

S.B. No. 26  
As Re-Referred by the House  
Rules and Reference  
Committee

**Topic:** Business income deduction; reporting business income source

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, delete "section" and insert 1  
"sections"; after "5747.01" insert "and 5747.08" 2

In line 4 of the title, after "supplies" insert "and to 3  
restore the business income deduction and 3% tax rate for lawyers' 4  
and lobbyists' income" 5

In line 5, delete "section" and insert "sections"; after 6  
"5747.01" insert "and 5747.08" 7

Delete lines 7 through 1083 and insert: 8

"**Sec. 5747.01.** Except as otherwise expressly provided or 9  
clearly appearing from the context, any term used in this chapter 10  
that is not otherwise defined in this section has the same meaning 11  
as when used in a comparable context in the laws of the United 12  
States relating to federal income taxes or if not used in a 13  
comparable context in those laws, has the same meaning as in 14  
section 5733.40 of the Revised Code. Any reference in this chapter 15  
to the Internal Revenue Code includes other laws of the United 16  
States relating to federal income taxes. 17

As used in this chapter: 18

(A) "Adjusted gross income" or "Ohio adjusted gross income" 19  
means federal adjusted gross income, as defined and used in the 20  
Internal Revenue Code, adjusted as provided in this section: 21

(1) Add interest or dividends on obligations or securities of 22  
any state or of any political subdivision or authority of any 23  
state, other than this state and its subdivisions and authorities. 24

(2) Add interest or dividends on obligations of any 25  
authority, commission, instrumentality, territory, or possession 26  
of the United States to the extent that the interest or dividends 27  
are exempt from federal income taxes but not from state income 28  
taxes. 29

(3) Deduct interest or dividends on obligations of the United 30  
States and its territories and possessions or of any authority, 31  
commission, or instrumentality of the United States to the extent 32  
that the interest or dividends are included in federal adjusted 33  
gross income but exempt from state income taxes under the laws of 34  
the United States. 35

(4) Deduct disability and survivor's benefits to the extent 36  
included in federal adjusted gross income. 37

(5) Deduct benefits under Title II of the Social Security Act 38  
and tier 1 railroad retirement benefits to the extent included in 39  
federal adjusted gross income under section 86 of the Internal 40  
Revenue Code. 41

(6) In the case of a taxpayer who is a beneficiary of a trust 42  
that makes an accumulation distribution as defined in section 665 43  
of the Internal Revenue Code, add, for the beneficiary's taxable 44  
years beginning before 2002, the portion, if any, of such 45  
distribution that does not exceed the undistributed net income of 46

the trust for the three taxable years preceding the taxable year  
in which the distribution is made to the extent that the portion  
was not included in the trust's taxable income for any of the  
trust's taxable years beginning in 2002 or thereafter.

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

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

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

(9) Add any loss or deduct any gain resulting from the sale,  
exchange, or other disposition of public obligations to the extent  
that the loss has been deducted or the gain has been included in

computing federal adjusted gross income. 77

(10) Deduct or add amounts, as provided under section 5747.70 78  
of the Revised Code, related to contributions to variable college 79  
savings program accounts made or tuition units purchased pursuant 80  
to Chapter 3334. of the Revised Code. 81

(11)(a) Deduct, to the extent not otherwise allowable as a 82  
deduction or exclusion in computing federal or Ohio adjusted gross 83  
income for the taxable year, the amount the taxpayer paid during 84  
the taxable year for medical care insurance and qualified 85  
long-term care insurance for the taxpayer, the taxpayer's spouse, 86  
and dependents. No deduction for medical care insurance under 87  
division (A)(11)(a) of this section shall be allowed either to any 88  
taxpayer who is eligible to participate in any subsidized health 89  
plan maintained by any employer of the taxpayer or of the 90  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 91  
application would be entitled to, benefits under part A of Title 92  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 93  
301, as amended. For the purposes of division (A)(11)(a) of this 94  
section, "subsidized health plan" means a health plan for which 95  
the employer pays any portion of the plan's cost. The deduction 96  
allowed under division (A)(11)(a) of this section shall be the net 97  
of any related premium refunds, related premium reimbursements, or 98  
related insurance premium dividends received during the taxable 99  
year. 100

(b) Deduct, to the extent not otherwise deducted or excluded 101  
in computing federal or Ohio adjusted gross income during the 102  
taxable year, the amount the taxpayer paid during the taxable 103  
year, not compensated for by any insurance or otherwise, for 104  
medical care of the taxpayer, the taxpayer's spouse, and 105  
dependents, to the extent the expenses exceed seven and one-half 106

per cent of the taxpayer's federal adjusted gross income. 107

(c) Deduct, to the extent not otherwise deducted or excluded 108  
in computing federal or Ohio adjusted gross income, any amount 109  
included in federal adjusted gross income under section 105 or not 110  
excluded under section 106 of the Internal Revenue Code solely 111  
because it relates to an accident and health plan for a person who 112  
otherwise would be a "qualifying relative" and thus a "dependent" 113  
under section 152 of the Internal Revenue Code but for the fact 114  
that the person fails to meet the income and support limitations 115  
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 116

(d) For purposes of division (A)(11) of this section, 117  
"medical care" has the meaning given in section 213 of the 118  
Internal Revenue Code, subject to the special rules, limitations, 119  
and exclusions set forth therein, and "qualified long-term care" 120  
has the same meaning given in section 7702B(c) of the Internal 121  
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 122  
of this section, "dependent" includes a person who otherwise would 123  
be a "qualifying relative" and thus a "dependent" under section 124  
152 of the Internal Revenue Code but for the fact that the person 125  
fails to meet the income and support limitations under section 126  
152(d)(1)(B) and (C) of the Internal Revenue Code. 127

(12)(a) Deduct any amount included in federal adjusted gross 128  
income solely because the amount represents a reimbursement or 129  
refund of expenses that in any year the taxpayer had deducted as 130  
an itemized deduction pursuant to section 63 of the Internal 131  
Revenue Code and applicable United States department of the 132  
treasury regulations. The deduction otherwise allowed under 133  
division (A)(12)(a) of this section shall be reduced to the extent 134  
the reimbursement is attributable to an amount the taxpayer 135  
deducted under this section in any taxable year. 136

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings

account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year. 166  
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(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following: 168  
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(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code; 171  
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(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 175  
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(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section. 178  
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(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of 186  
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this state and is enrolled in or attending a program that 196  
 culminates in a degree or diploma at an eligible institution. The 197  
 deduction may be claimed only to the extent that qualified tuition 198  
 and fees are not otherwise deducted or excluded for any taxable 199  
 year from federal or Ohio adjusted gross income. The deduction may 200  
 not be claimed for educational expenses for which the taxpayer 201  
 claims a credit under section 5747.27 of the Revised Code. 202

(19) Add any reimbursement received during the taxable year 203  
 of any amount the taxpayer deducted under division (A)(18) of this 204  
 section in any previous taxable year to the extent the amount is 205  
 not otherwise included in Ohio adjusted gross income. 206

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 207  
 (v) of this section, add five-sixths of the amount of depreciation 208  
 expense allowed by subsection (k) of section 168 of the Internal 209  
 Revenue Code, including the taxpayer's proportionate or 210  
 distributive share of the amount of depreciation expense allowed 211  
 by that subsection to a pass-through entity in which the taxpayer 212  
 has a direct or indirect ownership interest. 213

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 214  
 this section, add five-sixths of the amount of qualifying section 215  
 179 depreciation expense, including the taxpayer's proportionate 216  
 or distributive share of the amount of qualifying section 179 217  
 depreciation expense allowed to any pass-through entity in which 218  
 the taxpayer has a direct or indirect ownership interest. 219

(iii) Subject to division (A)(20)(a)(v) of this section, for 220  
 taxable years beginning in 2012 or thereafter, if the increase in 221  
 income taxes withheld by the taxpayer is equal to or greater than 222  
 ten per cent of income taxes withheld by the taxpayer during the 223  
 taxpayer's immediately preceding taxable year, "two-thirds" shall 224  
 be substituted for "five-sixths" for the purpose of divisions 225



(A)(20)(a)(i) and (ii) of this section.	226
(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.	227 228 229 230 231 232 233 234 235 236 237
(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.	238 239 240 241 242 243 244
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.	245 246 247 248
(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.	249 250
(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	251 252 253 254 255

the purpose of determining the credit under division (A) of 256  
 section 5747.05 of the Revised Code. Otherwise, the add-back shall 257  
 be apportioned, subject to one or more of the four alternative 258  
 methods of apportionment enumerated in section 5747.21 of the 259  
 Revised Code. 260

(d) For the purposes of division (A)(20)(a)(v) of this 261  
 section, net operating loss carryback and carryforward shall not 262  
 include the allowance of any net operating loss deduction 263  
 carryback or carryforward to the taxable year to the extent such 264  
 loss resulted from depreciation allowed by section 168(k) of the 265  
 Internal Revenue Code and by the qualifying section 179 266  
 depreciation expense amount. 267

(e) For the purposes of divisions (A)(20) and (21) of this 268  
 section: 269

(i) "Income taxes withheld" means the total amount withheld 270  
 and remitted under sections 5747.06 and 5747.07 of the Revised 271  
 Code by an employer during the employer's taxable year. 272

(ii) "Increase in income taxes withheld" means the amount by 273  
 which the amount of income taxes withheld by an employer during 274  
 the employer's current taxable year exceeds the amount of income 275  
 taxes withheld by that employer during the employer's immediately 276  
 preceding taxable year. 277

(iii) "Qualifying section 179 depreciation expense" means the 278  
 difference between (I) the amount of depreciation expense directly 279  
 or indirectly allowed to a taxpayer under section 179 of the 280  
 Internal Revised Code, and (II) the amount of depreciation expense 281  
 directly or indirectly allowed to the taxpayer under section 179 282  
 of the Internal Revenue Code as that section existed on December 283  
 31, 2002. 284

(21)(a) If the taxpayer was required to add an amount under	285
division (A)(20)(a) of this section for a taxable year, deduct one	286
of the following:	287
(i) One-fifth of the amount so added for each of the five	288
succeeding taxable years if the amount so added was five-sixths of	289
qualifying section 179 depreciation expense or depreciation	290
expense allowed by subsection (k) of section 168 of the Internal	291
Revenue Code;	292
(ii) One-half of the amount so added for each of the two	293
succeeding taxable years if the amount so added was two-thirds of	294
such depreciation expense;	295
(iii) One-sixth of the amount so added for each of the six	296
succeeding taxable years if the entire amount of such depreciation	297
expense was so added.	298
(b) If the amount deducted under division (A)(21)(a) of this	299
section is attributable to an add-back allocated under division	300
(A)(20)(c) of this section, the amount deducted shall be situated	301
to the same location. Otherwise, the add-back shall be apportioned	302
using the apportionment factors for the taxable year in which the	303
deduction is taken, subject to one or more of the four alternative	304
methods of apportionment enumerated in section 5747.21 of the	305
Revised Code.	306
(c) No deduction is available under division (A)(21)(a) of	307
this section with regard to any depreciation allowed by section	308
168(k) of the Internal Revenue Code and by the qualifying section	309
179 depreciation expense amount to the extent that such	310
depreciation results in or increases a federal net operating loss	311
carryback or carryforward. If no such deduction is available for a	312
taxable year, the taxpayer may carry forward the amount not	313
deducted in such taxable year to the next taxable year and add	314

that amount to any deduction otherwise available under division 315  
 (A)(21)(a) of this section for that next taxable year. The 316  
 carryforward of amounts not so deducted shall continue until the 317  
 entire addition required by division (A)(20)(a) of this section 318  
 has been deducted. 319

(d) No refund shall be allowed as a result of adjustments 320  
 made by division (A)(21) of this section. 321

(22) Deduct, to the extent not otherwise deducted or excluded 322  
 in computing federal or Ohio adjusted gross income for the taxable 323  
 year, the amount the taxpayer received during the taxable year as 324  
 reimbursement for life insurance premiums under section 5919.31 of 325  
 the Revised Code. 326

(23) Deduct, to the extent not otherwise deducted or excluded 327  
 in computing federal or Ohio adjusted gross income for the taxable 328  
 year, the amount the taxpayer received during the taxable year as 329  
 a death benefit paid by the adjutant general under section 5919.33 330  
 of the Revised Code. 331

(24) Deduct, to the extent included in federal adjusted gross 332  
 income and not otherwise allowable as a deduction or exclusion in 333  
 computing federal or Ohio adjusted gross income for the taxable 334  
 year, military pay and allowances received by the taxpayer during 335  
 the taxable year for active duty service in the United States 336  
 army, air force, navy, marine corps, or coast guard or reserve 337  
 components thereof or the national guard. The deduction may not be 338  
 claimed for military pay and allowances received by the taxpayer 339  
 while the taxpayer is stationed in this state. 340

(25) Deduct, to the extent not otherwise allowable as a 341  
 deduction or exclusion in computing federal or Ohio adjusted gross 342  
 income for the taxable year and not otherwise compensated for by 343  
 any other source, the amount of qualified organ donation expenses 344

incurred by the taxpayer during the taxable year, not to exceed 345  
 ten thousand dollars. A taxpayer may deduct qualified organ 346  
 donation expenses only once for all taxable years beginning with 347  
 taxable years beginning in 2007. 348

For the purposes of division (A)(25) of this section: 349

(a) "Human organ" means all or any portion of a human liver, 350  
 pancreas, kidney, intestine, or lung, and any portion of human 351  
 bone marrow. 352

(b) "Qualified organ donation expenses" means travel 353  
 expenses, lodging expenses, and wages and salary forgone by a 354  
 taxpayer in connection with the taxpayer's donation, while living, 355  
 of one or more of the taxpayer's human organs to another human 356  
 being. 357

(26) Deduct, to the extent not otherwise deducted or excluded 358  
 in computing federal or Ohio adjusted gross income for the taxable 359  
 year, amounts received by the taxpayer as retired personnel pay 360  
 for service in the uniformed services or reserve components 361  
 thereof, or the national guard, or received by the surviving 362  
 spouse or former spouse of such a taxpayer under the survivor 363  
 benefit plan on account of such a taxpayer's death. If the 364  
 taxpayer receives income on account of retirement paid under the 365  
 federal civil service retirement system or federal employees 366  
 retirement system, or under any successor retirement program 367  
 enacted by the congress of the United States that is established 368  
 and maintained for retired employees of the United States 369  
 government, and such retirement income is based, in whole or in 370  
 part, on credit for the taxpayer's uniformed service, the 371  
 deduction allowed under this division shall include only that 372  
 portion of such retirement income that is attributable to the 373  
 taxpayer's uniformed service, to the extent that portion of such 374

retirement income is otherwise included in federal adjusted gross  
 income and is not otherwise deducted under this section. Any  
 amount deducted under division (A)(26) of this section is not  
 included in a taxpayer's adjusted gross income for the purposes of  
 section 5747.055 of the Revised Code. No amount may be deducted  
 under division (A)(26) of this section on the basis of which a  
 credit was claimed under section 5747.055 of the Revised Code.

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

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

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

(30) Deduct, to the extent not otherwise deducted or excluded  
 in computing federal or Ohio adjusted gross income for the taxable  
 year, Ohio college opportunity or federal Pell grant amounts  
 received by the taxpayer or the taxpayer's spouse or dependent  
 pursuant to section 3333.122 of the Revised Code or 20 U.S.C.  
 1070a, et seq., and used to pay room or board furnished by the  
 educational institution for which the grant was awarded at the  
 institution's facilities, including meal plans administered by the

institution. For the purposes of this division, receipt of a grant 405  
 includes the distribution of a grant directly to an educational 406  
 institution and the crediting of the grant to the enrollee's 407  
 account with the institution. 408

(31) Deduct from the portion of an individual's federal 409  
 adjusted gross income that is ~~eligible~~ business income, to the 410  
 extent not otherwise deducted or excluded in computing federal 411  
 adjusted gross income for the taxable year, one hundred 412  
 twenty-five thousand dollars for each spouse if spouses file 413  
 separate returns under section 5747.08 of the Revised Code or two 414  
 hundred fifty thousand dollars for all other individuals. 415

(32) Deduct, as provided under section 5747.78 of the Revised 416  
 Code, contributions to ABLE savings accounts made in accordance 417  
 with sections 113.50 to 113.56 of the Revised Code. 418

(33)(a) Deduct, to the extent not otherwise deducted or 419  
 excluded in computing federal or Ohio adjusted gross income during 420  
 the taxable year, all of the following: 421

(i) Compensation paid to a qualifying employee described in 422  
 division (A)(14)(a) of section 5703.94 of the Revised Code to the 423  
 extent such compensation is for disaster work conducted in this 424  
 state during a disaster response period pursuant to a qualifying 425  
 solicitation received by the employee's employer; 426

(ii) Compensation paid to a qualifying employee described in 427  
 division (A)(14)(b) of section 5703.94 of the Revised Code to the 428  
 extent such compensation is for disaster work conducted in this 429  
 state by the employee during the disaster response period on 430  
 critical infrastructure owned or used by the employee's employer; 431

(iii) Income received by an out-of-state disaster business 432  
 for disaster work conducted in this state during a disaster 433

response period, or, if the out-of-state disaster business is a  
 pass-through entity, a taxpayer's distributive share of the  
 pass-through entity's income from the business conducting disaster  
 work in this state during a disaster response period, if, in  
 either case, the disaster work is conducted pursuant to a  
 qualifying solicitation received by the business.

(b) All terms used in division (A)(33) of this section have  
 the same meanings as in section 5703.94 of the Revised Code.

(34) For a taxpayer who is a qualifying Ohio educator,  
 deduct, to the extent not otherwise deducted or excluded in  
 computing federal or Ohio adjusted gross income for the taxable  
 year, the lesser of two hundred fifty dollars or the amount of  
 expenses described in subsections (a)(2)(D)(i) and (ii) of section  
 62 of the Internal Revenue Code paid or incurred by the taxpayer  
 during the taxpayer's taxable year in excess of the amount the  
 taxpayer is authorized to deduct for that taxable year under  
 subsection (a)(2)(D) of that section.

(B)~~(1)~~ "Business income" means income, including gain or  
 loss, arising from transactions, activities, and sources in the  
 regular course of a trade or business and includes income, gain,  
 or loss from real property, tangible property, and intangible  
 property if the acquisition, rental, management, and disposition  
 of the property constitute integral parts of the regular course of  
 a trade or business operation. "Business income" includes income,  
 including gain or loss, from a partial or complete liquidation of  
 a business, including, but not limited to, gain or loss from the  
 sale or other disposition of goodwill.

~~(2) "Eligible business income" means business income  
 excluding income from a trade or business that performs either or  
 both of the following:~~



~~(a) Legal services provided by an active attorney admitted to the practice of law in this state or by an attorney registered for corporate counsel status under section 6 of rule VI of the Ohio supreme court rules for the government of the bar of Ohio;~~

~~(b) Executive agency lobbying activity, retirement system lobbying activity, or actively advocating by a person required to register with the joint legislative ethics committee under section 101.78, 101.92, or 121.62 of the Revised Code. Terms used in division (B)(2) of this section have the same meaning as in section 101.70, 101.92, or 121.60 of the Revised Code.~~

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

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

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

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

(G) "Individual" means any natural person.

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

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

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	492 493
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.	494 495 496 497
(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.	498 499 500
For the purposes of division (I)(3) of this section:	501
(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:	502 503 504 505 506 507
(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;	508 509 510 511
(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;	512 513 514 515 516 517
(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	518 519 520

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 551  
enumerated in division (I)(3)(a) of this section. The denominator 552  
of the qualifying ratio is the fair market value of all the 553  
trust's assets at that time, net of any related liabilities. 554

(ii) Each subsequent time the trust receives assets, a 555  
revised qualifying ratio shall be computed. The numerator of the 556  
revised qualifying ratio is the sum of (1) the fair market value 557  
of the trust's assets immediately prior to the subsequent 558  
transfer, net of any related liabilities, multiplied by the 559  
qualifying ratio last computed without regard to the subsequent 560  
transfer, and (2) the fair market value of the subsequently 561  
transferred assets at the time transferred, net of any related 562  
liabilities, from sources enumerated in division (I)(3)(a) of this 563  
section. The denominator of the revised qualifying ratio is the 564  
fair market value of all the trust's assets immediately after the 565  
subsequent transfer, net of any related liabilities. 566

(iii) Whether a transfer to the trust is by or from any of 567  
the sources enumerated in division (I)(3)(a) of this section shall 568  
be ascertained without regard to the domicile of the trust's 569  
beneficiaries. 570

(e) For the purposes of division (I)(3)(a)(i) of this 571  
section: 572

(i) A trust is described in division (I)(3)(e)(i) of this 573  
section if the trust is a testamentary trust and the testator of 574  
that testamentary trust was domiciled in this state at the time of 575  
the testator's death for purposes of the taxes levied under 576  
Chapter 5731. of the Revised Code. 577

(ii) A trust is described in division (I)(3)(e)(ii) of this 578  
section if the transfer is a qualifying transfer described in any 579  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 580

irrevocable inter vivos trust, and at least one of the trust's  
 qualifying beneficiaries is domiciled in this state for purposes  
 of this chapter during all or some portion of the trust's current  
 taxable year.

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

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

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

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

(iv) The transfer is made to a trust on account of a  
 contractual relationship existing directly or indirectly between

the transferor and another person who at the time of the  
decedent's death was domiciled in this state for purposes of this  
chapter.

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

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

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

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

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

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

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

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

(O) "Dependents" means one of the following:

(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;

(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to 668  
estates and trusts, and means federal taxable income, as defined 669  
and used in the Internal Revenue Code, adjusted as follows: 670

(1) Add interest or dividends, net of ordinary, necessary, 671  
and reasonable expenses not deducted in computing federal taxable 672  
income, on obligations or securities of any state or of any 673  
political subdivision or authority of any state, other than this 674  
state and its subdivisions and authorities, but only to the extent 675  
that such net amount is not otherwise includible in Ohio taxable 676  
income and is described in either division (S)(1)(a) or (b) of 677  
this section: 678

(a) The net amount is not attributable to the S portion of an 679  
electing small business trust and has not been distributed to 680  
beneficiaries for the taxable year; 681

(b) The net amount is attributable to the S portion of an 682  
electing small business trust for the taxable year. 683

(2) Add interest or dividends, net of ordinary, necessary, 684  
and reasonable expenses not deducted in computing federal taxable 685  
income, on obligations of any authority, commission, 686  
instrumentality, territory, or possession of the United States to 687  
the extent that the interest or dividends are exempt from federal 688  
income taxes but not from state income taxes, but only to the 689  
extent that such net amount is not otherwise includible in Ohio 690  
taxable income and is described in either division (S)(1)(a) or 691  
(b) of this section; 692

(3) Add the amount of personal exemption allowed to the 693  
estate pursuant to section 642(b) of the Internal Revenue Code; 694

(4) Deduct interest or dividends, net of related expenses 695  
deducted in computing federal taxable income, on obligations of 696



the United States and its territories and possessions or of any  
 authority, commission, or instrumentality of the United States to  
 the extent that the interest or dividends are exempt from state  
 taxes under the laws of the United States, but only to the extent  
 that such amount is included in federal taxable income and is  
 described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not  
 otherwise allowable as a deduction but that would have been  
 allowable as a deduction in computing federal taxable income for  
 the taxable year, had the targeted jobs credit allowed under  
 sections 38, 51, and 52 of the Internal Revenue Code not been in  
 effect, but only to the extent such amount relates either to  
 income included in federal taxable income for the taxable year or  
 to income of the S portion of an electing small business trust for  
 the taxable year;

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

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

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

(9)(a) Deduct any amount included in federal taxable income 727  
solely because the amount represents a reimbursement or refund of 728  
expenses that in a previous year the decedent had deducted as an 729  
itemized deduction pursuant to section 63 of the Internal Revenue 730  
Code and applicable treasury regulations. The deduction otherwise 731  
allowed under division (S)(9)(a) of this section shall be reduced 732  
to the extent the reimbursement is attributable to an amount the 733  
taxpayer or decedent deducted under this section in any taxable 734  
year. 735

(b) Add any amount not otherwise included in Ohio taxable 736  
income for any taxable year to the extent that the amount is 737  
attributable to the recovery during the taxable year of any amount 738  
deducted or excluded in computing federal or Ohio taxable income 739  
in any taxable year, but only to the extent such amount has not 740  
been distributed to beneficiaries for the taxable year. 741

(10) Deduct any portion of the deduction described in section 742  
1341(a)(2) of the Internal Revenue Code, for repaying previously 743  
reported income received under a claim of right, that meets both 744  
of the following requirements: 745

(a) It is allowable for repayment of an item that was 746  
included in the taxpayer's taxable income or the decedent's 747  
adjusted gross income for a prior taxable year and did not qualify 748  
for a credit under division (A) or (B) of section 5747.05 of the 749  
Revised Code for that year. 750

(b) It does not otherwise reduce the taxpayer's taxable 751  
income or the decedent's adjusted gross income for the current or 752  
any other taxable year. 753

(11) Add any amount claimed as a credit under section 754  
5747.059 of the Revised Code to the extent that the amount 755  
satisfies either of the following: 756

(a) The amount was deducted or excluded from the computation 757  
of the taxpayer's federal taxable income as required to be 758  
reported for the taxpayer's taxable year under the Internal 759  
Revenue Code; 760

(b) The amount resulted in a reduction in the taxpayer's 761  
federal taxable income as required to be reported for any of the 762  
taxpayer's taxable years under the Internal Revenue Code. 763

(12) Deduct any amount, net of related expenses deducted in 764  
computing federal taxable income, that a trust is required to 765  
report as farm income on its federal income tax return, but only 766  
if the assets of the trust include at least ten acres of land 767  
satisfying the definition of "land devoted exclusively to 768  
agricultural use" under section 5713.30 of the Revised Code, 769  
regardless of whether the land is valued for tax purposes as such 770  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 771  
trust is a pass-through entity investor, section 5747.231 of the 772  
Revised Code applies in ascertaining if the trust is eligible to 773  
claim the deduction provided by division (S)(12) of this section 774  
in connection with the pass-through entity's farm income. 775

Except for farm income attributable to the S portion of an 776  
electing small business trust, the deduction provided by division 777  
(S)(12) of this section is allowed only to the extent that the 778  
trust has not distributed such farm income. Division (S)(12) of 779  
this section applies only to taxable years of a trust beginning in 780  
2002 or thereafter. 781

(13) Add the net amount of income described in section 641(c) 782  
of the Internal Revenue Code to the extent that amount is not 783  
included in federal taxable income. 784

(14) Add or deduct the amount the taxpayer would be required 785  
to add or deduct under division (A)(20) or (21) of this section if 786

the taxpayer's Ohio taxable income were computed in the same 787  
 manner as an individual's Ohio adjusted gross income is computed 788  
 under this section. In the case of a trust, division (S)(14) of 789  
 this section applies only to any of the trust's taxable years 790  
 beginning in 2002 or thereafter. 791

(T) "School district income" and "school district income tax" 792  
 have the same meanings as in section 5748.01 of the Revised Code. 793

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 794  
 of this section, "public obligations," "purchase obligations," and 795  
 "interest or interest equivalent" have the same meanings as in 796  
 section 5709.76 of the Revised Code. 797

(V) "Limited liability company" means any limited liability 798  
 company formed under Chapter 1705. of the Revised Code or under 799  
 the laws of any other state. 800

(W) "Pass-through entity investor" means any person who, 801  
 during any portion of a taxable year of a pass-through entity, is 802  
 a partner, member, shareholder, or equity investor in that 803  
 pass-through entity. 804

(X) "Banking day" has the same meaning as in section 1304.01 805  
 of the Revised Code. 806

(Y) "Month" means a calendar month. 807

(Z) "Quarter" means the first three months, the second three 808  
 months, the third three months, or the last three months of the 809  
 taxpayer's taxable year. 810

(AA)(1) "Eligible institution" means a state university or 811  
 state institution of higher education as defined in section 812  
 3345.011 of the Revised Code, or a private, nonprofit college, 813  
 university, or other post-secondary institution located in this 814  
 state that possesses a certificate of authorization issued by the 815

chancellor of higher education pursuant to Chapter 1713. of the 816  
Revised Code or a certificate of registration issued by the state 817  
board of career colleges and schools under Chapter 3332. of the 818  
Revised Code. 819

(2) "Qualified tuition and fees" means tuition and fees 820  
imposed by an eligible institution as a condition of enrollment or 821  
attendance, not exceeding two thousand five hundred dollars in 822  
each of the individual's first two years of post-secondary 823  
education. If the individual is a part-time student, "qualified 824  
tuition and fees" includes tuition and fees paid for the academic 825  
equivalent of the first two years of post-secondary education 826  
during a maximum of five taxable years, not exceeding a total of 827  
five thousand dollars. "Qualified tuition and fees" does not 828  
include: 829

(a) Expenses for any course or activity involving sports, 830  
games, or hobbies unless the course or activity is part of the 831  
individual's degree or diploma program; 832

(b) The cost of books, room and board, student activity fees, 833  
athletic fees, insurance expenses, or other expenses unrelated to 834  
the individual's academic course of instruction; 835

(c) Tuition, fees, or other expenses paid or reimbursed 836  
through an employer, scholarship, grant in aid, or other 837  
educational benefit program. 838

(BB)(1) "Modified business income" means the business income 839  
included in a trust's Ohio taxable income after such taxable 840  
income is first reduced by the qualifying trust amount, if any. 841

(2) "Qualifying trust amount" of a trust means capital gains 842  
and losses from the sale, exchange, or other disposition of equity 843  
or ownership interests in, or debt obligations of, a qualifying 844

investee to the extent included in the trust's Ohio taxable	845
income, but only if the following requirements are satisfied:	846
(a) The book value of the qualifying investee's physical	847
assets in this state and everywhere, as of the last day of the	848
qualifying investee's fiscal or calendar year ending immediately	849
prior to the date on which the trust recognizes the gain or loss,	850
is available to the trust.	851
(b) The requirements of section 5747.011 of the Revised Code	852
are satisfied for the trust's taxable year in which the trust	853
recognizes the gain or loss.	854
Any gain or loss that is not a qualifying trust amount is	855
modified business income, qualifying investment income, or	856
modified nonbusiness income, as the case may be.	857
(3) "Modified nonbusiness income" means a trust's Ohio	858
taxable income other than modified business income, other than the	859
qualifying trust amount, and other than qualifying investment	860
income, as defined in section 5747.012 of the Revised Code, to the	861
extent such qualifying investment income is not otherwise part of	862
modified business income.	863
(4) "Modified Ohio taxable income" applies only to trusts,	864
and means the sum of the amounts described in divisions (BB)(4)(a)	865
to (c) of this section:	866
(a) The fraction, calculated under section 5747.013, and	867
applying section 5747.231 of the Revised Code, multiplied by the	868
sum of the following amounts:	869
(i) The trust's modified business income;	870
(ii) The trust's qualifying investment income, as defined in	871
section 5747.012 of the Revised Code, but only to the extent the	872
qualifying investment income does not otherwise constitute	873

modified business income and does not otherwise constitute a  
qualifying trust amount.

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(b) The qualifying trust amount multiplied by a fraction, the  
numerator of which is the sum of the book value of the qualifying  
investee's physical assets in this state on the last day of the  
qualifying investee's fiscal or calendar year ending immediately  
prior to the day on which the trust recognizes the qualifying  
trust amount, and the denominator of which is the sum of the book  
value of the qualifying investee's total physical assets  
everywhere on the last day of the qualifying investee's fiscal or  
calendar year ending immediately prior to the day on which the  
trust recognizes the qualifying trust amount. If, for a taxable  
year, the trust recognizes a qualifying trust amount with respect  
to more than one qualifying investee, the amount described in  
division (BB)(4)(b) of this section shall equal the sum of the  
products so computed for each such qualifying investee.

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

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(ii) With respect to a trust or portion of a trust that is  
not a resident as ascertained in accordance with division  
(I)(3)(d) of this section, the amount of its modified nonbusiness  
income satisfying the descriptions in divisions (B)(2) to (5) of  
section 5747.20 of the Revised Code, except as otherwise provided  
in division (BB)(4)(c)(ii) of this section. With respect to a  
trust or portion of a trust that is not a resident as ascertained  
in accordance with division (I)(3)(d) of this section, the trust's  
portion of modified nonbusiness income recognized from the sale,  
exchange, or other disposition of a debt interest in or equity  
interest in a section 5747.212 entity, as defined in section

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5747.212 of the Revised Code, without regard to division (A) of  
that section, shall not be allocated to this state in accordance  
with section 5747.20 of the Revised Code but shall be apportioned  
to this state in accordance with division (B) of section 5747.212  
of the Revised Code without regard to division (A) of that  
section.

If the allocation and apportionment of a trust's income under  
divisions (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 934  
last day of the qualifying investee's fiscal or calendar year 935  
ending immediately prior to the date on which the trust recognizes 936  
the qualifying trust amount, more than fifty per cent of the 937  
equity of a pass-through entity, then the qualifying investee and 938  
the other members are deemed to own the proportionate share of the 939  
pass-through entity's physical assets which the pass-through 940  
entity directly or indirectly owns on the last day of the 941  
pass-through entity's calendar or fiscal year ending within or 942  
with the last day of the qualifying investee's fiscal or calendar 943  
year ending immediately prior to the date on which the trust 944  
recognizes the qualifying trust amount. 945

(iii) For the purposes of division (BB)(5)(a)(iii) of this 946  
section, "upper level pass-through entity" means a pass-through 947  
entity directly or indirectly owning any equity of another 948  
pass-through entity, and "lower level pass-through entity" means 949  
that other pass-through entity. 950

An upper level pass-through entity, whether or not it is also 951  
a qualifying investee, is deemed to own, on the last day of the 952  
upper level pass-through entity's calendar or fiscal year, the 953  
proportionate share of the lower level pass-through entity's 954  
physical assets that the lower level pass-through entity directly 955  
or indirectly owns on the last day of the lower level pass-through 956  
entity's calendar or fiscal year ending within or with the last 957  
day of the upper level pass-through entity's fiscal or calendar 958  
year. If the upper level pass-through entity directly and 959  
indirectly owns less than fifty per cent of the equity of the 960  
lower level pass-through entity on each day of the upper level 961  
pass-through entity's calendar or fiscal year in which or with 962  
which ends the calendar or fiscal year of the lower level 963  
pass-through entity and if, based upon clear and convincing 964

evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

(DD) "Related member" has the same meaning as in section

5733.042 of the Revised Code.	994
(EE)(1) For the purposes of division (EE) of this section:	995
(a) "Qualifying person" means any person other than a qualifying corporation.	996 997
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	998 999 1000
(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;	1001 1002 1003 1004
(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.	1005 1006 1007 1008
(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.	1009 1010 1011
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1012 1013
(1) "Trust" does not include a qualified pre-income tax trust.	1014 1015
(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.	1016 1017 1018
(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	1019 1020 1021

and all pass-through entities of which the trust owns or controls, 1022  
 directly, indirectly, or constructively through related interests, 1023  
 five per cent or more of the ownership or equity interests. The 1024  
 trustee shall notify the tax commissioner in writing of the 1025  
 election on or before April 15, 2006. The election, if timely 1026  
 made, shall be effective on and after January 1, 2006, and shall 1027  
 apply for all tax periods and tax years until revoked by the 1028  
 trustee of the trust. 1029

(4) A "pre-income tax trust" is a trust that satisfies all of 1030  
 the following requirements: 1031

(a) The document or instrument creating the trust was 1032  
 executed by the grantor before January 1, 1972; 1033

(b) The trust became irrevocable upon the creation of the 1034  
 trust; and 1035

(c) The grantor was domiciled in this state at the time the 1036  
 trust was created. 1037

(GG) "Uniformed services" has the same meaning as in 10 1038  
 U.S.C. 101. 1039

(HH) "Taxable business income" means the amount by which an 1040  
 individual's ~~eligible~~ business income that is included in federal 1041  
 adjusted gross income exceeds the amount of ~~eligible~~ business 1042  
 income the individual is authorized to deduct under division 1043  
 (A)(31) of this section for the taxable year. 1044

(II) "Employer" does not include a franchisor with respect to 1045  
 the franchisor's relationship with a franchisee or an employee of 1046  
 a franchisee, unless the franchisor agrees to assume that role in 1047  
 writing or a court of competent jurisdiction determines that the 1048  
 franchisor exercises a type or degree of control over the 1049  
 franchisee or the franchisee's employees that is not customarily 1050

exercised by a franchisor for the purpose of protecting the  
franchisor's trademark, brand, or both. For purposes of this  
division, "franchisor" and "franchisee" have the same meanings as  
in 16 C.F.R. 436.1.

(JJ) "Modified adjusted gross income" means Ohio adjusted  
gross income plus any amount deducted under division (A)(31) of  
this section for the taxable year.

(KK) "Qualifying Ohio educator" means an individual who, for  
a taxable year, qualifies as an eligible educator, as that term is  
defined in section 62 of the Internal Revenue Code, and who holds  
a certificate, license, or permit described in Chapter 3319. or  
section 3301.071 of the Revised Code.

**Sec. 5747.08.** An annual return with respect to the tax  
imposed by section 5747.02 of the Revised Code and each tax  
imposed under Chapter 5748. of the Revised Code shall be made by  
every taxpayer for any taxable year for which the taxpayer is  
liable for the tax imposed by that section or under that chapter,  
unless the total credits allowed under division (E) of section  
5747.05 and divisions (F) and (G) of section 5747.055 of the  
Revised Code for the year are equal to or exceed the tax imposed  
by section 5747.02 of the Revised Code, in which case no return  
shall be required unless the taxpayer is liable for a tax imposed  
pursuant to Chapter 5748. of the Revised Code.

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

(B) If an individual is unable to make a return or notice  
required by this chapter, the return or notice required of that

individual shall be made and filed by the individual's duly 1080  
authorized agent, guardian, conservator, fiduciary, or other 1081  
person charged with the care of the person or property of that 1082  
individual. 1083

(C) Returns or notices required of an estate or a trust shall 1084  
be made and filed by the fiduciary of the estate or trust. 1085

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 1086  
of this section, any pass-through entity may file a single return 1087  
on behalf of one or more of the entity's investors other than an 1088  
investor that is a person subject to the tax imposed under section 1089  
5733.06 of the Revised Code. The single return shall set forth the 1090  
name, address, and social security number or other identifying 1091  
number of each of those pass-through entity investors and shall 1092  
indicate the distributive share of each of those pass-through 1093  
entity investor's income taxable in this state in accordance with 1094  
sections 5747.20 to 5747.231 of the Revised Code. Such 1095  
pass-through entity investors for whom the pass-through entity 1096  
elects to file a single return are not entitled to the exemption 1097  
or credit provided for by sections 5747.02 and 5747.022 of the 1098  
Revised Code; shall calculate the tax before business credits at 1099  
the highest rate of tax set forth in section 5747.02 of the 1100  
Revised Code for the taxable year for which the return is filed; 1101  
and are entitled to only their distributive share of the business 1102  
credits as defined in division (D)(2) of this section. A single 1103  
check drawn by the pass-through entity shall accompany the return 1104  
in full payment of the tax due, as shown on the single return, for 1105  
such investors, other than investors who are persons subject to 1106  
the tax imposed under section 5733.06 of the Revised Code. 1107

(b)(i) A pass-through entity shall not include in such a 1108  
single return any investor that is a trust to the extent that any 1109

direct or indirect current, future, or contingent beneficiary of 1110  
the trust is a person subject to the tax imposed under section 1111  
5733.06 of the Revised Code. 1112

(ii) A pass-through entity shall not include in such a single 1113  
return any investor that is itself a pass-through entity to the 1114  
extent that any direct or indirect investor in the second 1115  
pass-through entity is a person subject to the tax imposed under 1116  
section 5733.06 of the Revised Code. 1117

(c) Nothing in division (D) of this section precludes the tax 1118  
commissioner from requiring such investors to file the return and 1119  
make the payment of taxes and related interest, penalty, and 1120  
interest penalty required by this section or section 5747.02, 1121  
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 1122  
of this section precludes such an investor from filing the annual 1123  
return under this section, utilizing the refundable credit equal 1124  
to the investor's proportionate share of the tax paid by the 1125  
pass-through entity on behalf of the investor under division (I) 1126  
of this section, and making the payment of taxes imposed under 1127  
section 5747.02 of the Revised Code. Nothing in division (D) of 1128  
this section shall be construed to provide to such an investor or 1129  
pass-through entity any additional deduction or credit, other than 1130  
the credit provided by division (I) of this section, solely on 1131  
account of the entity's filing a return in accordance with this 1132  
section. Such a pass-through entity also shall make the filing and 1133  
payment of estimated taxes on behalf of the pass-through entity 1134  
investors other than an investor that is a person subject to the 1135  
tax imposed under section 5733.06 of the Revised Code. 1136

(2) For the purposes of this section, "business credits" 1137  
means the credits listed in section 5747.98 of the Revised Code 1138  
excluding the following credits: 1139

(a) The retirement income credit under division (B) of section 5747.055 of the Revised Code;	1140 1141
(b) The senior citizen credit under division (F) of section 5747.055 of the Revised Code;	1142 1143
(c) The lump sum distribution credit under division (G) of section 5747.055 of the Revised Code;	1144 1145
(d) The dependent care credit under section 5747.054 of the Revised Code;	1146 1147
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	1148 1149
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	1150 1151
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	1152 1153
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	1154 1155
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1156 1157
(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	1158 1159
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1160 1161
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1162 1163
(m) The earned income tax credit under section 5747.71 of the Revised Code;	1164 1165
(n) The lead abatement credit under section 5747.26 of the	1166



Revised Code. 1167

(3) The election provided for under division (D) of this 1168  
section applies only to the taxable year for which the election is 1169  
made by the pass-through entity. Unless the tax commissioner 1170  
provides otherwise, this election, once made, is binding and 1171  
irrevocable for the taxable year for which the election is made. 1172  
Nothing in this division shall be construed to provide for any 1173  
deduction or credit that would not be allowable if a nonresident 1174  
pass-through entity investor were to file an annual return. 1175

(4) If a pass-through entity makes the election provided for 1176  
under division (D) of this section, the pass-through entity shall 1177  
be liable for any additional taxes, interest, interest penalty, or 1178  
penalties imposed by this chapter if the tax commissioner finds 1179  
that the single return does not reflect the correct tax due by the 1180  
pass-through entity investors covered by that return. Nothing in 1181  
this division shall be construed to limit or alter the liability, 1182  
if any, imposed on pass-through entity investors for unpaid or 1183  
underpaid taxes, interest, interest penalty, or penalties as a 1184  
result of the pass-through entity's making the election provided 1185  
for under division (D) of this section. For the purposes of 1186  
division (D) of this section, "correct tax due" means the tax that 1187  
would have been paid by the pass-through entity had the single 1188  
return been filed in a manner reflecting the commissioner's 1189  
findings. Nothing in division (D) of this section shall be 1190  
construed to make or hold a pass-through entity liable for tax 1191  
attributable to a pass-through entity investor's income from a 1192  
source other than the pass-through entity electing to file the 1193  
single return. 1194

(E) If a husband and wife file a joint federal income tax 1195  
return for a taxable year, they shall file a joint return under 1196

this section for that taxable year, and their liabilities are 1197  
 joint and several, but, if the federal income tax liability of 1198  
 either spouse is determined on a separate federal income tax 1199  
 return, they shall file separate returns under this section. 1200

If either spouse is not required to file a federal income tax 1201  
 return and either or both are required to file a return pursuant 1202  
 to this chapter, they may elect to file separate or joint returns, 1203  
 and, pursuant to that election, their liabilities are separate or 1204  
 joint and several. If a husband and wife file separate returns 1205  
 pursuant to this chapter, each must claim the taxpayer's own 1206  
 exemption, but not both, as authorized under section 5747.02 of 1207  
 the Revised Code on the taxpayer's own return. 1208

(F) Each return or notice required to be filed under this 1209  
 section shall contain the signature of the taxpayer or the 1210  
 taxpayer's duly authorized agent and of the person who prepared 1211  
 the return for the taxpayer, and shall include the taxpayer's 1212  
 social security number. Each return shall be verified by a 1213  
 declaration under the penalties of perjury. The tax commissioner 1214  
 shall prescribe the form that the signature and declaration shall 1215  
 take. 1216

(G) Each return or notice required to be filed under this 1217  
 section shall be made and filed as required by section 5747.04 of 1218  
 the Revised Code, on or before the fifteenth day of April of each 1219  
 year, on forms that the tax commissioner shall prescribe, together 1220  
 with remittance made payable to the treasurer of state in the 1221  
 combined amount of the state and all school district income taxes 1222  
 shown to be due on the form. 1223

Upon good cause shown, the commissioner may extend the period 1224  
 for filing any notice or return required to be filed under this 1225  
 section and may adopt rules relating to extensions. If the 1226

extension results in an extension of time for the payment of any 1227  
state or school district income tax liability with respect to 1228  
which the return is filed, the taxpayer shall pay at the time the 1229  
tax liability is paid an amount of interest computed at the rate 1230  
per annum prescribed by section 5703.47 of the Revised Code on 1231  
that liability from the time that payment is due without extension 1232  
to the time of actual payment. Except as provided in section 1233  
5747.132 of the Revised Code, in addition to all other interest 1234  
charges and penalties, all taxes imposed under this chapter or 1235  
Chapter 5748. of the Revised Code and remaining unpaid after they 1236  
become due, except combined amounts due of one dollar or less, 1237  
bear interest at the rate per annum prescribed by section 5703.47 1238  
of the Revised Code until paid or until the day an assessment is 1239  
issued under section 5747.13 of the Revised Code, whichever occurs 1240  
first. 1241

If the commissioner considers it necessary in order to ensure 1242  
the payment of the tax imposed by section 5747.02 of the Revised 1243  
Code or any tax imposed under Chapter 5748. of the Revised Code, 1244  
the commissioner may require returns and payments to be made 1245  
otherwise than as provided in this section. 1246

To the extent that any provision in this division conflicts 1247  
with any provision in section 5747.026 of the Revised Code, the 1248  
provision in that section prevails. 1249

(H) The amounts withheld by an employer pursuant to section 1250  
5747.06 of the Revised Code, a casino operator pursuant to section 1251  
5747.063 of the Revised Code, or a lottery sales agent pursuant to 1252  
section 5747.064 of the Revised Code shall be allowed to the 1253  
recipient of the compensation casino winnings, or lottery prize 1254  
award as credits against payment of the appropriate taxes imposed 1255  
on the recipient by section 5747.02 and under Chapter 5748. of the 1256

Revised Code. 1257

(I) If a pass-through entity elects to file a single return 1258  
 under division (D) of this section and if any investor is required 1259  
 to file the annual return and make the payment of taxes required 1260  
 by this chapter on account of the investor's other income that is 1261  
 not included in a single return filed by a pass-through entity or 1262  
 any other investor elects to file the annual return, the investor 1263  
 is entitled to a refundable credit equal to the investor's 1264  
 proportionate share of the tax paid by the pass-through entity on 1265  
 behalf of the investor. The investor shall claim the credit for 1266  
 the investor's taxable year in which or with which ends the 1267  
 taxable year of the pass-through entity. Nothing in this chapter 1268  
 shall be construed to allow any credit provided in this chapter to 1269  
 be claimed more than once. For the purpose of computing any 1270  
 interest, penalty, or interest penalty, the investor shall be 1271  
 deemed to have paid the refundable credit provided by this 1272  
 division on the day that the pass-through entity paid the 1273  
 estimated tax or the tax giving rise to the credit. 1274

(J) The tax commissioner shall ensure that each return 1275  
 required to be filed under this section includes a box that the 1276  
 taxpayer may check to authorize a paid tax preparer who prepared 1277  
 the return to communicate with the department of taxation about 1278  
 matters pertaining to the return. The return or instructions 1279  
 accompanying the return shall indicate that by checking the box 1280  
 the taxpayer authorizes the department of taxation to contact the 1281  
 preparer concerning questions that arise during the processing of 1282  
 the return and authorizes the preparer only to provide the 1283  
 department with information that is missing from the return, to 1284  
 contact the department for information about the processing of the 1285  
 return or the status of the taxpayer's refund or payments, and to 1286  
 respond to notices about mathematical errors, offsets, or return 1287

preparation that the taxpayer has received from the department and  
has shown to the preparer.

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(K) The tax commissioner shall permit individual taxpayers to  
instruct the department of taxation to cause any refund of  
overpaid taxes to be deposited directly into a checking account,  
savings account, or an individual retirement account or individual  
retirement annuity, or preexisting college savings plan or program  
account offered by the Ohio tuition trust authority under Chapter  
3334. of the Revised Code, as designated by the taxpayer, when the  
taxpayer files the annual return required by this section  
electronically.

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(L) A taxpayer claiming the deduction under division (A)(31)  
of section 5747.01 of the Revised Code for a taxable year shall  
indicate on the taxpayer's return the north American industry  
classification system code of each business or professional  
activity from which the taxpayer's business income was derived.  
The tax commissioner shall provide space on the return for this  
purpose and shall prescribe, by rule adopted in accordance with to  
Chapter 119. of the Revised Code, the manner by which such a  
taxpayer shall determine the taxpayer's proper classification  
codes and business or professional activities from which the  
taxpayer derives business income.

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(M) The tax commissioner may adopt rules to administer this  
section."

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In line 1084, delete "section" and insert "sections"; after  
"5747.01" insert "and 5747.08"

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In line 1085, delete "is" and insert "are"

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In line 1086, delete "section" and insert "sections"; after  
"5747.01" insert "and 5747.08"

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After line 1088, insert: 1317

"For the purpose of making estimated tax payments required by 1318  
section 5747.09 of the Revised Code for taxable years that begin 1319  
in 2020, the tax liability for such a taxable year shall be 1320  
computed on the basis of the amendment by this act of divisions 1321  
(A)(31) and (B) of section 5747.01 of the Revised Code. 1322

**Section 4.** Section 5747.01 of the Revised Code is presented 1323  
in this act as a composite of the section as amended by H.B. 166 1324  
of the 133rd General Assembly and H.B. 24 and S.B. 22, both of the 1325  
132nd General Assembly. The General Assembly, applying the 1326  
principle stated in division (B) of section 1.52 of the Revised 1327  
Code that amendments are to be harmonized if reasonably capable of 1328  
simultaneous operation, finds that the composite is the resulting 1329  
version of the section in effect prior to the effective date of 1330  
the section as presented in this act." 1331

The motion was \_\_\_\_\_ agreed to.