repealed and reenacted by H.B. 201, Laws 1985; as amended by H.B. 357, Laws 1986; H.B. 740, Laws 1992; S.B. 3 and H.B. 283, Laws 1999; H.B. 640, Laws 2000, effective June 15, 2000.)

[§ 139-715]

Caution: Sec. 5727.44, as reproduced below, is repealed by H.B. 95, Laws 2003, effective December 31, 2004. CCH.]

Sec. 5727.44. Tax credit for cost of program to aid communicatively impaired.—A telephone company that provides any telephone service program to aid the communicatively impaired in accessing the telephone network under section 4905.79 of the Revised Code shall be allowed a credit against the excise tax computed under section 5727.38 of the Revised Code. The amount of the credit is the cost of providing such telephone service program incurred by the company during the period for which gross receipts are computed for the purpose of section 5727.33 of the Revised Code.

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The telephone company shall claim the credit in the company's annual statement required under division (A) of section 5727.31 of the Revised Code.

If the tax commissioner determines that the credit claimed is the credit allowed under this section, he shall credit such amount against the excise tax due from the company for the current year and shall refund the amount of any overpayment of tax resulting from the application of the credit. If the tax commissioner determines that the credit claimed is not correct under this section, he shall determine the proper credit, shall credit such amount against the excise tax due from the company for the current year, and shall refund the amount of any overpayment of tax resulting from the application of the credit. If the credit allowed under this section exceeds the total taxes due for the current year, the tax commissioner shall credit such excess against excise taxes due for succeeding years until the full amount of the credit is granted.

The estimated taxes required to be paid under section 5727.31 of the Revised Code shall be based on the taxes for the preceding year prior to any credit allowed under this section for that year.

(As enacted by H.B. 254; as repealed by H.B. 95, Laws 2003, effective December 31, 2004.)

[§ 139-735]

Sec. 5727.45. Crediting of taxes and penalties.—Four and two-tenths per cent of all excise taxes and penalties collected under sections 5727.01 to 5727.62 of the Revised Code shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(As amended by H.B. 413, Laws 1963; H.B. 1338, Laws 1974; H.B. 291, Laws 1983; H.B. 201, Laws 1985; H.B. 171, Laws 1987; H.B. 111, Laws 1989; S.B. 143, Laws 1991; H.B. 117, Laws 1995; S.B. 3, Laws 1999, effective January 1, 2002.)

[§ 139-775]

Sec. 5727.47. Mailing of assessment to utility; petition for reassessment.—(A) Notice of each assessment certified 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 any assessment certified to it pursuant to such sections, 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

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knowledge of the facts. If the petition is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the petition is presented shall be treated as 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 issued 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 issued 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. 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 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 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 issued 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 323.421 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, 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 issued 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.

Ohio Tax Reports

(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. The commissioner also shall transmit a copy of the final determination to the treasurer of state or 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, the treasurer of state who shall proceed under section 5727.42 of the Revised Code, or 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 issued 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.

(As enacted by S.B. 156, Laws 1989; as amended by H.B. 904, Laws 1992; S.B. 358, Laws 1992; S.B. 3, Laws 1999; H.B. 612, Laws 2000 and H.B. 589, Laws 2000; S.B. 200, Laws 2002, effective September 6, 2002.)

[§ 139-800]

Sec. 5727.471, Notice to county auditor of disposition or decision; collection of underpayment or refund or crediting of overpayment.—(A) As used in this section, "notification" means notification required by section 5727.47 of the Revised Code to be sent by the tax commissioner to the county auditor as to the disposition of a petition for reassessment, or of a decision of the board of tax appeals or any court with respect to an assessment of public utility property taxes.

(B) On receipt of the notification, the auditor shall determine whether there has been an underpayment or overpayment of taxes by the public utility. In the case of an underpayment of taxes, the auditor shall notify the county treasurer of the amount, and the treasurer shall proceed to collect the underpayment as required by law.

In the case of an overpayment of taxes, the auditor shall do any one of the following:

§ 5727.471 § 139-800

5703-3-16

Ohio Administrative Code

5703 Department of Taxation

Chapter 5703-3 Property Tax

5703-3-16 Computation and assessment of average value of inventories.

5703-3-16 Computation and assessment of average value of inventories.

The value of an inventory required to be listed on the average basis by a taxpayer in the course of his business shall be determined as provided by Revised Code 5711.15 and 5711.16, by considering the number of months of the year ending on the day such property is required to be listed for taxation that such taxpayer has been engaged in business in Ohio either as a merchant or manufacturer, respectively.

When a taxpayer has, during a given calendar year, removed from Ohio either all merchandising or all manufacturing inventory, required to be listed on an average basis, with the intent and purpose to no longer store, keep or traffic in business in Ohio as a merchant or manufacturer, such inventory is not to be listed and assessed as of the close of business on the last day of December of such year.

HISTORY: (former TX-41-15); Eff 11-18-57

Rule promulgated under: RC 5703.14

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5703-3-17

Ohio Administrative Code

5703 Department of Taxation

Chapter 5703-3 Property Tax

5703-3-17 Average inventory value of merchandise of taxpayer using retail inventory method of accounting.

5703-3-17 "Average inventory value of merchandise" of taxpayer using "retail inventory method of accounting".

The true "average inventory value of merchandise" to be estimated for taxation shall prima facie be the "average inventory value" at cost as disclosed by the books of the taxpayer, after making proper adjustments for cash discounts and merchandise shrinkage, less the aggregate net markdowns, at cost, (taking into consideration markdown cancellations and additional mark-ups at cost) which are reflected on the books of the taxpayer for the succeeding three months following the close of the annual accounting period of the current tax year.

Any taxpayer using the "retail inventory method of accounting", who has cause to file a true value claim with his Personal Property Tax return as authorized by Revised Code 5711.18, should request an extension of time for filing as provided by Revised Code 5711.04, in order that such claim and return when filed will be in conformity with the foregoing.

HISTORY: (former TX-41-16); Eff 11-18-57

Rule promulgated under: RC **5703.14**

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5703-3-27

Ohio Administrative Code

5703 Department of Taxation

Chapter 5703-3 Property Tax

5703-3-27 Determining true value of average inventory of a manufacturer for personal property tax purposes.

5703-3-27 Determining true value of average inventory of a manufacturer for personal property tax purposes.

The average value of taxable inventory of a manufacturer, required to be reported at its true value as provided by Sections 5711.22 and 5711.18, Revised Code, must be ascertained in accordance with Section 5711.16, Revised Code, and this Rule. The monthly values used in determining the average inventory must reflect the books and records of the taxpayer, to the extent that such books and records reflect the true value of the inventory.

In determining the true value as provided in Sections 5711.22 and 5711.18, Revised Code, the taxpayer must employ a method that reflects full absorption of all direct and indirect costs and expenses. All fixed, semi-variable and variable costs and expenses incurred in the manufacture of such inventory must be included in determining the true value thereof.

~~HISTORY: Eff 5-5-73 (former TX-41-27)~~

Rule promulgated under: RC **5703.14**

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State of Ohio

Inter-County Return of Taxable Business Property

2004

Please note: This year's booklet no longer provides multiple copies of our returns. Additional copies may be downloaded from our Internet site at www.ohio.gov/tax.

	Enter address changes here. Please limit to two lines, plus city, state and ZIP code. New address _____ _____ City, state and ZIP _____
--	--

Type of Business: Corporation Other

Charter or License No. _____	Date of Incorporation or Qualification in Ohio _____	Vendor's License No. _____
Date Business Began in Ohio _____	Federal Employer Identification No. _____	NAICS Code No. _____
		Social Security No. _____

Inter-County Latest date (with extension)
June 15, 2004

Extension Requested Yes No

Total List Value Tangible Property \$ _____

For Use by the Department of Taxation Only – Do Not Write in the Spaces Below

Consolidated		Claim		913 EX		Penalty _____%	Received by _____ Date _____
Return Check-In		Taxing District Verification		Pre-Assessment Verification			
Office Audited		Field Audited		Data Entry Label or Assessment date _____ By _____			
Agent _____ Date _____	Agent _____ Date _____						
Supr. _____ Date _____	Supr. _____ Date _____						

* Return does not need to be filed in duplicate.
 * If list value is \$10,000 or less, no return is required.

Do You Know?

Within Ohio's 88 counties, there are more than 4,000 possible taxing jurisdiction combinations composed of cities, township, villages, school districts, safety districts, etc. As a local source of revenue, the personal property tax rates are unique for each jurisdiction.

To ensure that your personal property is listed in the correct taxing district and your tax liability is computed based upon the proper tax rate, you may:

- 1) Contact the respective county auditors to verify by address the jurisdiction in which your property is located;
- 2) You may refer to last year's personal property assessment certificates or real estate bills for taxing district names; and
- 3) You may refer to and use Form 945 Rec that was provided to you based upon your last year's Inter-County Return.

What's New for 2004

Filing Requirements

Beginning with the 2004 tax year, taxpayers with a listed value of \$10,000 or less will no longer be required to file a tax return.

Reductions in Inventory Listing Percentage

Ohio Revised Code (O.R.C.) Section 5711.22 allows for a yearly reduction of the inventory listing percentage if collections from the second preceding year exceed collections for the third preceding year. This requirement was not met for tax year 2004. The listing percentage for inventory will remain **23% for the 2004 tax return**. The average inventory values must be used on lines C, D and E of Schedules 3 and 3A of the 913EX.

New True Value Schedule for Stand-alone Computers

Beginning with tax year 2003, a new true value schedule was implemented for stand-alone computers. Stand-alone computers include computers, as well as related hardware and peripheral equipment, used for general business purposes such as data processing, payroll, tracking sales data, maintaining accounting information and tracking orders. Stand-alone computers do not include computers used as part of the manufacturing process or to provide public utility services or point-of-sale equipment. Computers used in these processes will continue to be valued using the true value schedule for the process.

The new schedule for stand-alone computers is as follows:

Age of Computer (In Years)	True Value Percentage of Original Cost
1	75%
2	60%
3	45%
4	30%
5 or more	15%

2004 Tax Forms and Schedules

- Commonly used tax forms and schedules for 2004 are available on our web site at www.tax.ohio.gov. Many of these forms are available in a fill-in format for your convenience.
- Applications for extension of time to file inter-county tax returns may be submitted by e-mail to: extensions@tax.state.oh.us. The extension request must be received by April 30th.

The 2004 Tax Rate Booklet and Guidelines Booklet will not be available as a printed booklet. However, both booklets will be available on our web site by March 2004.

Definitions and General Instructions

Taxpayer—A personal property taxpayer includes every person or business entity owning or having a beneficial interest in taxable personal property that is located and used in business in Ohio as of January 1. When a taxpayer first engages in Ohio business after January 1, a new taxpayer return is due within 90 days of commencing business. Contact the department for additional instructions for filing a new taxpayer return.

Inter-County Return of Taxable Business Property – Form 945. Use of this tax return is restricted to businesses having taxable personal property in more than one county and is filed with the Ohio Department of Taxation.

County Return of Taxable Business Property – Form 920. Is to be used by businesses with taxable personal property in only one county. This form is filed in duplicate with the Auditor of the county in which business is being conducted.

Ohio Balance Sheet – Form 921. This form must be completed and filed with the tax return. When a consolidated tax return is filed, a consolidating balance sheet covering all corporations and in the format of Form 921 must be included. Column headings must reflect each corporation's assets located in and out of Ohio, and both inter-company eliminations and consolidated totals in and out of Ohio.

Filing Dates – The taxable business property return and balance sheet, plus any additional computations and exhibits, must be filed with the appropriate authority between February 15 and April 30. Application for inter-county and single county time extensions for filing are made to the Ohio Department of Taxation and County Auditor, respectively, before April 30. If approved, the extension will be granted until June 15. If the last date of the filing period (April 30th or as extended) occurs on a non-business day, the next succeeding business day becomes the last date of the filing period. Ohio law provides a maximum penalty of 50% for failure to file a timely return or failure to list or disclose taxable property. When an extension has been issued, it should be attached to the inside cover of the tax return at the time of filing.

To be timely filed, the return must be received by the Tax Commissioner on or before the due date. The mailing of a return, except by certified mail, does not constitute filing. To ensure timely delivery to and receipt by the Tax Commissioner, certified mail, personal delivery or an approved delivery service should be used, or the return may be filed in person with the Tax Commissioner.

Classification of Property – Personal property is defined as every tangible thing that is the subject of ownership, excepting real property. Real property is defined as land, growing crops, and unless specified as primarily devoted to the business rather than the land itself, all buildings, structures, improvements and fixtures on the land. Contractors' (construction in progress) building components, machinery and equipment, materials, etc., that will become real property upon

completion, are to be considered personal property until they are incorporated into the real estate. Personal property owned by a contractor is not considered construction-in-progress during construction.

Listing Date – All tangible personal property used in business must be listed and assessed unless specifically exempt. The tax listing date for all personal property used in business is the close of business on December 31. However, a taxpayer using a fiscal year end for federal income tax purposes must employ the last preceding fiscal year end for listing personal property used in business. If such taxpayer has not been engaged in business in Ohio a full 12 months preceding the fiscal year end, they must employ December 31. (Rule 5703-04)

True Value – The Ohio Revised Code (Sec. 5711.18) specifies that the true value of tangible personal property is its depreciated book value, unless the assessor finds otherwise. The Tax Commissioner has prescribed valuation methods for both depreciable assets and inventory. The taxpayer may report his property at a value other than that which is determined by the prescribed valuation methods, but any deviation from these prescribed valuation methods must be substantiated by the taxpayer with probative evidence. Any value that is below the net book value of the property must also be reported on Form 902, filed with the tax return. Other valuation methods, such as accelerated depreciation or last-in-first-out (LIFO) inventory valuations, are subject to review by the Tax Commissioner. The rejection of the valuation method used by the taxpayer when reporting his property may result in additional taxes and interest owed by the taxpayer.

Inventories – Ohio law (Sec. 5711.15 and 5711.16) requires inventories of manufacturers and merchants to be listed on the average monthly basis. The average value shall be determined by dividing the aggregate of the month-end inventories by the number of months engaged in business in Ohio. (Rule 5703-3-16) Expanding to new locations or movement to another taxing district during a year will result in partial year's inventory in multiple districts. Example: A merchant moving from taxing district "A" to taxing district "B" at mid-year would report value in each taxing district by totalling the inventory in each district separately and dividing by 12 (the number of months in business in Ohio). If the books do not provide those monthly values, the gross profits method may be used, provided purchases and sales are accrued properly.

A manufacturer is defined as a person who purchases, receives or holds personal property for the purpose of adding to its value by manufacturing, refining, rectifying or combining different materials with a view of making a gain or profit (Sec. 5711.16). A merchant is defined as a person who owns or has possession or subject to his control personal property that is held for sale with a view of making a gain or profit (Sec. 5711.15). Supply inventories of a merchant and inventories of taxpayers other than manufacturers and merchants must be listed as of

end of business year. Such inventories include those of mines, quarries, laundries, dry cleaners, contractors, repair shops, garages, etc. The listing percentage is 23% for the year 2004.

Depreciable Assets – Depreciable assets should be listed in the appropriate schedule by taxing district at true value, which may be greater or less than book value, as of the taxpayer's listing date. The Tax Commissioner has prescribed composite annual allowances and the method of application, by type of business activities, to be used in lieu of book depreciation for computing the true value of depreciable assets. For further instructions refer to page 25. In those instances where true value is less than book value, Form 902 must be filed with the tax return.

Leased Property – Must be listed by the owner, regardless of the terms of the lease agreement concerning tax liability. If the lessee is obligated to purchase the property, they are deemed to be the owner; otherwise, the lessor is deemed to be the owner (Rule 5703-3-14). If you lease property to a public utility, contact the Ohio Department of Taxation, Property Tax Division, for instructions for listing and valuing that property.

Listed Value – Listed value is true value times the applicable listing percentage. For tax year 2004, the listing percentage is 25% except inventory, which is listed at 23%. If you have property used for generating and distributing electricity to others, contact the Property Tax Division for instructions for listing that property. All listed values are to be rounded to the nearest \$10 and carried forward to the recapitulation (pages 18-20).

\$10,000 Exemption – The first \$10,000 of listed value of taxable personal property owned by a taxpayer is exempt from taxation to the owner. The exemption is applied in the taxing district with the highest listed value. If that is less than \$10,000, the remaining amount is applied in the taxing district with the next highest value until either the \$10,000 exemption is exhausted or a net taxable value of zero is reached. This exemption is not transferable to another taxpayer and cannot be carried forward or back to any other year. If the list value is \$10,000 or less, no return is required.

Exempt Property – Depreciable assets classified as personal property and excluded or exempted from taxation include: motor vehicles registered and licensed in the name of the owners; aircraft registered and licensed in the name of the

owner; air, water and noise pollution control facilities, energy conversion, solid waste energy conversion and thermal efficiency improvement facilities for which the owner has an approved certificate (Rules 5703-1-06, 5703-1-07 and 5703-1-09); patterns, jigs, dies and drawings when held for use and not for sale or lease in the ordinary course of business; construction in progress while under construction or installation and not capable of operation; harvested crops belonging to the producer thereof, depreciable assets, and domestic animals used in agriculture and leased personal property used exclusively for agricultural purposes; merchandising inventory owned by a merchant consisting of machinery and equipment and accessories therefore, which are new or used, and designed or built for agriculture use (Rule 5703-3-30); all personal property located in an urban jobs and enterprise zone that is exempt by agreement, inventory or display items located in a foreign trade zone; and personal property located on lands ceded to the federal government. **Form 913EX must be filed by taxpayers, who have personal property in an enterprise zone or hazardous substance reclamation area, with this return.** Do not include exempt or non-taxable tangible personal property values in the taxable values carried forward to the recapitulation pages.

Taxing Districts – Tangible personal property is required to be listed in the taxing district where it is physically located on the listing date. It is important that the complete name of each taxing district be shown to ensure correct billing. Taxing district names normally consist of the name of a township, city or village, and a school district. If the exact name is unknown, refer to the assessment certificates from the previous year or your real estate tax bills, or contact the Auditor of the county in which the property is located. (See telephone numbers on back cover.) The four-digit taxing district number can be obtained from your last year's Inter-County Assessment Certificates (Form 947) or the Rates of Taxation book, which is published annually by this department and is available on the Internet at www.state.oh.us/tax/.

Note: Do not use the tax district numbering system established by the individual counties.

Payment of Taxes – Do not send payment with this return. Taxes are due and payable upon receipt of the tax bills from the County Treasurer. A late payment penalty and interest may be charged on taxes not timely paid.

Instructions for Preparing Form 945

These instructions have been designed to assist the taxpayer in preparing the Inter-County Return of Taxable Business Property (Form 945). While these instructions set forth the general requirements, they are not intended as a substitute for the law itself.

Important – The Department of Taxation will not accept tax returns that are:

1. Filed on incorrect forms,
2. Incomplete or illegible, or
3. That display information in a manner other than that prescribed.

Tax returns that are rejected will receive a late filing penalty if not resubmitted correctly by the filing deadline. To avoid this situation, read and carefully follow the instructions.

Return Cover – Enter all information requested on the face of the tax return. Use the pre-identified label when furnished, marking any change in the address. All correspondence, assessment certificates and tax bills will be mailed to the indicated address.

Page 7—Consolidated Returns, Taxpayer Identification –

A corporation that owns or controls at least 51% of the common stock of one or more corporations may file a consolidated tax return. Notice of intent to file a consolidated return must be made with the Tax Commissioner on or before April 30, or within the filing time as extended.

Once authorized to file a consolidated return, the parent corporation must continue to do so each year until it notifies the Tax Commissioner, in writing by April 20, that it no longer intends to file on a consolidated basis. The consolidated return must include all subsidiary corporations except financial institutions, dealers in intangibles, public utilities, insurance companies and those corporations that do not employ the same listing date as the parent.

Property within a consolidated return must be separately listed in each owner's name.

Page 8—Ohio Business Locations – Provide a brief description of the business activities conducted within each taxing district. If a corporate consolidated return, provide this information separately by owner.

Schedules 2, 3, 3A and 4 – Tangible personal property reflected in the schedules must be separately identified by county and taxing district therein. The counties are to be listed numerically. Refer to the county designation numbers located on the back cover. The taxing districts are to be listed alphabetically by exact name. Property reflected in a consolidated tax return must, in addition to the above, be identified as to the owning corporation.

Page 9, 10—Schedule 2—Machinery and Equipment – Enter all engines, machinery, equipment, implements, small tools,

machinery repair parts and other tangible personal property used in manufacturing, mining, laundries, towel and linen supply and dry cleaning plants, stone and gravel plants, and radio and television broadcasting at their true value and listed value.

Note: Listing of property in this schedule does not qualify it for the state investment tax credit. To qualify the property must be used in the business of manufacturing or refining as defined in O.R.C. Section 5711.16 and 5711.17.

Pages 11, 12—Schedule 3—Manufacturing Inventory – Enter the monthly values of all inventories used in manufacturing by taxing district. The value must include manufacturing supplies, cost of raw material, goods-in-process and finished goods. Goods-in-process and finished goods must include all factory burden and overhead costs attributable to the manufacturing facilities and process. Such costs include, but shall not be limited to, indirect labor, insurance, utilities, taxes, transportation, rents and leases, repairs and maintenance, depreciation and amortization (Rule 5703-3-27). Inventory values maintained on the direct cost or last-in-first-out basis must be restated. Consigned manufacturing inventory must be listed by the owner.

Pages 13, 14—Schedule 3A—Merchandising Inventory –

Enter the monthly values of all inventory by taxing district acquired and held for sale and any finished goods inventory of a manufacturer not held in the county of manufacture.

The value of merchandising inventory must include the costs to acquire the inventory, taxes and freights. Inventories carried at retail value must be restated at cost (Rule 5703-3-17).

Consigned merchandising inventory must be listed by the owner-consignor; except that inventory consigned to an Ohio merchant by a nonresident owner must be listed by the merchant-consignee if the owner-consignor is not required to file an Ohio return (Rule 5703-3-09).

Pages 15, 16—Schedule 4—Furniture and Fixtures – Enter all furniture, machinery, equipment and supplies not used in manufacturing, all inventories of other than manufacturers or merchants and all domestic animals not used in agriculture. Supply inventories of a merchant and inventories of taxpayers other than manufacturers and merchants must be listed as of listing date in Schedule 4. Such inventories include those of mines, quarries, laundries, dry cleaners, contractors, repair shops, garages, etc.

Page 17 – Sample of a completed recapitulation page.

Pages 18, 19, 20—Recapitulation of Listed Values – Carry the information from the various schedules forward to the recapitulation pages and enter it under the appropriate column headings. **All personal property owned by one taxpayer and located in the same taxing district must be combined and listed on a single line in the recapitulation schedule.** Arrange the counties numerically and taxing districts alphabetically therein. In a consolidated tax return the property must be assessed in the name of the owning corpo-

ration. To identify the property by its owner, enter the name of the corporation first, followed by a numerical listing of the counties, an alphabetical listing of taxing districts in which that corporation owns property, and the corresponding listed values. Repeat this step for each corporation in the consolidation.

All renditions must have this department's approval prior to filing. Any rendition not having the exact format and spacing as the recapitulation pages in Form 945 will not be accepted.

The amount of the \$10,000 exemption claimed must be entered in the right-hand column of the recapitulation pages. Only one \$10,000 exemption is allowed per taxpayer. The deduction is made from the taxing district with the largest listed value. Do not deduct the exemption from the Listed Value totals column. The deduction will be computed by the department at the time of assessment. (See general information on \$10,000 exemption.)

The columns on each page must be totalled horizontally and vertically, and grand totals of all columns from all pages must be shown at the end. A sample recapitulation page is shown on page 17.

If you filed Form 945 last year, Form 945-Rec, showing the taxing district names and numbers from that assessment, is enclosed. This may be used as the recapitulation page for this year's return. Delete taxing districts not used and add new taxing districts using page 18 of the tax return.

Page 21 -Schedule 5-Grains – List by county number and exact taxing district name the number or amount of bushels of wheat, flax, and all other grains that were purchased, received or transferred to an Ohio taxing district.

Page 22-Recapitulation-Grains – List by county number and exact taxing district name the totals from Schedule 5.

Declaration-Signature – When the taxpayer is a corporation, partnership or proprietorship, the declaration must be signed by a corporate officer, partner or proprietor respectively. Also provide identification of the individual to be contacted during our examination of the return.

Supplemental Forms – The following forms must accompany the tax return if applicable.

Form 902, Claim for Deduction from Book Value – To be used by taxpayers claiming values less than book value. This form must accompany the tax return at the time of filing. This

deduction must be reflected in the "true value" as represented on the return schedules and recapitulation of listed values.

Form 913 EX, Return of Exempt Personal Property Located in an Enterprise Zone or Hazardous Substance Reclamation Area – To be used by a taxpayer who is claiming an exemption for personal property located in an enterprise zone as defined in O.R.C. section 5709.62, 5709.03 and 5709.88.

Form 937, True Value Computation – To be used by taxpayers valuing tangible personal property based on prescribed composite annual allowance. See page 25.

Form 945-S, County Supplemental Return – This form must be filed directly with the auditor of each county in which the total listed value in any taxing district increased or decreased by \$500,000 or more from that reported in the previous year. Failure to file this form may result in a penalty as provided for in O.R.C. section 5703.99. Copies of these forms are available upon request to the department at the address indicated on the inside rear cover.

Form 993-A, Application for an Extension of Time to File Form 945 – This form should be used in requesting an extension of time to file the Inter-County Return of Taxable Business Property after the April 30 due date from the Tax Commissioner. An extension of time to June 15 can be granted. A copy of this form is included in the mailing of this return.

Publications – Additional filing and valuation information can be obtained by requesting the following publications.

Rates of Taxation – This annual publication contains a current year's listing of taxing district names, numbers and the tax rates for each Ohio county.

True Value of Tangible Personal Property – The Tax Commissioner has prescribed composite annual allowances for use in determining true value of tangible personal property used in business. This publication lists by North American Industry Classification the prescribed Class Life for your business activity.

Guidelines for Filing Ohio Personal Property Tax Returns – This book contains completed examples of the Inter-County Form 945, Single County Form 920, Balance Sheet Form 921 and various other supplemental forms and instructions (Current Edition 2001). This information can be obtained from the Department of Taxation's Web page at

<http://www.ohio.gov/tax>



Tax Year

**Application for an Extension To File Form 945
Inter-County Return of Taxable Business Property**

Taxpayer name _____

Taxpayer address _____

City _____ State _____ ZIP code _____

Personal property tax account # _____ FEIN # _____

Reason _____

Person requesting extension, if other than taxpayer

Name _____

Address _____

City _____ State _____ ZIP code _____

Note: A confirmation letter will be sent to the person requesting the extension or, if none is listed, to the taxpayer.

Instructions

Proper identification of each taxpayer must be provided for a valid extension. This would include an Ohio personal property tax account number, FEIN number and/or exact legal name for each taxpayer. We do not issue "blanket" extensions.

The Inter-County Form 945 must be filed by April 30th of each year. An extension until June 15th may be requested from the Tax Commissioner no later than April 30th.

Do not use this form to request an extension to file a Single-County Form 920. Extensions for Form 920 must be requested from the County Auditor in which the return will be filed.

Federal extensions are not acceptable.

To ensure delivery to and receipt by the Tax Commissioner, certified mail, personal delivery or an approved delivery service should be used. You may also e-mail or fax your request.

Ohio Department of Taxation
Personal Property Tax Division
P.O. Box 530
Columbus Ohio, 43216-0530

Fax: 614-466-8654
E-mail: extensions@tax.state.oh.us/tax/
30 E. Broad Street, 21st Floor
Columbus, Ohio 43215

www.tax.ohio.gov

Ohio Business Locations

List the exact county and taxing districts in which this business holds property in Ohio. If a consolidated return, list corporations by owning corporation.		Sufficient description of business operations in each county and taxing district is necessary for classification and use of proper tangible property schedule, especially when manufacturing classification is claimed.
County	Taxing District	Description of business, name and address under which business was conducted in each location
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____
		Description _____ _____
		Address _____ _____

Schedule 3 – Inventories

Schedule 3 – Manufacturing Inventories – List at 23% of average value all inventories of raw materials, works in process and finished goods used in manufacturing or refining. Finished goods removed from the county of manufacture and inventory held for sale by a merchant must be listed in Schedule 3A. List property separately by the county and taxing district. Use the county number and exact name of the taxing district. Round listed values to the nearest \$10 and carry forward to the recapitulation.

Ohio law requires monthly inventories to be listed.

Source of Values Listed	Method of Valuing Inventories Listed			
Perpetual inventory _____	FIFO cost _____	LIFO cost _____		
Physical inventory _____	Standard cost _____	Other _____		
Gross profits method _____	Book Adjustments	Date	Amount	DR/CR
Dates physicals taken _____	Book to physical			
_____	LIFO reserve			
Net sales \$ _____	Other reserves			

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

Schedule 3 – Inventories

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

Schedule 3A – Inventories

Schedule 3A – Merchandising Inventories – List at 23% of average value all inventories held for resale and finished goods removed from the county of manufacture. Inventories carried at retail value must be restated at cost. List property separately by the county and taxing district. Use the county number and exact name of the taxing district. Round listed values to the nearest \$10 and carry forward to the recapitulation.

Ohio law requires monthly inventories to be listed.

Source of Values Listed	Method of Valuing Inventories Listed			
Perpetual inventory _____	FIFO cost _____	LIFO cost _____		
Physical inventory _____	Standard cost _____	Other _____		
Gross profits method _____	Book Adjustments	Date	Amount	DR/CR
Dates physicals taken _____	Book to physical			
Net sales \$ _____	LIFO reserve			
	Other reserves			

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

Schedule 3A – Inventories

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

County No.				
Taxing District Name				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				
Total Values				
Average Value				
List @ 23%				

NOTE: The recapitulation pages must be properly completed for the return to be accepted.

Recapitulation of Tangible Personal Property Listed Values – Enter in column (1) the designation number for each county in which property is listed (see back cover). The four-digit taxing district number in column (2) can be obtained from: last year's Inter-County Assessment Certificates Form 947; the Rates of Taxation book, which is published annually by this department; or by calling 614-466-8122 for assistance. The County Auditors' taxing district numbers are not acceptable. Round all values to the nearest \$10. Add columns (4) through (7) horizontally and place the total in column (8). Total column (8) vertically showing a grand total. In column (9) list the amount of exemption where applicable (see General Instructions). Do not reduce column (8) by the amount of exemption, as this will be computed by the department. **Renditions must use the exact format of this schedule, including line numbering, spacing and lines for columns and rows.**

LINE No.	(1) County No.				(2) State Taxing District Number				(3) Taxing District (By Exact Name)	(4) From Schedule 2 (Nearest \$10)	(5) From Schedule 3 (Nearest \$10)	(6) From Schedule 3-A (Nearest \$10)	(7) From Schedule 4 (Nearest \$10)	(8) Taxing District Listed Value Totals	(9) \$10,000 Exempt
1									Parent – Our Kid's, Inc.						
2	7	5	0	0	9	0			Dinsmore Twp. – Botkins Corp. – Botkins LSD		329,040	102,680	24,390	456,110	
3	7	7	0	5	3	0			Akron City – Akron CSD	2,456,320	151,870	54,690	67,440	2,730,320	10,000
4	7	7	0	5	4	5			Akron City – Springfield LSD	1,724,670	74,060		42,780	1,841,510	
5									Sub – Ethan & Sean's Bookstore Inc.						
6	2	5	0	4	3	0			Jefferson Twp. – Licking Hts. LSD			92,160	8,740	100,900	
7	2	5	0	4	6	0			Madison Twp. – Canal Winchester LSD	880,370	62,050		54,990	997,410	10,000
8									Sub – Elizabeth & Danielle's Duck Farm, Inc.						
9	3	1	1	1	2	0			Cincinnati Corp. – Madeira CSD			9,360		9,360	9,360
10	3	1	0	5	5	0			Madeira Corp. – Cincinnati CSD				6,250	6,250	640
11	4	5	0	7	4	0			Union Twp. – Hebron Village Lakewood LSD			510	370	880	
12									Sub – Logan's Music Store Inc.						
13	7	5	0	0	9	0			Dinsmore Twp. – Botkins Corp. – Botkins LSD				7,990	7,990	7,990
14									Sub – Christopher's Shop Inc.					-0-	-0-
15															
16															
Totals										5,061,360	617,020	259,400	212,950	6,150,730	37,990

Sample of Recapitulation Page
 1. Taxing district name must be complete and accurate.
 2. Enter only one taxing district per line.
 3. Show grand totals of all columns of all pages.
 4. Each subsidiary must be listed separately.
 5. Subsidiaries must also be listed on page 1 of return.
 6. Any deviation must have prior approval.

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Recapitulation

Ohio Balance Sheet
(Required to be Filed with Tax Form 945)

Name _____ FEIN/social security number _____

Balance sheet as of _____ 2003

Assets		Within Ohio Net Book Values	Total Net Book Values
1. Cash and Deposits			
2. Notes and Accounts Receivable			
3. Inventories			
A) Manufacturing			
B) Merchandising			
C) Supplies - manufacturing			
D) Supplies - other			
E) Consigned			
F) Agricultural machinery and equipment (merchandise)			
G) Exempted inventory			
H) Other inventory			
4. Investments			
5. Land			
6. Buildings	Ohio Cost		
A) Taxed as real estate			
B) Taxed as personal property			
7. Leasehold Improvements			
A) Taxed as real estate			
B) Taxed as personal property			
8. Machinery and Equipment			
A) Taxed as real estate			
B) Taxed as personal property			
9. Furniture and Fixtures			
10. Personal Property Leased to Others			
A) Taxable			
B) Non-taxable			
11. Capitalized Leases			
12. Exempt Personal Property Located in an Enterprise Zone (Attach Form 913EX) or a Hazardous Substance Reclamation Area			
13. Certified Exempt Facilities			
14. Patterns, Jigs, Dies and Drawings			
15. Construction in Progress			
A) Real property			
B) Personal property capable of use			
C) Personal property not capable of use			
16. Small Tools			
17. Vehicles and Aircraft			
A) Registered or licensed			
B) Other			
18. Other Assets			
19. Total Assets			

Liabilities and Net Worth

20. Notes, Accounts Payable, Bonds and Mortgages	
21. Accrued Expenses	
22. Other Liabilities, Deferred Credits	
23. Preferred Stock	
24. Common Stock	
25. Additional Paid-In Capital	
26. Retained Earnings	
27. Appropriated Earnings	
28. Owner's Capital	
29. Other	
30. Total Liabilities and Net Worth	

**2004 Exhibits for Balance Sheet Reconciliation and
Leased Property/Consigned Inventory**

Exhibit A – Reconciliation of Balance Sheet Line Numbers 3, 8B, 9, 10, 13, 15B and 16

B/S Line No.	Book Value	Value Returned	Difference	Reconcile Differences

Exhibit B – Please provide a brief description of leasehold improvements and machinery and equipment taxed as real (lines 7A and 8A).

B/S Line No.	Itemization	Amount

Exhibit C – Leased Property

List all tangible personal property held under lease on tax listing day.

Name and Address of Property Owner	Lease: Start Date	Lease: Ending Date	Type of Property	Gross Annual Rental

Exhibit D – Inventory Held Under Bailment, Consignment, Contract Agreement

List all inventories held on consignment or as bailment, or under contract, and in your possession during the reporting period and not listed in this return.

Name and Address of Inventory Owner	Inventory Type (Mfg or Mer)	Inventory Location Address	Estimated Average Value

TRUE VALUE COMPUTATION

Form 937, True Value Computation, provides for assembling the data necessary to determine the aggregate true value of tangible personal property. A separate computation is necessary for each taxing district involved and, within a given taxing district, for each business activity assigned a different class.

Costs of taxable property at the end of the previous year are to be shown by year of acquisition (Col. 1, Col. 2). Additions, disposals and transfers occurring during the year are to be entered at cost, opposite the year in which they were acquired (Col. 3, Col. 4). The resulting costs remaining at year-end are then listed (Col. 5); their total must equal the beginning-of-year total plus additions and transfers-in, less disposals and transfers-out. The valuation percentages for the specified class are then copied into place (Col. 6). Each year-end cost is then multiplied by the corresponding valuation percentage (Col. 7). The column total is the true value and should be carried to the appropriate schedule (Schedule 2 or 4) in the tax return.

Column (5) totals must reconcile with ledger accounts, except that property written off the records but still physically on hand must be included in the computation; property disposed of but not written off the records should be deducted; and any costs that are to be included as full costs may not

have been capitalized on the ledger account. These exceptions should be separately identified in the computation. Cost for non-taxable property such as registered motor vehicles, licensed aircraft, property taxed as real estate, or certified pollution control facilities should not be included.

Full costs must be shown. Cost must include inbound freight, millwrighting, overhead, investment credits, assembly and installation labor, material and expenses, and sales and use taxes. Premium pay and payroll taxes are includible in labor costs. Costs may not be reduced by trade-in allowances. Cost of major overhauls are to be treated as capitalized and listed as acquisitions in the year in which they occur. Form 937 or a facsimile is required to be filed with the tax return.

Listed below are the valuation percentages for the six class lives. For assets used in manufacturing, listed in schedule 2, Class V is the most common class. Assets used in retail trade, non-manufacturing activities and general office equipment listed in schedule 4, are most often valued using Class III. To determine the prescribed class life for your business activity(s), consult the Department's publication "True Value of Tangible Personal Property." **The smallest percentage in each class determines the minimum acceptable value so long as the property is held for use in business.**

Age	Stand-Alone Computers	Class I	Class II	Class III	Class IV	Class V	Class VI
1	75.0	90.0	92.0	93.2	93.9	94.3	94.4
2	60.0	63.3	76.3	82.8	86.3	88.1	88.9
3	45.0	44.0	60.6	72.4	78.7	81.8	83.3
4	30.0	32.0	46.1	62.0	71.1	75.6	77.8
5	15.0	20.0	37.9	51.5	63.5	69.3	72.2
6	15.0	20.0	29.8	42.2	55.8	63.1	66.7
7	15.0	20.0	21.6	36.3	48.2	56.9	61.1
8			20.0	30.5	40.6	50.6	55.6
9			20.0	24.6	35.4	44.4	50.0
10			20.0	18.8	31.1	38.2	44.4
11				18.8	26.8	32.8	38.9
12				18.8	22.5	29.5	33.3
13					18.3	26.2	28.9
14					17.4	22.9	26.2
15					17.4	19.6	23.5
16					17.4	16.3	20.8
17						16.3	18.1
18						16.3	15.4
19							15.4
20							15.4

Composite Group - Life Ranges		
Class	At Least	Less Than
I		6.0 yrs.
II	6.0 yrs.	8.4 "
III	8.4 "	11.6 "
IV	11.6 "	14.8 "
V	14.8 "	17.2 "
VI	17.2 "	

Note: Personal property leased to a public utility in Ohio must be valued the same as if owned by the public utility. Please contact the department for the appropriate valuation method.

**Return of Exempt Personal Property Located in an
Enterprise Zone or Hazardous Substance Reclamation Area**

For accounting period _____ to _____ 2003

Taxpayer name _____

Address of business in zone or area _____

City _____ State _____ ZIP _____

Taxing district name _____

Type of Agreement	Date Agreement Effective	Percent of Exemption	Period of Exemption
____ Reclamation area	_____	_____ %	_____ Years
____ Municipal enterprise zone	_____	_____ %	_____ Years
____ County enterprise zone	_____	_____ %	_____ Years

Time period for acquisition of eligible assets from _____ to _____

Any taxpayer who is party to an enterprise zone or hazardous substance reclamation area agreement must complete and submit this form with their Taxable Business Property Tax Form 920/945. Taxable values should be determined as prescribed by the Tax Commissioner.

Ohio Revised Code Sections 5709.62 (I), 5709.63 (I), and 5709.88 (H) read as follows: "After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, while the agreement is in effect, an informational return on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values exempted from taxation under the agreement."

Enterprise Zone Property – Listed Value Summary
All enterprise zone exemptions are limited per the terms of the agreement

	(A) Total List Value	(B) Exempt List Value	(C) Taxable Value (Deduct B from A) List on Form 920 or 945
1. Schedule 2 (nearest \$10)			
2. Schedule 3 (nearest \$10)			
3. Schedule 3A (nearest \$10)			
4. Schedule 4 (nearest \$10)			
5. Total listed value			

File a separate Form 913EX for each agreement and taxing district in which exempt property is claimed. File this form with Form 920 or Form 945. Remember to list the taxable portion of value (Column C) on Form 920 or Form 945.

Declaration

I/we declare under penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me/us and to the best of my/our knowledge and belief is a true, correct and complete return and report.

Person, other than taxpayer, preparing return	Date	Signature of taxpayer	Title	Date
Address		Signature of taxpayer	Title	Date

Exempt Machinery and Equipment – Schedule 2. List at 25% machinery, repair parts, small tools, etc., used in manufacturing, mining, laundries, dry cleaning, towel and linen supply, stone and gravel plants and radio and television broadcasting. If the value of equipment is based on other than book value, attach detail of computation.

Taxing District	Description	Total True Value	%	Listed Value	%	Exempt Listed	Taxable Listed
		\$	25	\$		\$	\$
			25				
			25				
			25				
			25				

Carry listed values to page 1 "Listed Value Summary" as indicated: Column (A) Column (B) Column (C)

Exempt Inventories – Schedules 3 and 3A. Monthly inventory values are required of merchants and manufacturers. List total amount of inventory located within the enterprise zone.

Source of Values Listed	Method of Valuing Inventories Listed			
Perpetual inventory _____	FIFO cost _____	Retail _____		
Physical inventory _____	LIFO cost _____	Other _____		
Gross profits method _____	Book Adjustments	Date	Amount	DR/CR
Dates physicals taken _____	Book to physical			
	LIFO reserve			
Net sales \$ _____	Other reserves			

	Schedule 3 Manufacturing Inventories		Schedule 3A Merchandising Inventories		
	Taxing District	Taxing District	Taxing District	Taxing District	Taxing District
	Book Value	Book Value	Book Value	Book Value	Book Value
Months in Business					
January	\$	\$	\$	\$	\$
February					
March					
April					
May					
June					
July					
August					
September					
October					
November					
December					
Total Values	\$	\$	\$	\$	\$
A. Average Values Divide by No. of Months					
B. Total List Value at 23%					
C. Average Value – Inventory at Same Location for Year Preceding Agreement (100% Taxable)					
D. Average Value – Inventory Subject to Exemption (A - C)					
E. Average Value of Exempt Inventory (Line D x % of Exemption)					
F. List Value of Exempt Inventory (Line E @ 23%)					

Carry line B to page 1 "Listed Value Summary" line 2 or 3, column (A). Carry line F to page 1 "Listed Value Summary" line 2 or 3 column (B).

Exempt Furniture, Fixtures, Machinery and Equipment – Schedule 4. List at 25% furniture, fixtures, machinery and equipment, supplies, small tools and repair parts not used in manufacturing, inventories of other than a manufacturer or merchant and all domestic animals not used in agriculture. If the value of equipment is based on other than book value, attach detail of computation.

Taxing District	Description	Total True Value	%	Listed Value	%	Exempt Listed Value	Taxable Listed Value
		\$	25	\$		\$	\$
			25				
			25				
			25				

Carry listed values to page 1 "Listed Value Summary" as indicated: Column (A) Column (B) Column (C)



For-Storage-Only Calculation Worksheet

Taxpayer's name _____

County _____ Taxing district _____

Calculation of Storage-Only Exemption

- 1. Shipments into warehouse from within Ohio \$ _____
- 2. Shipments into warehouse from outside Ohio \$ _____
- 3. Total shipments into warehouse (line 1 plus line 2) \$ _____
- 4. Divide line 2 by line 3 _____ %
- 5. Shipments from warehouse to Ohio locations \$ _____

- 6. Shipments from warehouse to locations outside of Ohio \$ _____
- 7. Total shipments out of warehouse (line 5 plus line 6) \$ _____
- 8. Divide line 6 by line 7 _____ %
(This equals to total percentage out of warehouse that may be exempt.)
- 9. Multiply line 4 by line 8 _____ %
(This equals the total percentage of inventory that is exempt from personal property taxation at this location. Take this percentage times the average monthly value to reach the amount of inventory that is not taxable at this location.)
- 10. Average monthly inventory value at facility \$ _____
(from Schedule 3 or 3A)
- 11. Multiply line 9 by line 10 \$ _____
(Result is amount of non-taxable inventory.)
- 12. Subtract line 11 from line 10 \$ _____
(Taxable average value)

Note: This worksheet is only to be used when the taxpayer cannot actually determine the exact amount of exempt inventory at the end of the month. If a taxpayer uses this worksheet to determine their storage exemption, those source documents must be maintained for audit purposes.

County Supplemental Return

Name

Address

City, State, ZIP code

To the Auditor of _____ County:

In accordance with Ohio Revised Code Section 5711.131, the above corporation reports the following change(s) in taxable value for the year 2003:

Taxing District (enter exact name)	Taxable Value Previous Year	Taxable Value Current Year	Difference

Filing Instructions

This form is required to be filed with the auditor of each affected county when there has been an increase (or decrease) in value of \$500,000 or more in a taxing district by a business entity. The increase or decrease in value shall be determined by comparing the current year's to last year's values.

The County Supplemental Return must be filed with the auditor of each county affected at the same time the Inter-County Corporation Return of Taxable Property is filed with the Tax Commissioner. Additional copies of this form may be reproduced or obtained from the Tax Commissioner or County Auditors. Failure to receive blank forms does not excuse a taxpayer from timely filing all required returns.

Declaration

I declare under the penalties of perjury that this report has been examined by me and to the best of my knowledge and belief is a true, correct and complete report.

Date

Officer's signature

Just a Reminder! Did You:

- Identify the taxing districts by exact name and department's taxing district number?
- Complete all required schedules?
- Complete all columns and exhibits on Ohio balance sheet form 921?
- If a corporate consolidated return, list separately by taxing district the property of each taxpayer?
(See example on page 8.)
- Include all necessary supplemental forms?
- You may remove all pages at perforation, stapling only used pages to the inside cover for filing.

Taxpayer Identification

Please type or print the name, address and telephone number of the person to be contacted during our examination of this return.

Name _____ Title _____ Area code _____

Address _____ Telephone _____

Mail this tax return, balance sheet (Form 921), accompanying exhibits and any inquiries to:

Ohio Department of Taxation
Property Tax Division
P.O. Box 530
Columbus, OH 43216-0530
Telephone: 1-888-644-6778

This return is to be filed between February 15th and April 30th. An extension until June 15th can be requested. Returns received by this department after the filing date are considered not timely filed – see "Definitions and General Instructions–Filing Dates."

Declaration

I declare under penalty of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return and report.

_____ Date

_____ Title

_____ Signature of officer

If this return was not prepared by your own personnel, show name and address of firm or individual who prepared it.

Name _____ Address _____

**Do not send payment with this tax return.
Tax is payable to the respective County Treasurer.**



Ohio Department of TAXATION

P.O. Box 530
Columbus, OH 43216-0530

Ohio has more than 4,000 taxing districts, each with a different tax rate. If you are unsure of the taxing district where your business and property is located, contact your County Auditor at the number listed below. Telephone assistance is provided to the hearing impaired through the Ohio Relay Service (ORS). TTY/TDD users may contact County Auditors or the Tax Department's Taxpayer Service Centers by contacting ORS operators at 1-800-750-0750.

No.	County	Telephone No.	No.	County	Telephone No.
1	Adams	937-544-2364	45	Licking	740-349-6033
2	Allen	419-228-3700 #8805/#8807	46	Logan	937-599-7215
3	Ashland	419-282-4218	47	Lorain	440-329-5207
4	Ashtabula	440-576-3794	48	Lucas	419-213-4338
5	Athens	740-592-3227	49	Madison	740-852-9717
6	Auglaize	419-739-6705	50	Mahoning	330-740-2010
7	Belmont	740-695-2121 #221	51	Marion	740-223-4030
8	Brown	937-378-3998	52	Medina	330-725-9760
9	Butler	513-887-3160	53	Meigs	740-992-2698
10	Carroll	330-627-2250	54	Mercer	419-586-6402
11	Champaign	937-484-1600	55	Miami	937-440-5944
12	Clark	937-328-2427	56	Monroe	740-472-0873/2500
13	Clermont	513-732-8149	57	Montgomery	937-225-4315
14	Clinton	937-382-2250	58	Morgan	740-962-4475
15	Columbiana	330-424-9515	59	Morrow	419-946-4060
16	Coshocton	740-622-1243	60	Muskingum	740-455-7109
17	Crawford	419-562-7941	61	Noble	740-732-4044
18	Cuyahoga	216-443-7165	62	Ottawa	419-734-6740
19	Darke	937-547-7310	63	Paulding	419-399-8205/8206
20	Defiance	419-782-1926	64	Perry	740-342-2074/1627
21	Delaware	740-833-2900	65	Pickaway	740-474-4765
22	Erle	419-627-6650	66	Pike	740-947-4125/2713
23	Fairfield	740-687-7027	67	Portage	330-297-3573
24	Fayette	740-335-6461	68	Preble	937-456-8148
25	Franklin	614-462-3230	69	Putnam	419-523-6686
26	Fulton	419-337-9200	70	Richland	419-774-5507
27	Gallia	740-446-4612 #217	71	Ross	740-702-3080
28	Geauga	440-285-2222 #3930	72	Sandusky	419-334-6127
29	Greene	937-562-5074	73	Scioto	740-355-8232
30	Guernsey	740-432-9248	74	Seneca	419-447-0692
31	Hamilton	513-946-4100	75	Shelby	937-498-7202
32	Hancock	419-424-7019	76	Stark	330-451-7350
33	Hardin	419-674-2239/2290	77	Summit	330-643-2669/2677/2668
34	Harrison	740-942-8861	78	Trumbull	330-675-2420
35	Henry	419-592-1956	79	Tuscarawas	330-365-3321
36	Highland	937-393-1915	80	Union	937-645-3003
37	Hocking	740-385-2127	81	Van Wert	419-238-6285/0843
38	Holmes	330-674-1896	82	Vinton	740-596-5445
39	Huron	419-668-8464	83	Warren	513-695-1234
40	Jackson	740-286-4231	84	Washington	740-373-6623
41	Jefferson	740-283-8590	85	Wayne	330-287-5444
42	Knox	740-393-6750	86	Williams	419-636-5639 #340
43	Lake	440-350-2533	87	Wood	419-354-9153
44	Lawrence	740-533-4310	88	Wyandot	419-294-1531

CHAPTER 5727—PUBLIC UTILITIES

[§ 138-800]

⚠ **Caution:** Sec. 5727.01, as reproduced immediately below, is effective through June 29, 2005. For provisions effective June 30, 2005, see below. CCH.]

Sec. 5727.01. Definitions.—As used in this chapter:

(A) "Public utility" means each person referred to as a telephone company, telegraph company, electric company, natural gas company, pipe-line company, water-works company, water transportation company, heating company, rural electric company, railroad company, or combined company.

(B) "Gross receipts" means the entire receipts for business done by any person from operation as a public utility, or incidental thereto, or in connection therewith, including any receipts received under Chapter 4928. of the Revised Code. The gross receipts for business done by an incorporated company engaged in operation as a public utility includes the entire receipts for business done by such company under the exercise of its corporate powers, whether from the operation as a public utility or from any other business.

(C) "Rural electric company" means any non-profit corporation, organization, association, or cooperative engaged in the business of supplying electricity to its members or persons owning an interest therein in an area the major portion of which is rural.

(D) Any person:

(1) Is a telegraph company when engaged in the business of transmitting telegraphic messages to, from, through, or in this state;

(2) Is a telephone company when primarily engaged in the business of providing local exchange telephone service, excluding cellular radio service, in this state;

(3) Is an electric company when engaged in the business of generating, transmitting, or distributing electricity within this state for use by others, but excludes a rural electric company;

(4) Is a natural gas company when engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within this state, excluding a person that is a governmental aggregator or retail natural gas supplier as defined in section 4929.01 of the Revised Code;

(5) Is a pipe-line company when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partially within this state;

(6) Is a water-works company when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

(7) Is a water transportation company when engaged in the transportation of passengers or property, by boat or other watercraft, over any waterway, whether natural or artificial, from one point within this state to another point within this state, or between points within this state and points without this state;

(8) Is a heating company when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating purposes;

(9) Is a railroad company when engaged in the business of owning or operating a railroad either wholly or partially within this state or rights-of-way acquired and held exclusively by such company, or otherwise, and includes a passenger, street, suburban, or interurban railroad company.

As used in division (D)(2) of this section, "local exchange telephone service" means making available or furnishing access and a dial tone to all persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and for gaining access to other telecommunication services.

(E) "Taxable property" means the property required by section 5727.06 of the Revised Code to be assessed by the tax commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period subsequent to the effective date of an air, water, or noise pollution control certificate and continuing so long as the certificate is in force, has been certified as part of the pollution control facility with respect to which the certificate has been issued;

(2) An item of tangible personal property that during the construction of a plant or facility and until the item is first capable of operation, whether actually used in operation or not, is incorporated in or being held exclusively for incorporation in that plant or facility.

(F) "Taxing district" means a municipal corporation or township, or part thereof, in which the aggregate rate of taxation is uniform.

(G) "Telecommunications service" has the same meaning as in division (AA) of section 5739.01 of the Revised Code.

(H) "Interexchange telecommunications company" means a person that is engaged in the business of transmitting telephonic messages to, from, through, or in this state, but that is not a telephone company.

(I) "Sale and leaseback transaction" means a transaction in which a public utility or interexchange telecommunications company sells any tangible personal property to a person other than a public utility or interexchange telecommunications

company and leases that property back from the buyer.

(J) "Production equipment" means all taxable steam, nuclear, hydraulic, and other production plant equipment used to generate electricity. For tax years prior to 2001, "production equipment" includes taxable station equipment that is located at a production plant.

(K) "Tax year" means the year for which property or gross receipts are subject to assessment under this chapter. This division does not limit the tax commissioner's ability to assess and value property or gross receipts outside the tax year.

(L) "Combined company" means any person engaged in the activity of an electric company or rural electric company that is also engaged in the activity of a heating company or a natural gas company, or any combination thereof.

[**»»»** *Caution: Sec. 5727.01, as reproduced below, amended by H.B. 66, Laws 2005, is effective June 30, 2005. For provisions effective through June 29, 2005, see above. CCH.*]

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telephone service, excluding cellular radio service, in this state;

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(8) Is a heating company when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating purposes;

(9) Is a railroad company when engaged in the business of owning or operating a railroad either wholly or partially within this state on rights-of-way acquired and held exclusively by such company, or otherwise, and includes a passenger, street, suburban, or interurban railroad company.

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(E) "Taxable property" means the property required by section 5727.06 of the Revised Code to be assessed by the tax commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period subsequent to the effective date of an air, water, or noise pollution control certificate and continuing so long as the certificate is in force; has been certified as part of the pollution control facility with respect to which the certificate has been issued;

⁸ Sec. 12, S.B. 3, Laws 1999, provides as follows:
Sec. 12. Electric companies and combined companies, as defined in section 5727.01 of the Revised Code, shall first

be subject to the corporation franchise tax under Chapter 5733 of the Revised Code for tax year 2002, as "tax year" is defined in section 5733.04 of the Revised Code ***.