

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 524

Representatives Scherer, Patterson

Cosponsors: Representatives Rogers, Leland, Vitale, Stein, Riedel, Becker, Thompson, Boggs, Wiggam, Keller, Zeltwanger, Sweeney, Henne, Antonio, Ashford, Sprague, Bocchieri, Cera, Lang, Brenner, Hill, Brown, Kick, Reineke

A BILL

To amend sections 5747.01 and 5747.70 of the 1
Revised Code to expand the income tax deduction 2
allowed for contributions to Ohio's 529 college 3
savings program to include contributions to 529 4
programs established by other states. 5

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

Section 1. That sections 5747.01 and 5747.70 of the 6
Revised Code be amended to read as follows: 7

Sec. 5747.01. Except as otherwise expressly provided or 8
clearly appearing from the context, any term used in this 9
chapter that is not otherwise defined in this section has the 10
same meaning as when used in a comparable context in the laws of 11
the United States relating to federal income taxes or if not 12
used in a comparable context in those laws, has the same meaning 13
as in section 5733.40 of the Revised Code. Any reference in this 14
chapter to the Internal Revenue Code includes other laws of the 15
United States relating to federal income taxes. 16

As used in this chapter:	17
(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:	18 19 20 21
(1) Add interest or dividends 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.	22 23 24 25
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	26 27 28 29 30
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	31 32 33 34 35 36
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	37 38
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	39 40 41 42
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the	43 44 45

beneficiary's taxable years beginning before 2002, the portion, 46
if any, of such distribution that does not exceed the 47
undistributed net income of the trust for the three taxable 48
years preceding the taxable year in which the distribution is 49
made to the extent that the portion was not included in the 50
trust's taxable income for any of the trust's taxable years 51
beginning in 2002 or thereafter. "Undistributed net income of a 52
trust" means the taxable income of the trust increased by (a) (i) 53
the additions to adjusted gross income required under division 54
(A) of this section and (ii) the personal exemptions allowed to 55
the trust pursuant to section 642(b) of the Internal Revenue 56
Code, and decreased by (b) (i) the deductions to adjusted gross 57
income required under division (A) of this section, (ii) the 58
amount of federal income taxes attributable to such income, and 59
(iii) the amount of taxable income that has been included in the 60
adjusted gross income of a beneficiary by reason of a prior 61
accumulation distribution. Any undistributed net income included 62
in the adjusted gross income of a beneficiary shall reduce the 63
undistributed net income of the trust commencing with the 64
earliest years of the accumulation period. 65

(7) Deduct the amount of wages and salaries, if any, not 66
otherwise allowable as a deduction but that would have been 67
allowable as a deduction in computing federal adjusted gross 68
income for the taxable year, had the targeted jobs credit 69
allowed and determined under sections 38, 51, and 52 of the 70
Internal Revenue Code not been in effect. 71

(8) Deduct any interest or interest equivalent on public 72
obligations and purchase obligations to the extent that the 73
interest or interest equivalent is included in federal adjusted 74
gross income. 75

(9) Add any loss or deduct any gain resulting from the 76
sale, exchange, or other disposition of public obligations to 77
the extent that the loss has been deducted or the gain has been 78
included in computing federal adjusted gross income. 79

(10) Deduct or add amounts, as provided under section 80
5747.70 of the Revised Code, related to contributions made to 81
~~variable college savings program accounts made~~ or tuition units 82
~~purchased pursuant to Chapter 3334. of the Revised Code~~ under a 83
qualified tuition program established pursuant to section 529 of 84
the Internal Revenue Code. 85

(11) (a) Deduct, to the extent not otherwise allowable as a 86
deduction or exclusion in computing federal or Ohio adjusted 87
gross income for the taxable year, the amount the taxpayer paid 88
during the taxable year for medical care insurance and qualified 89
long-term care insurance for the taxpayer, the taxpayer's 90
spouse, and dependents. No deduction for medical care insurance 91
under division (A) (11) of this section shall be allowed either 92
to any taxpayer who is eligible to participate in any subsidized 93
health plan maintained by any employer of the taxpayer or of the 94
taxpayer's spouse, or to any taxpayer who is entitled to, or on 95
application would be entitled to, benefits under part A of Title 96
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 97
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 98
of this section, "subsidized health plan" means a health plan 99
for which the employer pays any portion of the plan's cost. The 100
deduction allowed under division (A) (11) (a) of this section 101
shall be the net of any related premium refunds, related premium 102
reimbursements, or related insurance premium dividends received 103
during the taxable year. 104

(b) Deduct, to the extent not otherwise deducted or 105

excluded in computing federal or Ohio adjusted gross income 106
during the taxable year, the amount the taxpayer paid during the 107
taxable year, not compensated for by any insurance or otherwise, 108
for medical care of the taxpayer, the taxpayer's spouse, and 109
dependents, to the extent the expenses exceed seven and one-half 110
per cent of the taxpayer's federal adjusted gross income. 111

(c) Deduct, to the extent not otherwise deducted or 112
excluded in computing federal or Ohio adjusted gross income, any 113
amount included in federal adjusted gross income under section 114
105 or not excluded under section 106 of the Internal Revenue 115
Code solely because it relates to an accident and health plan 116
for a person who otherwise would be a "qualifying relative" and 117
thus a "dependent" under section 152 of the Internal Revenue 118
Code but for the fact that the person fails to meet the income 119
and support limitations under section 152(d)(1)(B) and (C) of 120
the Internal Revenue Code. 121

(d) For purposes of division (A)(11) of this section, 122
"medical care" has the meaning given in section 213 of the 123
Internal Revenue Code, subject to the special rules, 124
limitations, and exclusions set forth therein, and "qualified 125
long-term care" has the same meaning given in section 7702B(c) 126
of the Internal Revenue Code. Solely for purposes of divisions 127
(A)(11)(a) and (c) of this section, "dependent" includes a 128
person who otherwise would be a "qualifying relative" and thus a 129
"dependent" under section 152 of the Internal Revenue Code but 130
for the fact that the person fails to meet the income and 131
support limitations under section 152(d)(1)(B) and (C) of the 132
Internal Revenue Code. 133

(12)(a) Deduct any amount included in federal adjusted 134
gross income solely because the amount represents a 135

reimbursement or refund of expenses that in any year the 136
taxpayer had deducted as an itemized deduction pursuant to 137
section 63 of the Internal Revenue Code and applicable United 138
States department of the treasury regulations. The deduction 139
otherwise allowed under division (A) (12) (a) of this section 140
shall be reduced to the extent the reimbursement is attributable 141
to an amount the taxpayer deducted under this section in any 142
taxable year. 143

(b) Add any amount not otherwise included in Ohio adjusted 144
gross income for any taxable year to the extent that the amount 145
is attributable to the recovery during the taxable year of any 146
amount deducted or excluded in computing federal or Ohio 147
adjusted gross income in any taxable year. 148

(13) Deduct any portion of the deduction described in 149
section 1341(a) (2) of the Internal Revenue Code, for repaying 150
previously reported income received under a claim of right, that 151
meets both of the following requirements: 152

(a) It is allowable for repayment of an item that was 153
included in the taxpayer's adjusted gross income for a prior 154
taxable year and did not qualify for a credit under division (A) 155
or (B) of section 5747.05 of the Revised Code for that year; 156

(b) It does not otherwise reduce the taxpayer's adjusted 157
gross income for the current or any other taxable year. 158

(14) Deduct an amount equal to the deposits made to, and 159
net investment earnings of, a medical savings account during the 160
taxable year, in accordance with section 3924.66 of the Revised 161
Code. The deduction allowed by division (A) (14) of this section 162
does not apply to medical savings account deposits and earnings 163
otherwise deducted or excluded for the current or any other 164

taxable year from the taxpayer's federal adjusted gross income.	165
(15) (a) Add an amount equal to the funds withdrawn from a	166
medical savings account during the taxable year, and the net	167
investment earnings on those funds, when the funds withdrawn	168
were used for any purpose other than to reimburse an account	169
holder for, or to pay, eligible medical expenses, in accordance	170
with section 3924.66 of the Revised Code;	171
(b) Add the amounts distributed from a medical savings	172
account under division (A) (2) of section 3924.68 of the Revised	173
Code during the taxable year.	174
(16) Add any amount claimed as a credit under section	175
5747.059 or 5747.65 of the Revised Code to the extent that such	176
amount satisfies either of the following:	177
(a) The amount was deducted or excluded from the	178
computation of the taxpayer's federal adjusted gross income as	179
required to be reported for the taxpayer's taxable year under	180
the Internal Revenue Code;	181
(b) The amount resulted in a reduction of the taxpayer's	182
federal adjusted gross income as required to be reported for any	183
of the taxpayer's taxable years under the Internal Revenue Code.	184
(17) Deduct the amount contributed by the taxpayer to an	185
individual development account program established by a county	186
department of job and family services pursuant to sections	187
329.11 to 329.14 of the Revised Code for the purpose of matching	188
funds deposited by program participants. On request of the tax	189
commissioner, the taxpayer shall provide any information that,	190
in the tax commissioner's opinion, is necessary to establish the	191
amount deducted under division (A) (17) of this section.	192
(18) Beginning in taxable year 2001 but not for any	193

taxable year beginning after December 31, 2005, if the taxpayer 194
is married and files a joint return and the combined federal 195
adjusted gross income of the taxpayer and the taxpayer's spouse 196
for the taxable year does not exceed one hundred thousand 197
dollars, or if the taxpayer is single and has a federal adjusted 198
gross income for the taxable year not exceeding fifty thousand 199
dollars, deduct amounts paid during the taxable year for 200
qualified tuition and fees paid to an eligible institution for 201
the taxpayer, the taxpayer's spouse, or any dependent of the 202
taxpayer, who is a resident of this state and is enrolled in or 203
attending a program that culminates in a degree or diploma at an 204
eligible institution. The deduction may be claimed only to the 205
extent that qualified tuition and fees are not otherwise 206
deducted or excluded for any taxable year from federal or Ohio 207
adjusted gross income. The deduction may not be claimed for 208
educational expenses for which the taxpayer claims a credit 209
under section 5747.27 of the Revised Code. 210

(19) Add any reimbursement received during the taxable 211
year of any amount the taxpayer deducted under division (A) (18) 212
of this section in any previous taxable year to the extent the 213
amount is not otherwise included in Ohio adjusted gross income. 214

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 215
(v) of this section, add five-sixths of the amount of 216
depreciation expense allowed by subsection (k) of section 168 of 217
the Internal Revenue Code, including the taxpayer's 218
proportionate or distributive share of the amount of 219
depreciation expense allowed by that subsection to a pass- 220
through entity in which the taxpayer has a direct or indirect 221
ownership interest. 222

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 223

of this section, add five-sixths of the amount of qualifying 224
section 179 depreciation expense, including the taxpayer's 225
proportionate or distributive share of the amount of qualifying 226
section 179 depreciation expense allowed to any pass-through 227
entity in which the taxpayer has a direct or indirect ownership 228
interest. 229

(iii) Subject to division (A) (20) (a) (v) of this section, 230
for taxable years beginning in 2012 or thereafter, if the 231
increase in income taxes withheld by the taxpayer is equal to or 232
greater than ten per cent of income taxes withheld by the 233
taxpayer during the taxpayer's immediately preceding taxable 234
year, "two-thirds" shall be substituted for "five-sixths" for 235
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 236

(iv) Subject to division (A) (20) (a) (v) of this section, 237
for taxable years beginning in 2012 or thereafter, a taxpayer is 238
not required to add an amount under division (A) (20) of this 239
section if the increase in income taxes withheld by the taxpayer 240
and by any pass-through entity in which the taxpayer has a 241
direct or indirect ownership interest is equal to or greater 242
than the sum of (I) the amount of qualifying section 179 243
depreciation expense and (II) the amount of depreciation expense 244
allowed to the taxpayer by subsection (k) of section 168 of the 245
Internal Revenue Code, and including the taxpayer's 246
proportionate or distributive shares of such amounts allowed to 247
any such pass-through entities. 248

(v) If a taxpayer directly or indirectly incurs a net 249
operating loss for the taxable year for federal income tax 250
purposes, to the extent such loss resulted from depreciation 251
expense allowed by subsection (k) of section 168 of the Internal 252
Revenue Code and by qualifying section 179 depreciation expense, 253

"the entire" shall be substituted for "five-sixths of the" for 254
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 255

The tax commissioner, under procedures established by the 256
commissioner, may waive the add-backs related to a pass-through 257
entity if the taxpayer owns, directly or indirectly, less than 258
five per cent of the pass-through entity. 259

(b) Nothing in division (A) (20) of this section shall be 260
construed to adjust or modify the adjusted basis of any asset. 261

(c) To the extent the add-back required under division (A) 262
(20) (a) of this section is attributable to property generating 263
nonbusiness income or loss allocated under section 5747.20 of 264
the Revised Code, the add-back shall be situated to the same 265
location as the nonbusiness income or loss generated by the 266
property for the purpose of determining the credit under 267
division (A) of section 5747.05 of the Revised Code. Otherwise, 268
the add-back shall be apportioned, subject to one or more of the 269
four alternative methods of apportionment enumerated in section 270
5747.21 of the Revised Code. 271

(d) For the purposes of division (A) (20) (a) (v) of this 272
section, net operating loss carryback and carryforward shall not 273
include the allowance of any net operating loss deduction 274
carryback or carryforward to the taxable year to the extent such 275
loss resulted from depreciation allowed by section 168(k) of the 276
Internal Revenue Code and by the qualifying section 179 277
depreciation expense amount. 278

(e) For the purposes of divisions (A) (20) and (21) of this 279
section: 280

(i) "Income taxes withheld" means the total amount 281
withheld and remitted under sections 5747.06 and 5747.07 of the 282

Revised Code by an employer during the employer's taxable year.	283
(ii) "Increase in income taxes withheld" means the amount	284
by which the amount of income taxes withheld by an employer	285
during the employer's current taxable year exceeds the amount of	286
income taxes withheld by that employer during the employer's	287
immediately preceding taxable year.	288
(iii) "Qualifying section 179 depreciation expense" means	289
the difference between (I) the amount of depreciation expense	290
directly or indirectly allowed to a taxpayer under section 179	291
of the Internal Revised Code, and (II) the amount of	292
depreciation expense directly or indirectly allowed to the	293
taxpayer under section 179 of the Internal Revenue Code as that	294
section existed on December 31, 2002.	295
(21) (a) If the taxpayer was required to add an amount	296
under division (A) (20) (a) of this section for a taxable year,	297
deduct one of the following:	298
(i) One-fifth of the amount so added for each of the five	299
succeeding taxable years if the amount so added was five-sixths	300
of qualifying section 179 depreciation expense or depreciation	301
expense allowed by subsection (k) of section 168 of the Internal	302
Revenue Code;	303
(ii) One-half of the amount so added for each of the two	304
succeeding taxable years if the amount so added was two-thirds	305
of such depreciation expense;	306
(iii) One-sixth of the amount so added for each of the six	307
succeeding taxable years if the entire amount of such	308
depreciation expense was so added.	309
(b) If the amount deducted under division (A) (21) (a) of	310
this section is attributable to an add-back allocated under	311

division (A) (20) (c) of this section, the amount deducted shall 312
be sitused to the same location. Otherwise, the add-back shall 313
be apportioned using the apportionment factors for the taxable 314
year in which the deduction is taken, subject to one or more of 315
the four alternative methods of apportionment enumerated in 316
section 5747.21 of the Revised Code. 317

(c) No deduction is available under division (A) (21) (a) of 318
this section with regard to any depreciation allowed by section 319
168(k) of the Internal Revenue Code and by the qualifying 320
section 179 depreciation expense amount to the extent that such 321
depreciation results in or increases a federal net operating 322
loss carryback or carryforward. If no such deduction is 323
available for a taxable year, the taxpayer may carry forward the 324
amount not deducted in such taxable year to the next taxable 325
year and add that amount to any deduction otherwise available 326
under division (A) (21) (a) of this section for that next taxable 327
year. The carryforward of amounts not so deducted shall continue 328
until the entire addition required by division (A) (20) (a) of 329
this section has been deducted. 330

(d) No refund shall be allowed as a result of adjustments 331
made by division (A) (21) of this section. 332

(22) Deduct, to the extent not otherwise deducted or 333
excluded in computing federal or Ohio adjusted gross income for 334
the taxable year, the amount the taxpayer received during the 335
taxable year as reimbursement for life insurance premiums under 336
section 5919.31 of the Revised Code. 337

(23) Deduct, to the extent not otherwise deducted or 338
excluded in computing federal or Ohio adjusted gross income for 339
the taxable year, the amount the taxpayer received during the 340
taxable year as a death benefit paid by the adjutant general 341

under section 5919.33 of the Revised Code. 342

(24) Deduct, to the extent included in federal adjusted 343
gross income and not otherwise allowable as a deduction or 344
exclusion in computing federal or Ohio adjusted gross income for 345
the taxable year, military pay and allowances received by the 346
taxpayer during the taxable year for active duty service in the 347
United States army, air force, navy, marine corps, or coast 348
guard or reserve components thereof or the national guard. The 349
deduction may not be claimed for military pay and allowances 350
received by the taxpayer while the taxpayer is stationed in this 351
state. 352

(25) Deduct, to the extent not otherwise allowable as a 353
deduction or exclusion in computing federal or Ohio adjusted 354
gross income for the taxable year and not otherwise compensated 355
for by any other source, the amount of qualified organ donation 356
expenses incurred by the taxpayer during the taxable year, not 357
to exceed ten thousand dollars. A taxpayer may deduct qualified 358
organ donation expenses only once for all taxable years 359
beginning with taxable years beginning in 2007. 360

For the purposes of division (A) (25) of this section: 361

(a) "Human organ" means all or any portion of a human 362
liver, pancreas, kidney, intestine, or lung, and any portion of 363
human bone marrow. 364

(b) "Qualified organ donation expenses" means travel 365
expenses, lodging expenses, and wages and salary forgone by a 366
taxpayer in connection with the taxpayer's donation, while 367
living, of one or more of the taxpayer's human organs to another 368
human being. 369

(26) Deduct, to the extent not otherwise deducted or 370

excluded in computing federal or Ohio adjusted gross income for 371
the taxable year, amounts received by the taxpayer as retired 372
personnel pay for service in the uniformed services or reserve 373
components thereof, or the national guard, or received by the 374
surviving spouse or former spouse of such a taxpayer under the 375
survivor benefit plan on account of such a taxpayer's death. If 376
the taxpayer receives income on account of retirement paid under 377
the federal civil service retirement system or federal employees 378
retirement system, or under any successor retirement program 379
enacted by the congress of the United States that is established 380
and maintained for retired employees of the United States 381
government, and such retirement income is based, in whole or in 382
part, on credit for the taxpayer's uniformed service, the 383
deduction allowed under this division shall include only that 384
portion of such retirement income that is attributable to the 385
taxpayer's uniformed service, to the extent that portion of such 386
retirement income is otherwise included in federal adjusted 387
gross income and is not otherwise deducted under this section. 388
Any amount deducted under division (A) (26) of this section is 389
not included in a taxpayer's adjusted gross income for the 390
purposes of section 5747.055 of the Revised Code. No amount may 391
be deducted under division (A) (26) of this section on the basis 392
of which a credit was claimed under section 5747.055 of the 393
Revised Code. 394

(27) Deduct, to the extent not otherwise deducted or 395
excluded in computing federal or Ohio adjusted gross income for 396
the taxable year, the amount the taxpayer received during the 397
taxable year from the military injury relief fund created in 398
section 5902.05 of the Revised Code. 399

(28) Deduct, to the extent not otherwise deducted or 400
excluded in computing federal or Ohio adjusted gross income for 401

the taxable year, the amount the taxpayer received as a veterans 402
bonus during the taxable year from the Ohio department of 403
veterans services as authorized by Section 2r of Article VIII, 404
Ohio Constitution. 405

(29) Deduct, to the extent not otherwise deducted or 406
excluded in computing federal or Ohio adjusted gross income for 407
the taxable year, any income derived from a transfer agreement 408
or from the enterprise transferred under that agreement under 409
section 4313.02 of the Revised Code. 410

(30) Deduct, to the extent not otherwise deducted or 411
excluded in computing federal or Ohio adjusted gross income for 412
the taxable year, Ohio college opportunity or federal Pell grant 413
amounts received by the taxpayer or the taxpayer's spouse or 414
dependent pursuant to section 3333.122 of the Revised Code or 20 415
U.S.C. 1070a, et seq., and used to pay room or board furnished 416
by the educational institution for which the grant was awarded 417
at the institution's facilities, including meal plans 418
administered by the institution. For the purposes of this 419
division, receipt of a grant includes the distribution of a 420
grant directly to an educational institution and the crediting 421
of the grant to the enrollee's account with the institution. 422

(31) (a) For taxable years beginning in 2015, deduct from 423
the portion of an individual's adjusted gross income that is 424
business income, to the extent not otherwise deducted or 425
excluded in computing federal or Ohio adjusted gross income for 426
the taxable year, the lesser of the following amounts: 427

(i) Seventy-five per cent of the individual's business 428
income; 429

(ii) Ninety-three thousand seven hundred fifty dollars for 430

each spouse if spouses file separate returns under section 431
5747.08 of the Revised Code or one hundred eighty-seven thousand 432
five hundred dollars for all other individuals. 433

(b) For taxable years beginning in 2016 or thereafter, 434
deduct from the portion of an individual's adjusted gross income 435
that is business income, to the extent not otherwise deducted or 436
excluded in computing federal adjusted gross income for the 437
taxable year, one hundred twenty-five thousand dollars for each 438
spouse if spouses file separate returns under section 5747.08 of 439
the Revised Code or two hundred fifty thousand dollars for all 440
other individuals. 441

(32) Deduct, as provided under section 5747.78 of the 442
Revised Code, contributions to ABLE savings accounts made in 443
accordance with sections 113.50 to 113.56 of the Revised Code. 444

(B) "Business income" means income, including gain or 445
loss, arising from transactions, activities, and sources in the 446
regular course of a trade or business and includes income, gain, 447
or loss from real property, tangible property, and intangible 448
property if the acquisition, rental, management, and disposition 449
of the property constitute integral parts of the regular course 450
of a trade or business operation. "Business income" includes 451
income, including gain or loss, from a partial or complete 452
liquidation of a business, including, but not limited to, gain 453
or loss from the sale or other disposition of goodwill. 454

(C) "Nonbusiness income" means all income other than 455
business income and may include, but is not limited to, 456
compensation, rents and royalties from real or tangible personal 457
property, capital gains, interest, dividends and distributions, 458
patent or copyright royalties, or lottery winnings, prizes, and 459
awards. 460

(D) "Compensation" means any form of remuneration paid to an employee for personal services.	461 462
(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.	463 464 465
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	466 467
(G) "Individual" means any natural person.	468
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	469 470
(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:	471 472 473
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	474 475
(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.	476 477 478 479
(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.	480 481 482
For the purposes of division (I) (3) of this section:	483
(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,	484 485 486 487

that were transferred, or caused to be transferred, directly or 488
indirectly, to the trust by any of the following: 489

(i) A person, a court, or a governmental entity or 490
instrumentality on account of the death of a decedent, but only 491
if the trust is described in division (I) (3) (e) (i) or (ii) of 492
this section; 493

(ii) A person who was domiciled in this state for the 494
purposes of this chapter when the person directly or indirectly 495
transferred assets to an irrevocable trust, but only if at least 496
one of the trust's qualifying beneficiaries is domiciled in this 497
state for the purposes of this chapter during all or some 498
portion of the trust's current taxable year; 499

(iii) A person who was domiciled in this state for the 500
purposes of this chapter when the trust document or instrument 501
or part of the trust document or instrument became irrevocable, 502
but only if at least one of the trust's qualifying beneficiaries 503
is a resident domiciled in this state for the purposes of this 504
chapter during all or some portion of the trust's current 505
taxable year. If a trust document or instrument became 506
irrevocable upon the death of a person who at the time of death 507
was domiciled in this state for purposes of this chapter, that 508
person is a person described in division (I) (3) (a) (iii) of this 509
section. 510

(b) A trust is irrevocable to the extent that the 511
transferor is not considered to be the owner of the net assets 512
of the trust under sections 671 to 678 of the Internal Revenue 513
Code. 514

(c) With respect to a trust other than a charitable lead 515
trust, "qualifying beneficiary" has the same meaning as 516

"potential current beneficiary" as defined in section 1361(e) (2) 517
of the Internal Revenue Code, and with respect to a charitable 518
lead trust "qualifying beneficiary" is any current, future, or 519
contingent beneficiary, but with respect to any trust 520
"qualifying beneficiary" excludes a person or a governmental 521
entity or instrumentality to any of which a contribution would 522
qualify for the charitable deduction under section 170 of the 523
Internal Revenue Code. 524

(d) For the purposes of division (I) (3) (a) of this 525
section, the extent to which a trust consists directly or 526
indirectly, in whole or in part, of assets, net of any related 527
liabilities, that were transferred directly or indirectly, in 528
whole or part, to the trust by any of the sources enumerated in 529
that division shall be ascertained by multiplying the fair 530
market value of the trust's assets, net of related liabilities, 531
by the qualifying ratio, which shall be computed as follows: 532

(i) The first time the trust receives assets, the 533
numerator of the qualifying ratio is the fair market value of 534
those assets at that time, net of any related liabilities, from 535
sources enumerated in division (I) (3) (a) of this section. The 536
denominator of the qualifying ratio is the fair market value of 537
all the trust's assets at that time, net of any related 538
liabilities. 539

(ii) Each subsequent time the trust receives assets, a 540
revised qualifying ratio shall be computed. The numerator of the 541
revised qualifying ratio is the sum of (1) the fair market value 542
of the trust's assets immediately prior to the subsequent 543
transfer, net of any related liabilities, multiplied by the 544
qualifying ratio last computed without regard to the subsequent 545
transfer, and (2) the fair market value of the subsequently 546

transferred assets at the time transferred, net of any related 547
liabilities, from sources enumerated in division (I) (3) (a) of 548
this section. The denominator of the revised qualifying ratio is 549
the fair market value of all the trust's assets immediately 550
after the subsequent transfer, net of any related liabilities. 551

(iii) Whether a transfer to the trust is by or from any of 552
the sources enumerated in division (I) (3) (a) of this section 553
shall be ascertained without regard to the domicile of the 554
trust's beneficiaries. 555

(e) For the purposes of division (I) (3) (a) (i) of this 556
section: 557

(i) A trust is described in division (I) (3) (e) (i) of this 558
section if the trust is a testamentary trust and the testator of 559
that testamentary trust was domiciled in this state at the time 560
of the testator's death for purposes of the taxes levied under 561
Chapter 5731. of the Revised Code. 562

(ii) A trust is described in division (I) (3) (e) (ii) of 563
this section if the transfer is a qualifying transfer described 564
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 565
trust is an irrevocable inter vivos trust, and at least one of 566
the trust's qualifying beneficiaries is domiciled in this state 567
for purposes of this chapter during all or some portion of the 568
trust's current taxable year. 569

(f) For the purposes of division (I) (3) (e) (ii) of this 570
section, a "qualifying transfer" is a transfer of assets, net of 571
any related liabilities, directly or indirectly to a trust, if 572
the transfer is described in any of the following: 573

(i) The transfer is made to a trust, created by the 574
decedent before the decedent's death and while the decedent was 575

domiciled in this state for the purposes of this chapter, and, 576
prior to the death of the decedent, the trust became irrevocable 577
while the decedent was domiciled in this state for the purposes 578
of this chapter. 579

(ii) The transfer is made to a trust to which the 580
decedent, prior to the decedent's death, had directly or 581
indirectly transferred assets, net of any related liabilities, 582
while the decedent was domiciled in this state for the purposes 583
of this chapter, and prior to the death of the decedent the 584
trust became irrevocable while the decedent was domiciled in 585
this state for the purposes of this chapter. 586

(iii) The transfer is made on account of a contractual 587
relationship existing directly or indirectly between the 588
transferor and either the decedent or the estate of the decedent 589
at any time prior to the date of the decedent's death, and the 590
decedent was domiciled in this state at the time of death for 591
purposes of the taxes levied under Chapter 5731. of the Revised 592
Code. 593

(iv) The transfer is made to a trust on account of a 594
contractual relationship existing directly or indirectly between 595
the transferor and another person who at the time of the 596
decedent's death was domiciled in this state for purposes of 597
this chapter. 598

(v) The transfer is made to a trust on account of the will 599
of a testator who was domiciled in this state at the time of the 600
testator's death for purposes of the taxes levied under Chapter 601
5731. of the Revised Code. 602

(vi) The transfer is made to a trust created by or caused 603
to be created by a court, and the trust was directly or 604

indirectly created in connection with or as a result of the 605
death of an individual who, for purposes of the taxes levied 606
under Chapter 5731. of the Revised Code, was domiciled in this 607
state at the time of the individual's death. 608

(g) The tax commissioner may adopt rules to ascertain the 609
part of a trust residing in this state. 610

(J) "Nonresident" means an individual or estate that is 611
not a resident. An individual who is a resident for only part of 612
a taxable year is a nonresident for the remainder of that 613
taxable year. 614

(K) "Pass-through entity" has the same meaning as in 615
section 5733.04 of the Revised Code. 616

(L) "Return" means the notifications and reports required 617
to be filed pursuant to this chapter for the purpose of 618
reporting the tax due and includes declarations of estimated tax 619
when so required. 620

(M) "Taxable year" means the calendar year or the 621
taxpayer's fiscal year ending during the calendar year, or 622
fractional part thereof, upon which the adjusted gross income is 623
calculated pursuant to this chapter. 624

(N) "Taxpayer" means any person subject to the tax imposed 625
by section 5747.02 of the Revised Code or any pass-through 626
entity that makes the election under division (D) of section 627
5747.08 of the Revised Code. 628

(O) "Dependents" means dependents as defined in the 629
Internal Revenue Code and as claimed in the taxpayer's federal 630
income tax return for the taxable year or which the taxpayer 631
would have been permitted to claim had the taxpayer filed a 632
federal income tax return. 633

(P) "Principal county of employment" means, in the case of 634
a nonresident, the county within the state in which a taxpayer 635
performs services for an employer or, if those services are 636
performed in more than one county, the county in which the major 637
portion of the services are performed. 638

(Q) As used in sections 5747.50 to 5747.55 of the Revised 639
Code: 640

(1) "Subdivision" means any county, municipal corporation, 641
park district, or township. 642

(2) "Essential local government purposes" includes all 643
functions that any subdivision is required by general law to 644
exercise, including like functions that are exercised under a 645
charter adopted pursuant to the Ohio Constitution. 646

(R) "Overpayment" means any amount already paid that 647
exceeds the figure determined to be the correct amount of the 648
tax. 649

(S) "Taxable income" or "Ohio taxable income" applies only 650
to estates and trusts, and means federal taxable income, as 651
defined and used in the Internal Revenue Code, adjusted as 652
follows: 653

(1) Add interest or dividends, net of ordinary, necessary, 654
and reasonable expenses not deducted in computing federal 655
taxable income, on obligations or securities of any state or of 656
any political subdivision or authority of any state, other than 657
this state and its subdivisions and authorities, but only to the 658
extent that such net amount is not otherwise includible in Ohio 659
taxable income and is described in either division (S) (1) (a) or 660
(b) of this section: 661

(a) The net amount is not attributable to the S portion of 662

an electing small business trust and has not been distributed to 663
beneficiaries for the taxable year; 664

(b) The net amount is attributable to the S portion of an 665
electing small business trust for the taxable year. 666

(2) Add interest or dividends, net of ordinary, necessary, 667
and reasonable expenses not deducted in computing federal 668
taxable income, on obligations of any authority, commission, 669
instrumentality, territory, or possession of the United States 670
to the extent that the interest or dividends are exempt from 671
federal income taxes but not from state income taxes, but only 672
to the extent that such net amount is not otherwise includible 673
in Ohio taxable income and is described in either division (S) 674
(1) (a) or (b) of this section; 675

(3) Add the amount of personal exemption allowed to the 676
estate pursuant to section 642(b) of the Internal Revenue Code; 677

(4) Deduct interest or dividends, net of related expenses 678
deducted in computing federal taxable income, on obligations of 679
the United States and its territories and possessions or of any 680
authority, commission, or instrumentality of the United States 681
to the extent that the interest or dividends are exempt from 682
state taxes under the laws of the United States, but only to the 683
extent that such amount is included in federal taxable income 684
and is described in either division (S) (1) (a) or (b) of this 685
section; 686

(5) Deduct the amount of wages and salaries, if any, not 687
otherwise allowable as a deduction but that would have been 688
allowable as a deduction in computing federal taxable income for 689
the taxable year, had the targeted jobs credit allowed under 690
sections 38, 51, and 52 of the Internal Revenue Code not been in 691

effect, but only to the extent such amount relates either to 692
income included in federal taxable income for the taxable year 693
or to income of the S portion of an electing small business 694
trust for the taxable year; 695

(6) Deduct any interest or interest equivalent, net of 696
related expenses deducted in computing federal taxable income, 697
on public obligations and purchase obligations, but only to the 698
extent that such net amount relates either to income included in 699
federal taxable income for the taxable year or to income of the 700
S portion of an electing small business trust for the taxable 701
year; 702

(7) Add any loss or deduct any gain resulting from sale, 703
exchange, or other disposition of public obligations to the 704
extent that such loss has been deducted or such gain has been 705
included in computing either federal taxable income or income of 706
the S portion of an electing small business trust for the 707
taxable year; 708

(8) Except in the case of the final return of an estate, 709
add any amount deducted by the taxpayer on both its Ohio estate 710
tax return pursuant to section 5731.14 of the Revised Code, and 711
on its federal income tax return in determining federal taxable 712
income; 713

(9) (a) Deduct any amount included in federal taxable 714
income solely because the amount represents a reimbursement or 715
refund of expenses that in a previous year the decedent had 716
deducted as an itemized deduction pursuant to section 63 of the 717
Internal Revenue Code and applicable treasury regulations. The 718
deduction otherwise allowed under division (S) (9) (a) of this 719
section shall be reduced to the extent the reimbursement is 720
attributable to an amount the taxpayer or decedent deducted 721

under this section in any taxable year.	722
(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.	723 724 725 726 727 728
(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:	729 730 731 732
(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.	733 734 735 736 737
(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.	738 739 740
(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:	741 742 743
(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;	744 745 746 747
(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.	748 749 750

(12) Deduct any amount, net of related expenses deducted 751
in computing federal taxable income, that a trust is required to 752
report as farm income on its federal income tax return, but only 753
if the assets of the trust include at least ten acres of land 754
satisfying the definition of "land devoted exclusively to 755
agricultural use" under section 5713.30 of the Revised Code, 756
regardless of whether the land is valued for tax purposes as 757
such land under sections 5713.30 to 5713.38 of the Revised Code. 758
If the trust is a pass-through entity investor, section 5747.231 759
of the Revised Code applies in ascertaining if the trust is 760
eligible to claim the deduction provided by division (S) (12) of 761
this section in connection with the pass-through entity's farm 762
income. 763

Except for farm income attributable to the S portion of an 764
electing small business trust, the deduction provided by 765
division (S) (12) of this section is allowed only to the extent 766
that the trust has not distributed such farm income. Division 767
(S) (12) of this section applies only to taxable years of a trust 768
beginning in 2002 or thereafter. 769

(13) Add the net amount of income described in section 770
641(c) of the Internal Revenue Code to the extent that amount is 771
not included in federal taxable income. 772

(14) Add or deduct the amount the taxpayer would be 773
required to add or deduct under division (A) (20) or (21) of this 774
section if the taxpayer's Ohio taxable income were computed in 775
the same manner as an individual's Ohio adjusted gross income is 776
computed under this section. In the case of a trust, division 777
(S) (14) of this section applies only to any of the trust's 778
taxable years beginning in 2002 or thereafter. 779

(T) "School district income" and "school district income 780

tax" have the same meanings as in section 5748.01 of the Revised Code. 781
782

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 783
(7) of this section, "public obligations," "purchase 784
obligations," and "interest or interest equivalent" have the 785
same meanings as in section 5709.76 of the Revised Code. 786

(V) "Limited liability company" means any limited 787
liability company formed under Chapter 1705. of the Revised Code 788
or under the laws of any other state. 789

(W) "Pass-through entity investor" means any person who, 790
during any portion of a taxable year of a pass-through entity, 791
is a partner, member, shareholder, or equity investor in that 792
pass-through entity. 793

(X) "Banking day" has the same meaning as in section 794
1304.01 of the Revised Code. 795

(Y) "Month" means a calendar month. 796

(Z) "Quarter" means the first three months, the second 797
three months, the third three months, or the last three months 798
of the taxpayer's taxable year. 799

(AA) (1) "Eligible institution" means a state university or 800
state institution of higher education as defined in section 801
3345.011 of the Revised Code, or a private, nonprofit college, 802
university, or other post-secondary institution located in this 803
state that possesses a certificate of authorization issued by 804
the chancellor of higher education pursuant to Chapter 1713. of 805
the Revised Code or a certificate of registration issued by the 806
state board of career colleges and schools under Chapter 3332. 807
of the Revised Code. 808

(2) "Qualified tuition and fees" means tuition and fees 809
imposed by an eligible institution as a condition of enrollment 810
or attendance, not exceeding two thousand five hundred dollars 811
in each of the individual's first two years of post-secondary 812
education. If the individual is a part-time student, "qualified 813
tuition and fees" includes tuition and fees paid for the 814
academic equivalent of the first two years of post-secondary 815
education during a maximum of five taxable years, not exceeding 816
a total of five thousand dollars. "Qualified tuition and fees" 817
does not include: 818

(a) Expenses for any course or activity involving sports, 819
games, or hobbies unless the course or activity is part of the 820
individual's degree or diploma program; 821

(b) The cost of books, room and board, student activity 822
fees, athletic fees, insurance expenses, or other expenses 823
unrelated to the individual's academic course of instruction; 824

(c) Tuition, fees, or other expenses paid or reimbursed 825
through an employer, scholarship, grant in aid, or other 826
educational benefit program. 827

(BB) (1) "Modified business income" means the business 828
income included in a trust's Ohio taxable income after such 829
taxable income is first reduced by the qualifying trust amount, 830
if any. 831

(2) "Qualifying trust amount" of a trust means capital 832
gains and losses from the sale, exchange, or other disposition 833
of equity or ownership interests in, or debt obligations of, a 834
qualifying investee to the extent included in the trust's Ohio 835
taxable income, but only if the following requirements are 836
satisfied: 837

(a) The book value of the qualifying investee's physical 838
assets in this state and everywhere, as of the last day of the 839
qualifying investee's fiscal or calendar year ending immediately 840
prior to the date on which the trust recognizes the gain or 841
loss, is available to the trust. 842

(b) The requirements of section 5747.011 of the Revised 843
Code are satisfied for the trust's taxable year in which the 844
trust recognizes the gain or loss. 845

Any gain or loss that is not a qualifying trust amount is 846
modified business income, qualifying investment income, or 847
modified nonbusiness income, as the case may be. 848

(3) "Modified nonbusiness income" means a trust's Ohio 849
taxable income other than modified business income, other than 850
the qualifying trust amount, and other than qualifying 851
investment income, as defined in section 5747.012 of the Revised 852
Code, to the extent such qualifying investment income is not 853
otherwise part of modified business income. 854

(4) "Modified Ohio taxable income" applies only to trusts, 855
and means the sum of the amounts described in divisions (BB) (4) 856
(a) to (c) of this section: 857

(a) The fraction, calculated under section 5747.013, and 858
applying section 5747.231 of the Revised Code, multiplied by the 859
sum of the following amounts: 860

(i) The trust's modified business income; 861

(ii) The trust's qualifying investment income, as defined 862
in section 5747.012 of the Revised Code, but only to the extent 863
the qualifying investment income does not otherwise constitute 864
modified business income and does not otherwise constitute a 865
qualifying trust amount. 866

(b) The qualifying trust amount multiplied by a fraction, 867
the numerator of which is the sum of the book value of the 868
qualifying investee's physical assets in this state on the last 869
day of the qualifying investee's fiscal or calendar year ending 870
immediately prior to the day on which the trust recognizes the 871
qualifying trust amount, and the denominator of which is the sum 872
of the book value of the qualifying investee's total physical 873
assets everywhere on the last day of the qualifying investee's 874
fiscal or calendar year ending immediately prior to the day on 875
which the trust recognizes the qualifying trust amount. If, for 876
a taxable year, the trust recognizes a qualifying trust amount 877
with respect to more than one qualifying investee, the amount 878
described in division (BB) (4) (b) of this section shall equal the 879
sum of the products so computed for each such qualifying 880
investee. 881

(c) (i) With respect to a trust or portion of a trust that 882
is a resident as ascertained in accordance with division (I) (3) 883
(d) of this section, its modified nonbusiness income. 884

(ii) With respect to a trust or portion of a trust that is 885
not a resident as ascertained in accordance with division (I) (3) 886
(d) of this section, the amount of its modified nonbusiness 887
income satisfying the descriptions in divisions (B) (2) to (5) of 888
section 5747.20 of the Revised Code, except as otherwise 889
provided in division (BB) (4) (c) (ii) of this section. With 890
respect to a trust or portion of a trust that is not a resident 891
as ascertained in accordance with division (I) (3) (d) of this 892
section, the trust's portion of modified nonbusiness income 893
recognized from the sale, exchange, or other disposition of a 894
debt interest in or equity interest in a section 5747.212 895
entity, as defined in section 5747.212 of the Revised Code, 896
without regard to division (A) of that section, shall not be 897

allocated to this state in accordance with section 5747.20 of 898
the Revised Code but shall be apportioned to this state in 899
accordance with division (B) of section 5747.212 of the Revised 900
Code without regard to division (A) of that section. 901

If the allocation and apportionment of a trust's income 902
under divisions (BB) (4) (a) and (c) of this section do not fairly 903
represent the modified Ohio taxable income of the trust in this 904
state, the alternative methods described in division (C) of 905
section 5747.21 of the Revised Code may be applied in the manner 906
and to the same extent provided in that section. 907

(5) (a) Except as set forth in division (BB) (5) (b) of this 908
section, "qualifying investee" means a person in which a trust 909
has an equity or ownership interest, or a person or unit of 910
government the debt obligations of either of which are owned by 911
a trust. For the purposes of division (BB) (2) (a) of this section 912
and for the purpose of computing the fraction described in 913
division (BB) (4) (b) of this section, all of the following apply: 914

(i) If the qualifying investee is a member of a qualifying 915
controlled group on the last day of the qualifying investee's 916
fiscal or calendar year ending immediately prior to the date on 917
which the trust recognizes the gain or loss, then "qualifying 918
investee" includes all persons in the qualifying controlled 919
group on such last day. 920

(ii) If the qualifying investee, or if the qualifying 921
investee and any members of the qualifying controlled group of 922
which the qualifying investee is a member on the last day of the 923
qualifying investee's fiscal or calendar year ending immediately 924
prior to the date on which the trust recognizes the gain or 925
loss, separately or cumulatively own, directly or indirectly, on 926
the last day of the qualifying investee's fiscal or calendar 927

year ending immediately prior to the date on which the trust 928
recognizes the qualifying trust amount, more than fifty per cent 929
of the equity of a pass-through entity, then the qualifying 930
investee and the other members are deemed to own the 931
proportionate share of the pass-through entity's physical assets 932
which the pass-through entity directly or indirectly owns on the 933
last day of the pass-through entity's calendar or fiscal year 934
ending within or with the last day of the qualifying investee's 935
fiscal or calendar year ending immediately prior to the date on 936
which the trust recognizes the qualifying trust amount. 937

(iii) For the purposes of division (BB) (5) (a) (iii) of this 938
section, "upper level pass-through entity" means a pass-through 939
entity directly or indirectly owning any equity of another pass- 940
through entity, and "lower level pass-through entity" means that 941
other pass-through entity. 942

An upper level pass-through entity, whether or not it is 943
also a qualifying investee, is deemed to own, on the last day of 944
the upper level pass-through entity's calendar or fiscal year, 945
the proportionate share of the lower level pass-through entity's 946
physical assets that the lower level pass-through entity 947
directly or indirectly owns on the last day of the lower level 948
pass-through entity's calendar or fiscal year ending within or 949
with the last day of the upper level pass-through entity's 950
fiscal or calendar year. If the upper level pass-through entity 951
directly and indirectly owns less than fifty per cent of the 952
equity of the lower level pass-through entity on each day of the 953
upper level pass-through entity's calendar or fiscal year in 954
which or with which ends the calendar or fiscal year of the 955
lower level pass-through entity and if, based upon clear and 956
convincing evidence, complete information about the location and 957
cost of the physical assets of the lower pass-through entity is 958

not available to the upper level pass-through entity, then 959
solely for purposes of ascertaining if a gain or loss 960
constitutes a qualifying trust amount, the upper level pass- 961
through entity shall be deemed as owning no equity of the lower 962
level pass-through entity for each day during the upper level 963
pass-through entity's calendar or fiscal year in which or with 964
which ends the lower level pass-through entity's calendar or 965
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 966
shall be construed to provide for any deduction or exclusion in 967
computing any trust's Ohio taxable income. 968

(b) With respect to a trust that is not a resident for the 969
taxable year and with respect to a part of a trust that is not a 970
resident for the taxable year, "qualifying investee" for that 971
taxable year does not include a C corporation if both of the 972
following apply: 973

(i) During the taxable year the trust or part of the trust 974
recognizes a gain or loss from the sale, exchange, or other 975
disposition of equity or ownership interests in, or debt 976
obligations of, the C corporation. 977

(ii) Such gain or loss constitutes nonbusiness income. 978

(6) "Available" means information is such that a person is 979
able to learn of the information by the due date plus 980
extensions, if any, for filing the return for the taxable year 981
in which the trust recognizes the gain or loss. 982

(CC) "Qualifying controlled group" has the same meaning as 983
in section 5733.04 of the Revised Code. 984

(DD) "Related member" has the same meaning as in section 985
5733.042 of the Revised Code. 986

(EE) (1) For the purposes of division (EE) of this section: 987

(a) "Qualifying person" means any person other than a qualifying corporation.	988 989
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	990 991 992
(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;	993 994 995 996
(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.	997 998 999 1000 1001
(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.	1002 1003 1004
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1005 1006
(1) "Trust" does not include a qualified pre-income tax trust.	1007 1008
(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.	1009 1010 1011
(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	1012 1013 1014 1015

controls, directly, indirectly, or constructively through 1016
related interests, five per cent or more of the ownership or 1017
equity interests. The trustee shall notify the tax commissioner 1018
in writing of the election on or before April 15, 2006. The 1019
election, if timely made, shall be effective on and after 1020
January 1, 2006, and shall apply for all tax periods and tax 1021
years until revoked by the trustee of the trust. 1022

(4) A "pre-income tax trust" is a trust that satisfies all 1023
of the following requirements: 1024

(a) The document or instrument creating the trust was 1025
executed by the grantor before January 1, 1972; 1026

(b) The trust became irrevocable upon the creation of the 1027
trust; and 1028

(c) The grantor was domiciled in this state at the time 1029
the trust was created. 1030

(GG) "Uniformed services" has the same meaning as in 10
U.S.C. 101. 1031
1032

(HH) "Taxable business income" means the amount by which 1033
an individual's business income that is included in federal 1034
adjusted gross income exceeds the amount of business income the 1035
individual is authorized to deduct under division (A) (31) of 1036
this section for the taxable year. 1037

Sec. 5747.70. (A) In computing Ohio adjusted gross income, 1038
a deduction from federal adjusted gross income is allowed to a 1039
~~contributor for the amount contributed during the taxable year~~ 1040
~~taxpayer who contributes to a variable college savings program~~ 1041
~~account and to a purchaser of or purchases tuition units under~~ 1042
~~the Ohio college savings program created by Chapter 3334. of the~~ 1043
~~Revised Code~~ a qualified tuition program established in 1044

accordance with section 529 of the Internal Revenue Code. The 1045
amount of the deduction shall equal the amount contributed or 1046
purchased during the taxable year to the extent that the amounts 1047
of such contributions and purchases were not deducted in 1048
determining the contributor's or purchaser's federal adjusted 1049
gross income for the taxable year. The combined amount of 1050
contributions and purchases deducted in any taxable year by a 1051
taxpayer or the taxpayer and the taxpayer's spouse, regardless 1052
of whether the taxpayer and the taxpayer's spouse file separate 1053
returns or a joint return, is limited to four thousand dollars 1054
for each beneficiary for whom contributions or purchases are 1055
made. If the combined annual contributions and purchases for a 1056
beneficiary exceed four thousand dollars, the excess may be 1057
carried forward and deducted in future taxable years until the 1058
contributions and purchases have been fully deducted. 1059

(B) In computing Ohio adjusted gross income, a deduction 1060
from federal adjusted gross income is allowed for: 1061

(1) Income related to tuition units and contributions that 1062
as of the end of the taxable year have not been refunded 1063
pursuant to the termination of a qualified tuition program 1064
payment contract or ~~variable college savings program~~ account 1065
~~under section 3334.10 of the Revised Code,~~ to the extent that 1066
such income is included in federal adjusted gross income. 1067

(2) The excess of the total purchase price of tuition 1068
units refunded during the taxable year pursuant to the 1069
termination of a qualified tuition program payment contract 1070
~~under section 3334.10 of the Revised Code over the amount of the~~ 1071
~~refund,~~ to the extent the amount of the excess was not deducted 1072
in determining federal adjusted gross income. Division (B) (2) of 1073
this section applies only to units for which no deduction was 1074

allowable under division (A) of this section. 1075

(C) In computing Ohio adjusted gross income, there shall 1076
be added to federal adjusted gross income the amount of loss 1077
related to tuition units and contributions that as of the end of 1078
the taxable year have not been refunded pursuant to the 1079
termination of a qualified tuition program payment contract or 1080
~~variable college savings program account under section 3334.10~~ 1081
~~of the Revised Code,~~ to the extent that such loss was deducted 1082
in determining federal adjusted gross income. 1083

(D) For taxable years in which distributions or refunds 1084
are made under a qualified tuition ~~payment or variable college~~ 1085
~~savings program contract program~~ for any reason other than 1086
payment of tuition or other higher education expenses, or the 1087
beneficiary's death, disability, or receipt of a scholarship as 1088
described in section 3334.10 of the Revised Code: 1089

(1) If the distribution or refund is paid to the purchaser 1090
or contributor or beneficiary, any portion of the distribution 1091
or refund not included in the recipient's federal adjusted gross 1092
income shall be added to the recipient's federal adjusted gross 1093
income in determining the recipient's Ohio adjusted gross 1094
income, except that the amount added shall not exceed amounts 1095
previously deducted under division (A) of this section less any 1096
amounts added under division (D) (1) of this section in a prior 1097
taxable year. 1098

(2) If amounts paid by a purchaser or contributor on or 1099
after January 1, 2000, are distributed or refunded to someone 1100
other than the purchaser or contributor or beneficiary, the 1101
amount of the payment not included in the recipient's federal 1102
adjusted gross income, less any amounts added under division (D) 1103
of this section in a prior taxable year, shall be added to the 1104

recipient's federal adjusted gross income in determining the 1105
recipient's Ohio adjusted gross income. 1106

Section 2. That existing sections 5747.01 and 5747.70 of 1107
the Revised Code are hereby repealed. 1108

Section 3. The amendment by this act of section 5747.70 of 1109
the Revised Code applies to taxable years beginning on or after 1110
January 1, 2017. 1111

Nothing in this act shall limit the ability of a taxpayer 1112
whose combined contributions to an Ohio variable college savings 1113
program account and purchases of tuition units under the Ohio 1114
college savings program for a beneficiary exceeded four thousand 1115
dollars in a taxable year beginning before January 1, 2017, from 1116
carrying forward and deducting the excess in taxable years 1117
beginning on or after January 1, 2017. 1118