

H.B. 334
As Introduced

Topic: Conditional business income deduction and rate

_____ moved to amend as follows:

In line 1 of the title, delete "section" and insert 1
"sections"; after "5733.40" insert ", 5747.01, and 5747.02 and to 2
enact section 122.178" 3

In line 6 of the title, after "income" insert ", and to 4
impose conditions on claiming the special deduction and flat rate 5
for business income" 6

In line 7, delete "section" and insert "sections"; delete "of 7
the Revised Code" and insert ", 5747.01, and 5747.02" 8

In line 8, after "amended" insert "and section 122.178 of the 9
Revised Code be enacted" 10

Between lines 8 and 9, insert: 11

"Sec. 122.178. (A) As used in this section: 12

(1) "Business income" has the same meaning as in section 13
5747.01 of the Revised Code. 14

(2) "Business income deduction" means the income tax 15
deduction authorized by division (A)(31) of section 5747.01 of the 16
Revised Code. 17

(3) "Business income tax rate" means the rate of taxation for 18

taxable business income prescribed by division (A)(4)(a) of
section 5747.02 of the Revised Code.

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(4) "Business taxpayer" means an individual who is a taxpayer
as defined in section 5747.01 of the Revised Code and whose
federal adjusted gross income for a taxable year includes business
income.

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(5) "Full-time equivalent employees" means the quotient
obtained by dividing the total number of hours for which employees
were compensated for employment by two thousand eighty.

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(6) "Qualifying taxable year" means the taxable year for
which a business taxpayer intends to claim the business income
deduction or apply the business income tax rate.

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(7) "Tax credit authority" means the tax credit authority
created by section 122.17 of the Revised Code.

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(B) In order to claim the business income deduction and to
have taxable business income subject to the business income tax
rate for a taxable year beginning on or after January 1, 2017, a
business taxpayer must obtain a certificate from the tax credit
authority issued under this section. The taxpayer shall apply to
the authority in a manner to be prescribed by the authority on or
before the fifteenth day after the last day of the taxpayer's
qualifying taxable year. The application shall state all of the
following:

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(1) The number of full-time equivalent employees the taxpayer
hired and employed during the qualifying taxable year;

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(2) If a taxpayer claimed the business income deduction or
applied the business income tax rate for a prior taxable year that
began after December 31, 2017: (a) the number of full-time
equivalent employees the taxpayer employed on the last day of the

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qualifying taxable year and (b) the number of full-time equivalent employees employed on the last day of the taxable year that precedes the taxpayer's first taxable year that began after December 31, 2016;

(3) The amount the taxpayer spent during the qualifying taxable year to train employees;

(4) The amount the taxpayer spent during the qualifying taxable year to purchase tangible personal property for use in the taxpayer's trade or business;

(5) The estimated amount of business income the taxpayer intends to report for income tax purposes for the qualifying taxable year;

(6) Any other information the authority requires to make the determination to issue a certificate, including the social security number or taxpayer identification number of employees included in the computation under division (B)(2) of this section.

If a taxpayer's business income is a distributive or proportionate share of a pass-through entity's income and the taxpayer is not the only owner of the pass-through entity, an employee, officer, or owner of the entity may apply on behalf of all owners of the entity, and the employment and business income information shall reflect the totals for the entity.

(C) Upon receiving an application under division (B) of this section, the tax credit authority shall approve the application and issue a certificate authorizing the taxpayer to claim the business income deduction and apply the business income tax rate for the qualifying taxable year if the authority determines that any of the following actions of the taxpayer promotes the economic welfare of the people of this state, considering the reduction in

the taxpayer's tax liability from claiming the business income deduction and applying the business income tax rate: 77
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(1) The taxpayer's hiring or retained employment during the qualifying taxable year. For the purposes of division (C)(1) of this section, "retained employment" is the number of full-time equivalent employees by which the number reported under division (B)(2)(a) exceeds the number reported under division (B)(2)(b) of this section. 79
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(2) The amount the taxpayer spent during the qualifying taxable year to train employees; 85
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(3) The amount the taxpayer spent during the qualifying taxable year to purchase tangible personal property for use in the taxpayer's trade or business. 87
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If the applicant applied on behalf of all the owners of a pass-through entity and the authority approves the application, a certificate shall be issued to all such owners." 90
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Between lines 313 and 314, insert: 93

"Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes. 94
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As used in this chapter: 103

(A) "Adjusted gross income" or "Ohio adjusted gross income" 104

means federal adjusted gross income, as defined and used in the	105
Internal Revenue Code, adjusted as provided in this section:	106
(1) Add interest or dividends on obligations or securities of	107
any state or of any political subdivision or authority of any	108
state, other than this state and its subdivisions and authorities.	109
(2) Add interest or dividends on obligations of any	110
authority, commission, instrumentality, territory, or possession	111
of the United States to the extent that the interest or dividends	112
are exempt from federal income taxes but not from state income	113
taxes.	114
(3) Deduct interest or dividends on obligations of the United	115
States and its territories and possessions or of any authority,	116
commission, or instrumentality of the United States to the extent	117
that the interest or dividends are included in federal adjusted	118
gross income but exempt from state income taxes under the laws of	119
the United States.	120
(4) Deduct disability and survivor's benefits to the extent	121
included in federal adjusted gross income.	122
(5) Deduct benefits under Title II of the Social Security Act	123
and tier 1 railroad retirement benefits to the extent included in	124
federal adjusted gross income under section 86 of the Internal	125
Revenue Code.	126
(6) In the case of a taxpayer who is a beneficiary of a trust	127
that makes an accumulation distribution as defined in section 665	128
of the Internal Revenue Code, add, for the beneficiary's taxable	129
years beginning before 2002, the portion, if any, of such	130
distribution that does not exceed the undistributed net income of	131
the trust for the three taxable years preceding the taxable year	132
in which the distribution is made to the extent that the portion	133

was not included in the trust's taxable income for any of the 134
trust's taxable years beginning in 2002 or thereafter. 135

"Undistributed net income of a trust" means the taxable income of 136
the trust increased by (a)(i) the additions to adjusted gross 137
income required under division (A) of this section and (ii) the 138
personal exemptions allowed to the trust pursuant to section 139
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 140
deductions to adjusted gross income required under division (A) of 141
this section, (ii) the amount of federal income taxes attributable 142
to such income, and (iii) the amount of taxable income that has 143
been included in the adjusted gross income of a beneficiary by 144
reason of a prior accumulation distribution. Any undistributed net 145
income included in the adjusted gross income of a beneficiary 146
shall reduce the undistributed net income of the trust commencing 147
with the earliest years of the accumulation period. 148

(7) Deduct the amount of wages and salaries, if any, not 149
otherwise allowable as a deduction but that would have been 150
allowable as a deduction in computing federal adjusted gross 151
income for the taxable year, had the targeted jobs credit allowed 152
and determined under sections 38, 51, and 52 of the Internal 153
Revenue Code not been in effect. 154

(8) Deduct any interest or interest equivalent on public 155
obligations and purchase obligations to the extent that the 156
interest or interest equivalent is included in federal adjusted 157
gross income. 158

(9) Add any loss or deduct any gain resulting from the sale, 159
exchange, or other disposition of public obligations to the extent 160
that the loss has been deducted or the gain has been included in 161
computing federal adjusted gross income. 162

(10) Deduct or add amounts, as provided under section 5747.70 163

of the Revised Code, related to contributions to variable college 164
 savings program accounts made or tuition units purchased pursuant 165
 to Chapter 3334. of the Revised Code. 166

(11)(a) Deduct, to the extent not otherwise allowable as a 167
 deduction or exclusion in computing federal or Ohio adjusted gross 168
 income for the taxable year, the amount the taxpayer paid during 169
 the taxable year for medical care insurance and qualified 170
 long-term care insurance for the taxpayer, the taxpayer's spouse, 171
 and dependents. No deduction for medical care insurance under 172
 division (A)(11) of this section shall be allowed either to any 173
 taxpayer who is eligible to participate in any subsidized health 174
 plan maintained by any employer of the taxpayer or of the 175
 taxpayer's spouse, or to any taxpayer who is entitled to, or on 176
 application would be entitled to, benefits under part A of Title 177
 XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 178
 301, as amended. For the purposes of division (A)(11)(a) of this 179
 section, "subsidized health plan" means a health plan for which 180
 the employer pays any portion of the plan's cost. The deduction 181
 allowed under division (A)(11)(a) of this section shall be the net 182
 of any related premium refunds, related premium reimbursements, or 183
 related insurance premium dividends received during the taxable 184
 year. 185

(b) Deduct, to the extent not otherwise deducted or excluded 186
 in computing federal or Ohio adjusted gross income during the 187
 taxable year, the amount the taxpayer paid during the taxable 188
 year, not compensated for by any insurance or otherwise, for 189
 medical care of the taxpayer, the taxpayer's spouse, and 190
 dependents, to the extent the expenses exceed seven and one-half 191
 per cent of the taxpayer's federal adjusted gross income. 192

(c) Deduct, to the extent not otherwise deducted or excluded 193

in computing federal or Ohio adjusted gross income, any amount 194
 included in federal adjusted gross income under section 105 or not 195
 excluded under section 106 of the Internal Revenue Code solely 196
 because it relates to an accident and health plan for a person who 197
 otherwise would be a "qualifying relative" and thus a "dependent" 198
 under section 152 of the Internal Revenue Code but for the fact 199
 that the person fails to meet the income and support limitations 200
 under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 201

(d) For purposes of division (A)(11) of this section, 202
 "medical care" has the meaning given in section 213 of the 203
 Internal Revenue Code, subject to the special rules, limitations, 204
 and exclusions set forth therein, and "qualified long-term care" 205
 has the same meaning given in section 7702B(c) of the Internal 206
 Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 207
 of this section, "dependent" includes a person who otherwise would 208
 be a "qualifying relative" and thus a "dependent" under section 209
 152 of the Internal Revenue Code but for the fact that the person 210
 fails to meet the income and support limitations under section 211
 152(d)(1)(B) and (C) of the Internal Revenue Code. 212

(12)(a) Deduct any amount included in federal adjusted gross 213
 income solely because the amount represents a reimbursement or 214
 refund of expenses that in any year the taxpayer had deducted as 215
 an itemized deduction pursuant to section 63 of the Internal 216
 Revenue Code and applicable United States department of the 217
 treasury regulations. The deduction otherwise allowed under 218
 division (A)(12)(a) of this section shall be reduced to the extent 219
 the reimbursement is attributable to an amount the taxpayer 220
 deducted under this section in any taxable year. 221

(b) Add any amount not otherwise included in Ohio adjusted 222
 gross income for any taxable year to the extent that the amount is 223

attributable to the recovery during the taxable year of any amount	224
deducted or excluded in computing federal or Ohio adjusted gross	225
income in any taxable year.	226
(13) Deduct any portion of the deduction described in section	227
1341(a)(2) of the Internal Revenue Code, for repaying previously	228
reported income received under a claim of right, that meets both	229
of the following requirements:	230
(a) It is allowable for repayment of an item that was	231
included in the taxpayer's adjusted gross income for a prior	232
taxable year and did not qualify for a credit under division (A)	233
or (B) of section 5747.05 of the Revised Code for that year;	234
(b) It does not otherwise reduce the taxpayer's adjusted	235
gross income for the current or any other taxable year.	236
(14) Deduct an amount equal to the deposits made to, and net	237
investment earnings of, a medical savings account during the	238
taxable year, in accordance with section 3924.66 of the Revised	239
Code. The deduction allowed by division (A)(14) of this section	240
does not apply to medical savings account deposits and earnings	241
otherwise deducted or excluded for the current or any other	242
taxable year from the taxpayer's federal adjusted gross income.	243
(15)(a) Add an amount equal to the funds withdrawn from a	244
medical savings account during the taxable year, and the net	245
investment earnings on those funds, when the funds withdrawn were	246
used for any purpose other than to reimburse an account holder	247
for, or to pay, eligible medical expenses, in accordance with	248
section 3924.66 of the Revised Code;	249
(b) Add the amounts distributed from a medical savings	250
account under division (A)(2) of section 3924.68 of the Revised	251
Code during the taxable year.	252

(16) Add any amount claimed as a credit under section	253
5747.059 or 5747.65 of the Revised Code to the extent that such	254
amount satisfies either of the following:	255
(a) The amount was deducted or excluded from the computation	256
of the taxpayer's federal adjusted gross income as required to be	257
reported for the taxpayer's taxable year under the Internal	258
Revenue Code;	259
(b) The amount resulted in a reduction of the taxpayer's	260
federal adjusted gross income as required to be reported for any	261
of the taxpayer's taxable years under the Internal Revenue Code.	262
(17) Deduct the amount contributed by the taxpayer to an	263
individual development account program established by a county	264
department of job and family services pursuant to sections 329.11	265
to 329.14 of the Revised Code for the purpose of matching funds	266
deposited by program participants. On request of the tax	267
commissioner, the taxpayer shall provide any information that, in	268
the tax commissioner's opinion, is necessary to establish the	269
amount deducted under division (A)(17) of this section.	270
(18) Beginning in taxable year 2001 but not for any taxable	271
year beginning after December 31, 2005, if the taxpayer is married	272
and files a joint return and the combined federal adjusted gross	273
income of the taxpayer and the taxpayer's spouse for the taxable	274
year does not exceed one hundred thousand dollars, or if the	275
taxpayer is single and has a federal adjusted gross income for the	276
taxable year not exceeding fifty thousand dollars, deduct amounts	277
paid during the taxable year for qualified tuition and fees paid	278
to an eligible institution for the taxpayer, the taxpayer's	279
spouse, or any dependent of the taxpayer, who is a resident of	280
this state and is enrolled in or attending a program that	281
culminates in a degree or diploma at an eligible institution. The	282

deduction may be claimed only to the extent that qualified tuition
and fees are not otherwise deducted or excluded for any taxable
year from federal or Ohio adjusted gross income. The deduction may
not be claimed for educational expenses for which the taxpayer
claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year
of any amount the taxpayer deducted under division (A)(18) of this
section in any previous taxable year to the extent the amount is
not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and
(v) of this section, add five-sixths of the amount of depreciation
expense allowed by subsection (k) of section 168 of the Internal
Revenue Code, including the taxpayer's proportionate or
distributive share of the amount of depreciation expense allowed
by that subsection to a pass-through entity in which the taxpayer
has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of
this section, add five-sixths of the amount of qualifying section
179 depreciation expense, including the taxpayer's proportionate
or distributive share of the amount of qualifying section 179
depreciation expense allowed to any pass-through entity in which
the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(20)(a)(v) of this section, for
taxable years beginning in 2012 or thereafter, if the increase in
income taxes withheld by the taxpayer is equal to or greater than
ten per cent of income taxes withheld by the taxpayer during the
taxpayer's immediately preceding taxable year, "two-thirds" shall
be substituted for "five-sixths" for the purpose of divisions
(A)(20)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(20)(a)(v) of this section, for

taxable years beginning in 2012 or thereafter, a taxpayer is not
required to add an amount under division (A)(20) of this section
if the increase in income taxes withheld by the taxpayer and by
any pass-through entity in which the taxpayer has a direct or
indirect ownership interest is equal to or greater than the sum of
(I) the amount of qualifying section 179 depreciation expense and
(II) the amount of depreciation expense allowed to the taxpayer by
subsection (k) of section 168 of the Internal Revenue Code, and
including the taxpayer's proportionate or distributive shares of
such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net
operating loss for the taxable year for federal income tax
purposes, to the extent such loss resulted from depreciation
expense allowed by subsection (k) of section 168 of the Internal
Revenue Code and by qualifying section 179 depreciation expense,
"the entire" shall be substituted for "five-sixths of the" for the
purpose of divisions (A)(20)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the
commissioner, may waive the add-backs related to a pass-through
entity if the taxpayer owns, directly or indirectly, less than
five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be
construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division
(A)(20)(a) of this section is attributable to property generating
nonbusiness income or loss allocated under section 5747.20 of the
Revised Code, the add-back shall be situated to the same location
as the nonbusiness income or loss generated by the property for
the purpose of determining the credit under division (A) of
section 5747.05 of the Revised Code. Otherwise, the add-back shall

be apportioned, subject to one or more of the four alternative 343
 methods of apportionment enumerated in section 5747.21 of the 344
 Revised Code. 345

(d) For the purposes of division (A)(20)(a)(v) of this 346
 section, net operating loss carryback and carryforward shall not 347
 include the allowance of any net operating loss deduction 348
 carryback or carryforward to the taxable year to the extent such 349
 loss resulted from depreciation allowed by section 168(k) of the 350
 Internal Revenue Code and by the qualifying section 179 351
 depreciation expense amount. 352

(e) For the purposes of divisions (A)(20) and (21) of this 353
 section: 354

(i) "Income taxes withheld" means the total amount withheld 355
 and remitted under sections 5747.06 and 5747.07 of the Revised 356
 Code by an employer during the employer's taxable year. 357

(ii) "Increase in income taxes withheld" means the amount by 358
 which the amount of income taxes withheld by an employer during 359
 the employer's current taxable year exceeds the amount of income 360
 taxes withheld by that employer during the employer's immediately 361
 preceding taxable year. 362

(iii) "Qualifying section 179 depreciation expense" means the 363
 difference between (I) the amount of depreciation expense directly 364
 or indirectly allowed to a taxpayer under section 179 of the 365
 Internal Revised Code, and (II) the amount of depreciation expense 366
 directly or indirectly allowed to the taxpayer under section 179 367
 of the Internal Revenue Code as that section existed on December 368
 31, 2002. 369

(21)(a) If the taxpayer was required to add an amount under 370
 division (A)(20)(a) of this section for a taxable year, deduct one 371

of the following: 372

(i) One-fifth of the amount so added for each of the five 373
succeeding taxable years if the amount so added was five-sixths of 374
qualifying section 179 depreciation expense or depreciation 375
expense allowed by subsection (k) of section 168 of the Internal 376
Revenue Code; 377

(ii) One-half of the amount so added for each of the two 378
succeeding taxable years if the amount so added was two-thirds of 379
such depreciation expense; 380

(iii) One-sixth of the amount so added for each of the six 381
succeeding taxable years if the entire amount of such depreciation 382
expense was so added. 383

(b) If the amount deducted under division (A)(21)(a) of this 384
section is attributable to an add-back allocated under division 385
(A)(20)(c) of this section, the amount deducted shall be situated 386
to the same location. Otherwise, the add-back shall be apportioned 387
using the apportionment factors for the taxable year in which the 388
deduction is taken, subject to one or more of the four alternative 389
methods of apportionment enumerated in section 5747.21 of the 390
Revised Code. 391

(c) No deduction is available under division (A)(21)(a) of 392
this section with regard to any depreciation allowed by section 393
168(k) of the Internal Revenue Code and by the qualifying section 394
179 depreciation expense amount to the extent that such 395
depreciation results in or increases a federal net operating loss 396
carryback or carryforward. If no such deduction is available for a 397
taxable year, the taxpayer may carry forward the amount not 398
deducted in such taxable year to the next taxable year and add 399
that amount to any deduction otherwise available under division 400
(A)(21)(a) of this section for that next taxable year. The 401

carryforward of amounts not so deducted shall continue until the
entire addition required by division (A)(20)(a) of this section
has been deducted.

(d) No refund shall be allowed as a result of adjustments
made by division (A)(21) of this section.

(22) Deduct, to the extent not otherwise deducted or excluded
in computing federal or Ohio adjusted gross income for the taxable
year, the amount the taxpayer received during the taxable year as
reimbursement for life insurance premiums under section 5919.31 of
the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded
in computing federal or Ohio adjusted gross income for the taxable
year, the amount the taxpayer received during the taxable year as
a death benefit paid by the adjutant general under section 5919.33
of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross
income and not otherwise allowable as a deduction or exclusion in
computing federal or Ohio adjusted gross income for the taxable
year, military pay and allowances received by the taxpayer during
the taxable year for active duty service in the United States
army, air force, navy, marine corps, or coast guard or reserve
components thereof or the national guard. The deduction may not be
claimed for military pay and allowances received by the taxpayer
while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a
deduction or exclusion in computing federal or Ohio adjusted gross
income for the taxable year and not otherwise compensated for by
any other source, the amount of qualified organ donation expenses
incurred by the taxpayer during the taxable year, not to exceed
ten thousand dollars. A taxpayer may deduct qualified organ

donation expenses only once for all taxable years beginning with 432
 taxable years beginning in 2007. 433

For the purposes of division (A)(25) of this section: 434

(a) "Human organ" means all or any portion of a human liver, 435
 pancreas, kidney, intestine, or lung, and any portion of human 436
 bone marrow. 437

(b) "Qualified organ donation expenses" means travel 438
 expenses, lodging expenses, and wages and salary forgone by a 439
 taxpayer in connection with the taxpayer's donation, while living, 440
 of one or more of the taxpayer's human organs to another human 441
 being. 442

(26) Deduct, to the extent not otherwise deducted or excluded 443
 in computing federal or Ohio adjusted gross income for the taxable 444
 year, amounts received by the taxpayer as retired personnel pay 445
 for service in the uniformed services or reserve components 446
 thereof, or the national guard, or received by the surviving 447
 spouse or former spouse of such a taxpayer under the survivor 448
 benefit plan on account of such a taxpayer's death. If the 449
 taxpayer receives income on account of retirement paid under the 450
 federal civil service retirement system or federal employees 451
 retirement system, or under any successor retirement program 452
 enacted by the congress of the United States that is established 453
 and maintained for retired employees of the United States 454
 government, and such retirement income is based, in whole or in 455
 part, on credit for the taxpayer's uniformed service, the 456
 deduction allowed under this division shall include only that 457
 portion of such retirement income that is attributable to the 458
 taxpayer's uniformed service, to the extent that portion of such 459
 retirement income is otherwise included in federal adjusted gross 460
 income and is not otherwise deducted under this section. Any 461

amount deducted under division (A)(26) of this section is not 462
 included in a taxpayer's adjusted gross income for the purposes of 463
 section 5747.055 of the Revised Code. No amount may be deducted 464
 under division (A)(26) of this section on the basis of which a 465
 credit was claimed under section 5747.055 of the Revised Code. 466

(27) Deduct, to the extent not otherwise deducted or excluded 467
 in computing federal or Ohio adjusted gross income for the taxable 468
 year, the amount the taxpayer received during the taxable year 469
 from the military injury relief fund created in section 5902.05 of 470
 the Revised Code. 471

(28) Deduct, to the extent not otherwise deducted or excluded 472
 in computing federal or Ohio adjusted gross income for the taxable 473
 year, the amount the taxpayer received as a veterans bonus during 474
 the taxable year from the Ohio department of veterans services as 475
 authorized by Section 2r of Article VIII, Ohio Constitution. 476

(29) Deduct, to the extent not otherwise deducted or excluded 477
 in computing federal or Ohio adjusted gross income for the taxable 478
 year, any income derived from a transfer agreement or from the 479
 enterprise transferred under that agreement under section 4313.02 480
 of the Revised Code. 481

(30) Deduct, to the extent not otherwise deducted or excluded 482
 in computing federal or Ohio adjusted gross income for the taxable 483
 year, Ohio college opportunity or federal Pell grant amounts 484
 received by the taxpayer or the taxpayer's spouse or dependent 485
 pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 486
 1070a, et seq., and used to pay room or board furnished by the 487
 educational institution for which the grant was awarded at the 488
 institution's facilities, including meal plans administered by the 489
 institution. For the purposes of this division, receipt of a grant 490
 includes the distribution of a grant directly to an educational 491

institution and the crediting of the grant to the enrollee's 492
account with the institution. 493

~~(31)(a) For taxable years beginning in 2015, deduct from the 494
portion of an individual's adjusted gross income that is business 495
income, to the extent not otherwise deducted or excluded in 496
computing federal or Ohio adjusted gross income for the taxable 497
year, the lesser of the following amounts: 498~~

~~(i) Seventy five per cent of the individual's business 499
income; 500~~

~~(ii) Ninety three thousand seven hundred fifty dollars for 501
each spouse if spouses file separate returns under section 5747.08 502
of the Revised Code or one hundred eighty seven thousand five 503
hundred dollars for all other individuals. 504~~

~~(b) For taxable years beginning in ~~2016~~ 2017 or thereafter, 505
an individual to whom the tax credit authority has issued a 506
certificate under section 122.178 of the Revised Code for the 507
taxable year may deduct from the portion of an individual's 508
adjusted gross income that is business income, to the extent not 509
otherwise deducted or excluded in computing federal adjusted gross 510
income for the taxable year, one hundred twenty-five thousand 511
dollars for each spouse if spouses file separate returns under 512
section 5747.08 of the Revised Code or two hundred fifty thousand 513
dollars for all other individuals. 514~~

(32) Deduct, as provided under section 5747.78 of the Revised 515
Code, contributions to ABLE savings accounts made in accordance 516
with sections 113.50 to 113.56 of the Revised Code. 517

(B) "Business income" means income, including gain or loss, 518
arising from transactions, activities, and sources in the regular 519
course of a trade or business and includes income, gain, or loss 520

from real property, tangible property, and intangible property if 521
the acquisition, rental, management, and disposition of the 522
property constitute integral parts of the regular course of a 523
trade or business operation. "Business income" includes income, 524
including gain or loss, from a partial or complete liquidation of 525
a business, including, but not limited to, gain or loss from the 526
sale or other disposition of goodwill. 527

(C) "Nonbusiness income" means all income other than business 528
income and may include, but is not limited to, compensation, rents 529
and royalties from real or tangible personal property, capital 530
gains, interest, dividends and distributions, patent or copyright 531
royalties, or lottery winnings, prizes, and awards. 532

(D) "Compensation" means any form of remuneration paid to an 533
employee for personal services. 534

(E) "Fiduciary" means a guardian, trustee, executor, 535
administrator, receiver, conservator, or any other person acting 536
in any fiduciary capacity for any individual, trust, or estate. 537

(F) "Fiscal year" means an accounting period of twelve months 538
ending on the last day of any month other than December. 539

(G) "Individual" means any natural person. 540

(H) "Internal Revenue Code" means the "Internal Revenue Code 541
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 542

(I) "Resident" means any of the following, provided that 543
division (I)(3) of this section applies only to taxable years of a 544
trust beginning in 2002 or thereafter: 545

(1) An individual who is domiciled in this state, subject to 546
section 5747.24 of the Revised Code; 547

(2) The estate of a decedent who at the time of death was 548

domiciled in this state. The domicile tests of section 5747.24 of
the Revised Code are not controlling for purposes of division
(I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If
only part of a trust resides in this state, the trust is a
resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current
taxable year to the extent, as described in division (I)(3)(d) of
this section, that the trust consists directly or indirectly, in
whole or in part, of assets, net of any related liabilities, that
were transferred, or caused to be transferred, directly or
indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or
instrumentality on account of the death of a decedent, but only if
the trust is described in division (I)(3)(e)(i) or (ii) of this
section;

(ii) A person who was domiciled in this state for the
purposes of this chapter when the person directly or indirectly
transferred assets to an irrevocable trust, but only if at least
one of the trust's qualifying beneficiaries is domiciled in this
state for the purposes of this chapter during all or some portion
of the trust's current taxable year;

(iii) A person who was domiciled in this state for the
purposes of this chapter when the trust document or instrument or
part of the trust document or instrument became irrevocable, but
only if at least one of the trust's qualifying beneficiaries is a
resident domiciled in this state for the purposes of this chapter
during all or some portion of the trust's current taxable year. If

a trust document or instrument became irrevocable upon the death
of a person who at the time of death was domiciled in this state
for purposes of this chapter, that person is a person described in
division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor
is not considered to be the owner of the net assets of the trust
under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead
trust, "qualifying beneficiary" has the same meaning as "potential
current beneficiary" as defined in section 1361(e)(2) of the
Internal Revenue Code, and with respect to a charitable lead trust
"qualifying beneficiary" is any current, future, or contingent
beneficiary, but with respect to any trust "qualifying
beneficiary" excludes a person or a governmental entity or
instrumentality to any of which a contribution would qualify for
the charitable deduction under section 170 of the Internal Revenue
Code.

(d) For the purposes of division (I)(3)(a) of this section,
the extent to which a trust consists directly or indirectly, in
whole or in part, of assets, net of any related liabilities, that
were transferred directly or indirectly, in whole or part, to the
trust by any of the sources enumerated in that division shall be
ascertained by multiplying the fair market value of the trust's
assets, net of related liabilities, by the qualifying ratio, which
shall be computed as follows:

(i) The first time the trust receives assets, the numerator
of the qualifying ratio is the fair market value of those assets
at that time, net of any related liabilities, from sources
enumerated in division (I)(3)(a) of this section. The denominator
of the qualifying ratio is the fair market value of all the

trust's assets at that time, net of any related liabilities. 608

(ii) Each subsequent time the trust receives assets, a 609
revised qualifying ratio shall be computed. The numerator of the 610
revised qualifying ratio is the sum of (1) the fair market value 611
of the trust's assets immediately prior to the subsequent 612
transfer, net of any related liabilities, multiplied by the 613
qualifying ratio last computed without regard to the subsequent 614
transfer, and (2) the fair market value of the subsequently 615
transferred assets at the time transferred, net of any related 616
liabilities, from sources enumerated in division (I)(3)(a) of this 617
section. The denominator of the revised qualifying ratio is the 618
fair market value of all the trust's assets immediately after the 619
subsequent transfer, net of any related liabilities. 620

(iii) Whether a transfer to the trust is by or from any of 621
the sources enumerated in division (I)(3)(a) of this section shall 622
be ascertained without regard to the domicile of the trust's 623
beneficiaries. 624

(e) For the purposes of division (I)(3)(a)(i) of this 625
section: 626

(i) A trust is described in division (I)(3)(e)(i) of this 627
section if the trust is a testamentary trust and the testator of 628
that testamentary trust was domiciled in this state at the time of 629
the testator's death for purposes of the taxes levied under 630
Chapter 5731. of the Revised Code. 631

(ii) A trust is described in division (I)(3)(e)(ii) of this 632
section if the transfer is a qualifying transfer described in any 633
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 634
irrevocable inter vivos trust, and at least one of the trust's 635
qualifying beneficiaries is domiciled in this state for purposes 636
of this chapter during all or some portion of the trust's current 637

taxable year. 638

(f) For the purposes of division (I)(3)(e)(ii) of this 639
section, a "qualifying transfer" is a transfer of assets, net of 640
any related liabilities, directly or indirectly to a trust, if the 641
transfer is described in any of the following: 642

(i) The transfer is made to a trust, created by the decedent 643
before the decedent's death and while the decedent was domiciled 644
in this state for the purposes of this chapter, and, prior to the 645
death of the decedent, the trust became irrevocable while the 646
decedent was domiciled in this state for the purposes of this 647
chapter. 648

(ii) The transfer is made to a trust to which the decedent, 649
prior to the decedent's death, had directly or indirectly 650
transferred assets, net of any related liabilities, while the 651
decedent was domiciled in this state for the purposes of this 652
chapter, and prior to the death of the decedent the trust became 653
irrevocable while the decedent was domiciled in this state for the 654
purposes of this chapter. 655

(iii) The transfer is made on account of a contractual 656
relationship existing directly or indirectly between the 657
transferor and either the decedent or the estate of the decedent 658
at any time prior to the date of the decedent's death, and the 659
decedent was domiciled in this state at the time of death for 660
purposes of the taxes levied under Chapter 5731. of the Revised 661
Code. 662

(iv) The transfer is made to a trust on account of a 663
contractual relationship existing directly or indirectly between 664
the transferor and another person who at the time of the 665
decedent's death was domiciled in this state for purposes of this 666
chapter. 667

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of

the Revised Code.	697
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	698 699 700 701 702
(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.	703 704 705 706 707
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	708 709
(1) "Subdivision" means any county, municipal corporation, park district, or township.	710 711
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	712 713 714 715
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	716 717
(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:	718 719 720
(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent	721 722 723 724 725

that such net amount is not otherwise includible in Ohio taxable	726
income and is described in either division (S)(1)(a) or (b) of	727
this section:	728
(a) The net amount is not attributable to the S portion of an	729
electing small business trust and has not been distributed to	730
beneficiaries for the taxable year;	731
(b) The net amount is attributable to the S portion of an	732
electing small business trust for the taxable year.	733
(2) Add interest or dividends, net of ordinary, necessary,	734
and reasonable expenses not deducted in computing federal taxable	735
income, on obligations of any authority, commission,	736
instrumentality, territory, or possession of the United States to	737
the extent that the interest or dividends are exempt from federal	738
income taxes but not from state income taxes, but only to the	739
extent that such net amount is not otherwise includible in Ohio	740
taxable income and is described in either division (S)(1)(a) or	741
(b) of this section;	742
(3) Add the amount of personal exemption allowed to the	743
estate pursuant to section 642(b) of the Internal Revenue Code;	744
(4) Deduct interest or dividends, net of related expenses	745
deducted in computing federal taxable income, on obligations of	746
the United States and its territories and possessions or of any	747
authority, commission, or instrumentality of the United States to	748
the extent that the interest or dividends are exempt from state	749
taxes under the laws of the United States, but only to the extent	750
that such amount is included in federal taxable income and is	751
described in either division (S)(1)(a) or (b) of this section;	752
(5) Deduct the amount of wages and salaries, if any, not	753
otherwise allowable as a deduction but that would have been	754

allowable as a deduction in computing federal taxable income for 755
the taxable year, had the targeted jobs credit allowed under 756
sections 38, 51, and 52 of the Internal Revenue Code not been in 757
effect, but only to the extent such amount relates either to 758
income included in federal taxable income for the taxable year or 759
to income of the S portion of an electing small business trust for 760
the taxable year; 761

(6) Deduct any interest or interest equivalent, net of 762
related expenses deducted in computing federal taxable income, on 763
public obligations and purchase obligations, but only to the 764
extent that such net amount relates either to income included in 765
federal taxable income for the taxable year or to income of the S 766
portion of an electing small business trust for the taxable year; 767

(7) Add any loss or deduct any gain resulting from sale, 768
exchange, or other disposition of public obligations to the extent 769
that such loss has been deducted or such gain has been included in 770
computing either federal taxable income or income of the S portion 771
of an electing small business trust for the taxable year; 772

(8) Except in the case of the final return of an estate, add 773
any amount deducted by the taxpayer on both its Ohio estate tax 774
return pursuant to section 5731.14 of the Revised Code, and on its 775
federal income tax return in determining federal taxable income; 776

(9)(a) Deduct any amount included in federal taxable income 777
solely because the amount represents a reimbursement or refund of 778
expenses that in a previous year the decedent had deducted as an 779
itemized deduction pursuant to section 63 of the Internal Revenue 780
Code and applicable treasury regulations. The deduction otherwise 781
allowed under division (S)(9)(a) of this section shall be reduced 782
to the extent the reimbursement is attributable to an amount the 783
taxpayer or decedent deducted under this section in any taxable 784

year.	785
(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.	786 787 788 789 790 791
(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:	792 793 794 795
(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.	796 797 798 799 800
(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.	801 802 803
(11) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that the amount satisfies either of the following:	804 805 806
(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	807 808 809 810
(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	811 812 813

(12) Deduct any amount, net of related expenses deducted in 814
 computing federal taxable income, that a trust is required to 815
 report as farm income on its federal income tax return, but only 816
 if the assets of the trust include at least ten acres of land 817
 satisfying the definition of "land devoted exclusively to 818
 agricultural use" under section 5713.30 of the Revised Code, 819
 regardless of whether the land is valued for tax purposes as such 820
 land under sections 5713.30 to 5713.38 of the Revised Code. If the 821
 trust is a pass-through entity investor, section 5747.231 of the 822
 Revised Code applies in ascertaining if the trust is eligible to 823
 claim the deduction provided by division (S)(12) of this section 824
 in connection with the pass-through entity's farm income. 825

Except for farm income attributable to the S portion of an 826
 electing small business trust, the deduction provided by division 827
 (S)(12) of this section is allowed only to the extent that the 828
 trust has not distributed such farm income. Division (S)(12) of 829
 this section applies only to taxable years of a trust beginning in 830
 2002 or thereafter. 831

(13) Add the net amount of income described in section 641(c) 832
 of the Internal Revenue Code to the extent that amount is not 833
 included in federal taxable income. 834

(14) Add or deduct the amount the taxpayer would be required 835
 to add or deduct under division (A)(20) or (21) of this section if 836
 the taxpayer's Ohio taxable income were computed in the same 837
 manner as an individual's Ohio adjusted gross income is computed 838
 under this section. In the case of a trust, division (S)(14) of 839
 this section applies only to any of the trust's taxable years 840
 beginning in 2002 or thereafter. 841

(T) "School district income" and "school district income tax" 842
 have the same meanings as in section 5748.01 of the Revised Code. 843

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 844
of this section, "public obligations," "purchase obligations," and 845
"interest or interest equivalent" have the same meanings as in 846
section 5709.76 of the Revised Code. 847

(V) "Limited liability company" means any limited liability 848
company formed under Chapter 1705. of the Revised Code or under 849
the laws of any other state. 850

(W) "Pass-through entity investor" means any person who, 851
during any portion of a taxable year of a pass-through entity, is 852
a partner, member, shareholder, or equity investor in that 853
pass-through entity. 854

(X) "Banking day" has the same meaning as in section 1304.01 855
of the Revised Code. 856

(Y) "Month" means a calendar month. 857

(Z) "Quarter" means the first three months, the second three 858
months, the third three months, or the last three months of the 859
taxpayer's taxable year. 860

(AA)(1) "Eligible institution" means a state university or 861
state institution of higher education as defined in section 862
3345.011 of the Revised Code, or a private, nonprofit college, 863
university, or other post-secondary institution located in this 864
state that possesses a certificate of authorization issued by the 865
chancellor of higher education pursuant to Chapter 1713. of the 866
Revised Code or a certificate of registration issued by the state 867
board of career colleges and schools under Chapter 3332. of the 868
Revised Code. 869

(2) "Qualified tuition and fees" means tuition and fees 870
imposed by an eligible institution as a condition of enrollment or 871
attendance, not exceeding two thousand five hundred dollars in 872

each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code 902
are satisfied for the trust's taxable year in which the trust 903
recognizes the gain or loss. 904

Any gain or loss that is not a qualifying trust amount is 905
modified business income, qualifying investment income, or 906
modified nonbusiness income, as the case may be. 907

(3) "Modified nonbusiness income" means a trust's Ohio 908
taxable income other than modified business income, other than the 909
qualifying trust amount, and other than qualifying investment 910
income, as defined in section 5747.012 of the Revised Code, to the 911
extent such qualifying investment income is not otherwise part of 912
modified business income. 913

(4) "Modified Ohio taxable income" applies only to trusts, 914
and means the sum of the amounts described in divisions (BB)(4)(a) 915
to (c) of this section: 916

(a) The fraction, calculated under section 5747.013, and 917
applying section 5747.231 of the Revised Code, multiplied by the 918
sum of the following amounts: 919

(i) The trust's modified business income; 920

(ii) The trust's qualifying investment income, as defined in 921
section 5747.012 of the Revised Code, but only to the extent the 922
qualifying investment income does not otherwise constitute 923
modified business income and does not otherwise constitute a 924
qualifying trust amount. 925

(b) The qualifying trust amount multiplied by a fraction, the 926
numerator of which is the sum of the book value of the qualifying 927
investee's physical assets in this state on the last day of the 928
qualifying investee's fiscal or calendar year ending immediately 929
prior to the day on which the trust recognizes the qualifying 930

trust amount, and the denominator of which is the sum of the book 931
value of the qualifying investee's total physical assets 932
everywhere on the last day of the qualifying investee's fiscal or 933
calendar year ending immediately prior to the day on which the 934
trust recognizes the qualifying trust amount. If, for a taxable 935
year, the trust recognizes a qualifying trust amount with respect 936
to more than one qualifying investee, the amount described in 937
division (BB)(4)(b) of this section shall equal the sum of the 938
products so computed for each such qualifying investee. 939

(c)(i) With respect to a trust or portion of a trust that is 940
a resident as ascertained in accordance with division (I)(3)(d) of 941
this section, its modified nonbusiness income. 942

(ii) With respect to a trust or portion of a trust that is 943
not a resident as ascertained in accordance with division 944
(I)(3)(d) of this section, the amount of its modified nonbusiness 945
income satisfying the descriptions in divisions (B)(2) to (5) of 946
section 5747.20 of the Revised Code, except as otherwise provided 947
in division (BB)(4)(c)(ii) of this section. With respect to a 948
trust or portion of a trust that is not a resident as ascertained 949
in accordance with division (I)(3)(d) of this section, the trust's 950
portion of modified nonbusiness income recognized from the sale, 951
exchange, or other disposition of a debt interest in or equity 952
interest in a section 5747.212 entity, as defined in section 953
5747.212 of the Revised Code, without regard to division (A) of 954
that section, shall not be allocated to this state in accordance 955
with section 5747.20 of the Revised Code but shall be apportioned 956
to this state in accordance with division (B) of section 5747.212 957
of the Revised Code without regard to division (A) of that 958
section. 959

If the allocation and apportionment of a trust's income under 960

divisions (BB)(4)(a) and (c) of this section do not fairly
represent the modified Ohio taxable income of the trust in this
state, the alternative methods described in division (C) of
section 5747.21 of the Revised Code may be applied in the manner
and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this
section, "qualifying investee" means a person in which a trust has
an equity or ownership interest, or a person or unit of government
the debt obligations of either of which are owned by a trust. For
the purposes of division (BB)(2)(a) of this section and for the
purpose of computing the fraction described in division (BB)(4)(b)
of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying
controlled group on the last day of the qualifying investee's
fiscal or calendar year ending immediately prior to the date on
which the trust recognizes the gain or loss, then "qualifying
investee" includes all persons in the qualifying controlled group
on such last day.

(ii) If the qualifying investee, or if the qualifying
investee and any members of the qualifying controlled group of
which the qualifying investee is a member on the last day of the
qualifying investee's fiscal or calendar year ending immediately
prior to the date on which the trust recognizes the gain or loss,
separately or cumulatively own, directly or indirectly, on the
last day of the qualifying investee's fiscal or calendar year
ending immediately prior to the date on which the trust recognizes
the qualifying trust amount, more than fifty per cent of the
equity of a pass-through entity, then the qualifying investee and
the other members are deemed to own the proportionate share of the
pass-through entity's physical assets which the pass-through

entity directly or indirectly owns on the last day of the 991
 pass-through entity's calendar or fiscal year ending within or 992
 with the last day of the qualifying investee's fiscal or calendar 993
 year ending immediately prior to the date on which the trust 994
 recognizes the qualifying trust amount. 995

(iii) For the purposes of division (BB)(5)(a)(iii) of this 996
 section, "upper level pass-through entity" means a pass-through 997
 entity directly or indirectly owning any equity of another 998
 pass-through entity, and "lower level pass-through entity" means 999
 that other pass-through entity. 1000

An upper level pass-through entity, whether or not it is also 1001
 a qualifying investee, is deemed to own, on the last day of the 1002
 upper level pass-through entity's calendar or fiscal year, the 1003
 proportionate share of the lower level pass-through entity's 1004
 physical assets that the lower level pass-through entity directly 1005
 or indirectly owns on the last day of the lower level pass-through 1006
 entity's calendar or fiscal year ending within or with the last 1007
 day of the upper level pass-through entity's fiscal or calendar 1008
 year. If the upper level pass-through entity directly and 1009
 indirectly owns less than fifty per cent of the equity of the 1010
 lower level pass-through entity on each day of the upper level 1011
 pass-through entity's calendar or fiscal year in which or with 1012
 which ends the calendar or fiscal year of the lower level 1013
 pass-through entity and if, based upon clear and convincing 1014
 evidence, complete information about the location and cost of the 1015
 physical assets of the lower pass-through entity is not available 1016
 to the upper level pass-through entity, then solely for purposes 1017
 of ascertaining if a gain or loss constitutes a qualifying trust 1018
 amount, the upper level pass-through entity shall be deemed as 1019
 owning no equity of the lower level pass-through entity for each 1020
 day during the upper level pass-through entity's calendar or 1021

fiscal year in which or with which ends the lower level 1022
 pass-through entity's calendar or fiscal year. Nothing in division 1023
 (BB)(5)(a)(iii) of this section shall be construed to provide for 1024
 any deduction or exclusion in computing any trust's Ohio taxable 1025
 income. 1026

(b) With respect to a trust that is not a resident for the 1027
 taxable year and with respect to a part of a trust that is not a 1028
 resident for the taxable year, "qualifying investee" for that 1029
 taxable year does not include a C corporation if both of the 1030
 following apply: 1031

(i) During the taxable year the trust or part of the trust 1032
 recognizes a gain or loss from the sale, exchange, or other 1033
 disposition of equity or ownership interests in, or debt 1034
 obligations of, the C corporation. 1035

(ii) Such gain or loss constitutes nonbusiness income. 1036

(6) "Available" means information is such that a person is 1037
 able to learn of the information by the due date plus extensions, 1038
 if any, for filing the return for the taxable year in which the 1039
 trust recognizes the gain or loss. 1040

(CC) "Qualifying controlled group" has the same meaning as in 1041
 section 5733.04 of the Revised Code. 1042

(DD) "Related member" has the same meaning as in section 1043
 5733.042 of the Revised Code. 1044

(EE)(1) For the purposes of division (EE) of this section: 1045

(a) "Qualifying person" means any person other than a 1046
 qualifying corporation. 1047

(b) "Qualifying corporation" means any person classified for 1048
 federal income tax purposes as an association taxable as a 1049

corporation, except either of the following: 1050

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year; 1051
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(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year. 1055
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(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation. 1059
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1061

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code: 1062
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(1) "Trust" does not include a qualified pre-income tax trust. 1064
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(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section. 1066
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(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the 1069
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trustee of the trust. 1079

(4) A "pre-income tax trust" is a trust that satisfies all of 1080
the following requirements: 1081

(a) The document or instrument creating the trust was 1082
executed by the grantor before January 1, 1972; 1083

(b) The trust became irrevocable upon the creation of the 1084
trust; and 1085

(c) The grantor was domiciled in this state at the time the 1086
trust was created. 1087

(GG) "Uniformed services" has the same meaning as in 10
U.S.C. 101. 1088
1089

(HH) "Taxable business income" means the amount by which an 1090
individual's business income that is included in federal adjusted 1091
gross income exceeds the amount of business income the individual 1092
is authorized to deduct under division (A)(31) of this section for 1093
the taxable year. 1094

Sec. 5747.02. (A) For the purpose of providing revenue for 1095
the support of schools and local government functions, to provide 1096
relief to property taxpayers, to provide revenue for the general 1097
revenue fund, and to meet the expenses of administering the tax 1098
levied by this chapter, there is hereby levied on every 1099
individual, trust, and estate residing in or earning or receiving 1100
income in this state, on every individual, trust, and estate 1101
earning or receiving lottery winnings, prizes, or awards pursuant 1102
to Chapter 3770. of the Revised Code, on every individual, trust, 1103
and estate earning or receiving winnings on casino gaming, and on 1104
every individual, trust, and estate otherwise having nexus with or 1105
in this state under the Constitution of the United States, an 1106

annual tax measured as prescribed in divisions (A)(1) to (4) of 1107
this section. 1108

(1) In the case of trusts, the tax imposed by this section 1109
shall be measured by modified Ohio taxable income under division 1110
(D) of this section and levied in the same amount as the tax is 1111
imposed on estates as prescribed in division (A)(2) of this 1112
section. 1113

(2) In the case of estates, the tax imposed by this section 1114
shall be measured by Ohio taxable income and levied at the rate of 1115
seven thousand four hundred twenty-five ten-thousandths per cent 1116
for the first ten thousand five hundred dollars of such income 1117
and, for income in excess of that amount, at the same rates 1118
prescribed in division (A)(3) of this section for individuals. 1119

(3) In the case of individuals, for taxable years beginning 1120
in 2017 or thereafter, the tax imposed by this section on income 1121
other than taxable business income subject to taxation under 1122
division (A)(4) of this section shall be measured by Ohio adjusted 1123
gross income, less such taxable business income and less an 1124
exemption for the taxpayer, the taxpayer's spouse, and each 1125
dependent as provided in section 5747.025 of the Revised Code. If 1126
the balance thus obtained is equal to or less than ten thousand 1127
five hundred dollars, no tax shall be imposed on that balance. If 1128
the balance thus obtained is greater than ten thousand five 1129
hundred dollars, the tax is hereby levied as follows: 1130

OHIO ADJUSTED GROSS INCOME LESS 1131

TAXABLE BUSINESS INCOME AND
EXEMPTIONS (INDIVIDUALS)

OR 1132

MODIFIED OHIO 1133

TAXABLE INCOME (TRUSTS) 1134

OR		1135
OHIO TAXABLE INCOME (ESTATES)	TAX	1136
		1137
		1138
More than \$10,500 but not more than \$15,800	\$77.96 plus 1.980% of the amount in excess of \$10,500	1139
More than \$15,800 but not more than \$21,100	\$182.90 plus 2.476% of the amount in excess of \$15,800	1140
More than \$21,100 but not more than \$42,100	\$314.13 plus 2.969% of the amount in excess of \$21,100	1141
More than \$42,100 but not more than \$84,200	\$937.62 plus 3.465% of the amount in excess of \$42,100	1142
More than \$84,200 but not more than \$105,300	\$2,396.39 plus 3.960% of the amount in excess of \$84,200	1143
More than \$105,300 but not more than \$210,600	\$3,231.95 plus 4.597% of the amount in excess of \$105,300	1144
More than \$210,600	\$8,072.59 plus 4.997% of the amount in excess of \$210,600	1145
(4)(a) In the case of individuals, for For taxable years		1146
beginning in 2016 2017 or thereafter, <u>in the case of an individual</u>		1147
<u>to whom the tax credit authority has issued a certificate under</u>		1148
<u>section 122.178 of the Revised Code for the taxable year,</u> the tax		1149
imposed by this section on taxable business income shall equal		1150
three per cent of the result obtained by subtracting any amount		1151
allowed under division (A)(4)(b) of this section from the		1152
individual's taxable business income.		1153
(b) If the exemptions allowed to an individual under division		1154
(A)(3) of this section exceed the taxpayer's Ohio adjusted gross		1155
income less taxable business income, the excess shall be deducted		1156
from taxable business income before computing the tax under		1157
division (A)(4)(a) of this section.		1158

(5) Except as otherwise provided in this division, in August 1159
of each year, the tax commissioner shall make a new adjustment to 1160
the income amounts prescribed in divisions (A)(2) and (3) of this 1161
section by multiplying the percentage increase in the gross 1162
domestic product deflator computed that year under section 1163
5747.025 of the Revised Code by each of the income amounts 1164
resulting from the adjustment under this division in the preceding 1165
year, adding the resulting product to the corresponding income 1166
amount resulting from the adjustment in the preceding year, and 1167
rounding the resulting sum to the nearest multiple of fifty 1168
dollars. The tax commissioner also shall recompute each of the tax 1169
dollar amounts to the extent necessary to reflect the new 1170
adjustment of the income amounts. To recompute the tax dollar 1171
amount corresponding to the lowest tax rate in division (A)(3) of 1172
this section, the commissioner shall multiply the tax rate 1173
prescribed in division (A)(2) of this section by the income amount 1174
specified in that division and as adjusted according to this 1175
paragraph. The rates of taxation shall not be adjusted. 1176

The adjusted amounts apply to taxable years beginning in the 1177
calendar year in which the adjustments are made and to taxable 1178
years beginning in each ensuing calendar year until a calendar 1179
year in which a new adjustment is made pursuant to this division. 1180
The tax commissioner shall not make a new adjustment in any year 1181
in which the amount resulting from the adjustment would be less 1182
than the amount resulting from the adjustment in the preceding 1183
year. 1184

(B) If the director of budget and management makes a 1185
certification to the tax commissioner under division (B) of 1186
section 131.44 of the Revised Code, the amount of tax as 1187
determined under divisions (A)(1) to (3) of this section shall be 1188
reduced by the percentage prescribed in that certification for 1189

taxable years beginning in the calendar year in which that 1190
certification is made. 1191

(C) The levy of this tax on income does not prevent a 1192
municipal corporation, a joint economic development zone created 1193
under section 715.691, or a joint economic development district 1194
created under section 715.70, 715.71, or 715.72 of the Revised 1195
Code from levying a tax on income. 1196

(D) This division applies only to taxable years of a trust 1197
beginning in 2002 or thereafter. 1198

(1) The tax imposed by this section on a trust shall be 1199
computed by multiplying the Ohio modified taxable income of the 1200
trust by the rates prescribed by division (A) of this section. 1201

(2) A resident trust may claim a credit against the tax 1202
computed under division (D) of this section equal to the lesser of 1203
(a) the tax paid to another state or the District of Columbia on 1204
the resident trust's modified nonbusiness income, other than the 1205
portion of the resident trust's nonbusiness income that is 1206
qualifying investment income as defined in section 5747.012 of the 1207
Revised Code, or (b) the effective tax rate, based on modified 1208
Ohio taxable income, multiplied by the resident trust's modified 1209
nonbusiness income other than the portion of the resident trust's 1210
nonbusiness income that is qualifying investment income. The 1211
credit applies before any other applicable credits. 1212

(3) The credits enumerated in divisions (A)(1) to (9) and 1213
(A)(18) to (20) of section 5747.98 of the Revised Code do not 1214
apply to a trust subject to division (D) of this section. Any 1215
credits enumerated in other divisions of section 5747.98 of the 1216
Revised Code apply to a trust subject to division (D) of this 1217
section. To the extent that the trust distributes income for the 1218
taxable year for which a credit is available to the trust, the 1219

credit shall be shared by the trust and its beneficiaries. The tax 1220
 commissioner and the trust shall be guided by applicable 1221
 regulations of the United States treasury regarding the sharing of 1222
 credits. 1223

(E) For the purposes of this section, "trust" means any trust 1224
 described in Subchapter J of Chapter 1 of the Internal Revenue 1225
 Code, excluding trusts that are not irrevocable as defined in 1226
 division (I)(3)(b) of section 5747.01 of the Revised Code and that 1227
 have no modified Ohio taxable income for the taxable year, 1228
 charitable remainder trusts, qualified funeral trusts and preneed 1229
 funeral contract trusts established pursuant to sections 4717.31 1230
 to 4717.38 of the Revised Code that are not qualified funeral 1231
 trusts, endowment and perpetual care trusts, qualified settlement 1232
 trusts and funds, designated settlement trusts and funds, and 1233
 trusts exempted from taxation under section 501(a) of the Internal 1234
 Revenue Code. 1235

(F) Nothing in division (A)(3) of this section shall prohibit 1236
 an individual with an Ohio adjusted gross income, less taxable 1237
 business income subject to taxation under division (A)(4) of this 1238
section and exemptions, of ten thousand five hundred dollars or 1239
 less from filing a return under this chapter to receive a refund 1240
 of taxes withheld or to claim any refundable credit allowed under 1241
 this chapter." 1242

In line 314, delete "section" and insert "sections"; after 1243
 "5733.40" insert ", 5747.01, and 5747.02" 1244

In line 315, delete "is" and insert "are" 1245

The motion was _____ agreed to.