

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**S. B. No. 139**

**Senators Gavarone, Peterson**

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**A BILL**

To amend section 5747.01 and to enact sections 1  
193.01, 193.02, 193.03, 193.04, 193.05, 193.06, 2  
and 193.07 of the Revised Code to enact the 3  
First-time Home Buyer Savings Act, authorizing 4  
income tax deductions for contributions to and 5  
earnings on savings accounts designated for the 6  
purchase of a home. 7

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

**Section 1.** That section 5747.01 be amended and sections 8  
193.01, 193.02, 193.03, 193.04, 193.05, 193.06, and 193.07 of 9  
the Revised Code be enacted to read as follows: 10

**Sec. 193.01.** As used in this chapter: 11

(A) "Account holder" means an individual who establishes, 12  
individually or jointly with the individual's spouse, a first- 13  
time home buyer savings account. 14

(B) "Allowable closing costs" means a disbursement listed 15  
on a closing disclosure for the purchase of a single-family 16  
residence in this state by a qualified beneficiary. 17

(C) "Eligible costs" means the down payment and allowable 18

closing costs for the purchase of a single-family residence in 19  
this state by a qualified beneficiary. 20

(D) "Financial institution" means any bank, trust company, 21  
savings institution, industrial loan association, consumer 22  
finance company, credit union, or any benefit association, 23  
insurance company, safe deposit company, money market mutual 24  
fund, or similar entity authorized to do business in this state. 25

(E) "First-time home buyer" means an individual who 26  
resides in this state and has not owned or purchased, either 27  
individually or jointly, a single-family residence during the 28  
three years immediately preceding the purchase of a single- 29  
family residence using amounts from a first-time home buyer 30  
savings account. 31

(F) "First-time home buyer savings account" or "account" 32  
means an account at a financial institution that is designated 33  
by the account holder as a first-time home buyer savings account 34  
pursuant to this chapter for the purpose of paying or 35  
reimbursing eligible costs for the purchase of a single-family 36  
residence in this state by a qualified beneficiary. 37

(G) "Qualified beneficiary" means a first-time home buyer 38  
who is designated by the account holder of a first-time home 39  
buyer savings account. 40

(H) "Closing disclosure" means the statement of receipts 41  
and disbursement for a transaction related to real estate, 42  
including a statement prescribed under the "Real Estate 43  
Settlement Procedures Act of 1974," 12 U.S.C. 2601 et seq., as 44  
amended, and regulations thereunder. 45

(I) "Single-family residence" means a dwelling, including 46  
a unit in a multiple-unit dwelling and a manufactured home or 47

mobile home, owned and occupied by a qualified beneficiary as a 48  
principal residence. A single-family residence includes so much 49  
of the land surrounding it as is reasonably necessary for the 50  
use of the dwelling or unit as a home. 51

(J) "Manufactured home" has the same meaning as in section 52  
3781.06 of the Revised Code. 53

(K) "Mobile home" has the same meaning as in section 54  
4501.01 of the Revised Code. 55

**Sec. 193.02.** (A) Any individual may open an account at a 56  
financial institution and designate the account, in its 57  
entirety, as a first-time home buyer savings account to be used 58  
to pay or reimburse a qualified beneficiary's eligible costs for 59  
the purchase of a single-family residence in this state. 60  
Individuals who are married may jointly open, designate, and own 61  
a first-time home buyer savings account but, otherwise, a first- 62  
time home buyer savings account shall be owned by not more than 63  
one account holder. 64

(B) An account holder shall designate one first-time home 65  
buyer as the qualified beneficiary of the first-time home buyer 66  
savings account not later than the fifteenth day of April of the 67  
year following the year in which the account is opened. An 68  
account holder may designate the account holder as the qualified 69  
beneficiary and may change the designated qualified beneficiary 70  
at any time. 71

(C) A first-time home buyer savings account shall not have 72  
more than one qualified beneficiary at any time. 73

(D) An individual may be the account holder of more than 74  
one first-time home buyer savings account. However, an account 75  
holder shall not designate the same qualified beneficiary for 76

<u>more than one account.</u>	77
<u>(E) An individual may be designated as the qualified</u>	78
<u>beneficiary on more than one first-time home buyer savings</u>	79
<u>account only if the accounts are owned by different account</u>	80
<u>holders.</u>	81
<u>(F) Only cash and marketable securities may be deposited</u>	82
<u>to a first-time home buyer savings account.</u>	83
<u>(G) Any person may deposit money in a first-time home</u>	84
<u>buyer savings account. There is no limitation on the amount of</u>	85
<u>money that may be deposited to or retained in a first-time home</u>	86
<u>buyer savings account. Only deposits made by an account holder</u>	87
<u>qualify for the income tax deduction authorized under section</u>	88
<u>193.05 of the Revised Code.</u>	89
<b><u>Sec. 193.03.</u></b> (A) <u>For each taxable year that an account</u>	90
<u>holder claims a deduction or is required to make an addition to</u>	91
<u>the account holder's federal adjusted gross income under section</u>	92
<u>193.05 of the Revised Code, the account holder shall include the</u>	93
<u>following information with the account holder's state income tax</u>	94
<u>return filed pursuant to section 5747.08 of the Revised Code in</u>	95
<u>the manner prescribed by the tax commissioner:</u>	96
<u>(1) A ledger listing the deposits to and withdrawals from</u>	97
<u>each first-time home buyer savings account owned by the account</u>	98
<u>holder during the taxable year, including debits for service</u>	99
<u>fees associated with administering the account;</u>	100
<u>(2) The internal revenue service form 1099 issued pursuant</u>	101
<u>to the Internal Revenue Code by the financial institution or</u>	102
<u>financial institutions with which the account or accounts are</u>	103
<u>held.</u>	104
<u>(B) In addition to the reporting requirements of division</u>	105

(A) of this section, each time money is withdrawn from a first- 106  
time home buyer savings account for purposes other than 107  
reimbursing the financial institution with which the account is 108  
held for a service fee associated with administering the 109  
account, the account holder shall provide the following 110  
information to the department of taxation: 111

(1) The amount of money withdrawn from the account; 112

(2) The amount of money remaining in the account, if any; 113

(3) If the withdrawn money was used to pay eligible costs 114  
for the purchase of a single-family residence by the account's 115  
qualified beneficiary or to reimburse the qualified beneficiary 116  
for such eligible costs, a detailed accounting of the eligible 117  
costs toward which the money was applied; 118

(4) If the money was transferred to another first-time 119  
home buyer savings account, the name of the financial 120  
institution with which the new account is held and the qualified 121  
beneficiary of the new account; 122

(5) If the money was withdrawn due to the death or 123  
disability of the account holder, the name and address of each 124  
person to which the money was distributed. 125

(C) In complying with the reporting obligations prescribed 126  
by this section, the account holder shall use the forms 127  
prescribed by the tax commissioner pursuant to section 193.07 of 128  
the Revised Code. 129

**Sec. 193.04.** (A) A financial institution shall not be 130  
required to do any of the following: 131

(1) Designate an account as a first-time home buyer 132  
savings account, or designate the qualified beneficiary of an 133

account, in the financial institution's account contracts or 134  
systems or in any other way; 135

(2) Track the use money withdrawn from a first-time home 136  
buyer savings account; 137

(3) Allocate funds in a first-time home buyer savings 138  
account among joint account holder or multiple qualified 139  
beneficiaries; 140

(4) Report any information not otherwise required by law 141  
to the department of taxation or any other governmental agency. 142

(B) A financial institution is not responsible or liable 143  
for any of the following: 144

(1) Determining or ensuring that an account satisfies the 145  
requirements to be a first-time home buyer savings account; 146

(2) Determining or ensuring that funds in a first-time 147  
home buyer savings account are used for eligible costs; 148

(3) Reporting or remitting taxes or penalties related to 149  
the use of a first-time home buyer savings account. 150

(C) Upon being furnished proof of the death of the account 151  
holder and such other information required by the contract 152  
governing the first-time home buyer savings account, a financial 153  
institution shall distribute the principal and accumulated 154  
interest or other income in the account in accordance with the 155  
terms of the contract governing the account. 156

**Sec. 193.05.** (A) Subject to the limitations prescribed by 157  
division (C) of this section, in determining Ohio adjusted gross 158  
income under Chapter 5747. of the Revised Code an account holder 159  
may deduct the following amounts, to the extent such amounts 160  
have not otherwise been deducted or excluded in determining the 161

account holder's federal adjusted gross income: 162

(1) The total of the deposits that the account holder made 163  
to one or more first-time home buyer savings accounts owned by 164  
the account holder or the account holder's spouse during the 165  
taxable year; 166

(2) The interest and other income on the principal balance 167  
of each of the account holder's first-time home buyer savings 168  
accounts; 169

(B) In determining Ohio adjusted gross income under 170  
Chapter 5747. of the Revised Code, an account holder shall add 171  
to the account holder's federal adjusted gross income an amount 172  
equal to the sum of the amounts described in divisions (B) (1), 173  
(2), and (3) of this section to the extent that such amounts 174  
were included in the account holder's federal adjusted gross 175  
income in a prior taxable year and were deducted in determining 176  
the account holder's Ohio adjusted gross income for that taxable 177  
year. In determining the extent to which such amounts shall be 178  
included in the account holder's Ohio adjusted gross income, the 179  
tax commissioner shall be guided by sections 72 and 408 of the 180  
Internal Revenue Code governing the determination of the amount 181  
of withdrawals from an individual retirement account to be 182  
included in federal adjusted gross income. 183

(1) Amounts withdrawn from a first-time home buyer savings 184  
account owned by the account holder that are not transferred to 185  
another first-time home buyer savings account, debited by the 186  
financial institution with which the account is held to pay a 187  
service fee for administering the account, or used to pay 188  
eligible costs for the purchase of a single-family residence by 189  
a qualified beneficiary or to reimburse a qualified beneficiary 190  
for such eligible costs; 191

(2) Investment earnings during the taxable year on amounts 192  
withdrawn from the account that are described in division (B) (1) 193  
of this section; 194

(3) Amounts remaining in the account on the thirty-first 195  
day of December of the fourteenth taxable year following the 196  
taxable year in which the account was opened. For the purposes 197  
of division (B) (3) of this section, a first-time home buyer 198  
savings account is "opened" in the taxable year in which the 199  
account was established under section 193.02 of the Revised Code 200  
or, if the account includes amounts transferred from other 201  
first-time home buyer savings accounts, in the earliest taxable 202  
year for which the account holder claimed a deduction under 203  
division (A) of this section with respect to the first such 204  
account. Changing the qualified beneficiary of the account does 205  
not affect the taxable year in which the account is opened. 206

(C) (1) The total amount of deposits deducted by an account 207  
holder under division (A) (1) of this section for a taxable year, 208  
regardless of how many first-time home buyer savings accounts 209  
the account holder owns, shall not exceed ten thousand dollars 210  
for spouses filing a joint income tax return under section 211  
5747.08 of the Revised Code, or five thousand dollars for all 212  
other account holders. 213

(2) The total amount of deposits, interest, and other 214  
income deducted by an account holder under divisions (A) (1) and 215  
(2) of this section for all taxable years, regardless of how 216  
many first-time home buyer savings accounts the account holder 217  
owns, shall not exceed one hundred thousand dollars for spouses 218  
filing a joint income tax return under section 5747.08 of the 219  
Revised Code or fifty thousand dollars for all other account 220  
holders. 221

(3) No account holder may claim a deduction under division 222  
(A) of this section after the fourteenth taxable year following 223  
the taxable year in which the account holder first opens a 224  
first-time home buyer savings account under section 193.02 of 225  
the Revised Code. 226

(D) A person other than the account holder who deposits 227  
money in a first-time home buyer savings account is not entitled 228  
to the deduction provided for under this section. 229

**Sec. 193.06.** (A) Except as otherwise provided in division 230  
(B) of this section, an account holder shall pay a penalty equal 231  
to ten per cent of the amounts described in divisions (B)(1) and 232  
(3) of section 193.05 of the Revised Code for the taxable year 233  
in which the account holder is required to add the amounts in 234  
computing the account holder's Ohio adjusted gross income under 235  
Chapter 5747. of the Revised Code. The penalty imposed under 236  
this section shall be in addition to all other taxes and 237  
penalties imposed on the amounts. The penalty shall be 238  
considered as revenue arising from the taxes imposed by Chapter 239  
5747. of the Revised Code and the tax commissioner may collect 240  
past due penalties and interest thereon by assessment under 241  
section 5747.13 of the Revised Code in the same manner as taxes 242  
that are past due. 243

(B) The penalty imposed under this section does not apply 244  
to any of the following: 245

(1) Amounts withdrawn by reason of the account holder's 246  
death or disability; 247

(2) A disbursement of assets of the account pursuant to a 248  
filing for protection under the United States Bankruptcy Code, 249  
11 U.S.C. 101, et seq., more than one year after the date the 250

account was established under section 193.02 of the Revised Code 251  
or, if the account includes amounts transferred from other 252  
first-time home buyer savings accounts, more than one year after 253  
the earliest date that a first-time home buyer savings account 254  
from which the funds were transferred was established; 255

(3) Amounts transferred from one first-time home buyer 256  
savings account to another first-time home buyers savings 257  
account; 258

(4) Amounts debited from the account by the financial 259  
institution with which the account is held to pay a service fee 260  
for administering the account. 261

**Sec. 193.07.** (A) The tax commissioner may adopt rules in 262  
accordance with Chapter 119. of the Revised Code to implement 263  
this chapter. 264

(B) The commissioner shall prepare forms for all of the 265  
following: 266

(1) The designation of an account with a financial 267  
institution to serve as a first-time home buyer savings account; 268

(2) The designation of a qualified beneficiary of a first- 269  
time home buyer savings account; 270

(3) For an account holder to annually submit to the 271  
department detailed information regarding the first-time home 272  
buyer savings account, including a list of transactions for the 273  
account during a taxable year, and identifying any supporting 274  
documentation that is required to be maintained by the account 275  
holder. 276

(C) The department of taxation shall prepare and 277  
distribute informational materials on the first-time home buyer 278

<u>savings account program to financial institutions and potential</u>	279
<u>home buyers to publicize the availability of the program.</u>	280
<b>Sec. 5747.01.</b> Except as otherwise expressly provided or	281
clearly appearing from the context, any term used in this	282
chapter that is not otherwise defined in this section has the	283
same meaning as when used in a comparable context in the laws of	284
the United States relating to federal income taxes or if not	285
used in a comparable context in those laws, has the same meaning	286
as in section 5733.40 of the Revised Code. Any reference in this	287
chapter to the Internal Revenue Code includes other laws of the	288
United States relating to federal income taxes.	289
As used in this chapter:	290
(A) "Adjusted gross income" or "Ohio adjusted gross	291
income" means federal adjusted gross income, as defined and used	292
in the Internal Revenue Code, adjusted as provided in this	293
section:	294
(1) Add interest or dividends on obligations or securities	295
of any state or of any political subdivision or authority of any	296
state, other than this state and its subdivisions and	297
authorities.	298
(2) Add interest or dividends on obligations of any	299
authority, commission, instrumentality, territory, or possession	300
of the United States to the extent that the interest or	301
dividends are exempt from federal income taxes but not from	302
state income taxes.	303
(3) Deduct interest or dividends on obligations of the	304
United States and its territories and possessions or of any	305
authority, commission, or instrumentality of the United States	306
to the extent that the interest or dividends are included in	307

federal adjusted gross income but exempt from state income taxes 308  
under the laws of the United States. 309

(4) Deduct disability and survivor's benefits to the 310  
extent included in federal adjusted gross income. 311

(5) Deduct benefits under Title II of the Social Security 312  
Act and tier 1 railroad retirement benefits to the extent 313  
included in federal adjusted gross income under section 86 of 314  
the Internal Revenue Code. 315

(6) In the case of a taxpayer who is a beneficiary of a 316  
trust that makes an accumulation distribution as defined in 317  
section 665 of the Internal Revenue Code, add, for the 318  
beneficiary's taxable years beginning before 2002, the portion, 319  
if any, of such distribution that does not exceed the 320  
undistributed net income of the trust for the three taxable 321  
years preceding the taxable year in which the distribution is 322  
made to the extent that the portion was not included in the 323  
trust's taxable income for any of the trust's taxable years 324  
beginning in 2002 or thereafter. "Undistributed net income of a 325  
trust" means the taxable income of the trust increased by (a) (i) 326  
the additions to adjusted gross income required under division 327  
(A) of this section and (ii) the personal exemptions allowed to 328  
the trust pursuant to section 642(b) of the Internal Revenue 329  
Code, and decreased by (b) (i) the deductions to adjusted gross 330  
income required under division (A) of this section, (ii) the 331  
amount of federal income taxes attributable to such income, and 332  
(iii) the amount of taxable income that has been included in the 333  
adjusted gross income of a beneficiary by reason of a prior 334  
accumulation distribution. Any undistributed net income included 335  
in the adjusted gross income of a beneficiary shall reduce the 336  
undistributed net income of the trust commencing with the 337

earliest years of the accumulation period.	338
(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.	339 340 341 342 343 344
(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.	345 346 347 348
(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.	349 350 351 352
(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.	353 354 355 356
(11) (a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A) (11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on	357 358 359 360 361 362 363 364 365 366

application would be entitled to, benefits under part A of Title 367  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 368  
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 369  
of this section, "subsidized health plan" means a health plan 370  
for which the employer pays any portion of the plan's cost. The 371  
deduction allowed under division (A) (11) (a) of this section 372  
shall be the net of any related premium refunds, related premium 373  
reimbursements, or related insurance premium dividends received 374  
during the taxable year. 375

(b) Deduct, to the extent not otherwise deducted or 376  
excluded in computing federal or Ohio adjusted gross income 377  
during the taxable year, the amount the taxpayer paid during the 378  
taxable year, not compensated for by any insurance or otherwise, 379  
for medical care of the taxpayer, the taxpayer's spouse, and 380  
dependents, to the extent the expenses exceed seven and one-half 381  
per cent of the taxpayer's federal adjusted gross income. 382

(c) Deduct, to the extent not otherwise deducted or 383  
excluded in computing federal or Ohio adjusted gross income, any 384  
amount included in federal adjusted gross income under section 385  
105 or not excluded under section 106 of the Internal Revenue 386  
Code solely because it relates to an accident and health plan 387  
for a person who otherwise would be a "qualifying relative" and 388  
thus a "dependent" under section 152 of the Internal Revenue 389  
Code but for the fact that the person fails to meet the income 390  
and support limitations under section 152(d) (1) (B) and (C) of 391  
the Internal Revenue Code. 392

(d) For purposes of division (A) (11) of this section, 393  
"medical care" has the meaning given in section 213 of the 394  
Internal Revenue Code, subject to the special rules, 395  
limitations, and exclusions set forth therein, and "qualified 396

long-term care" has the same meaning given in section 7702B(c) 397  
of the Internal Revenue Code. Solely for purposes of divisions 398  
(A) (11) (a) and (c) of this section, "dependent" includes a 399  
person who otherwise would be a "qualifying relative" and thus a 400  
"dependent" under section 152 of the Internal Revenue Code but 401  
for the fact that the person fails to meet the income and 402  
support limitations under section 152(d) (1) (B) and (C) of the 403  
Internal Revenue Code. 404

(12) (a) Deduct any amount included in federal adjusted 405  
gross income solely because the amount represents a 406  
reimbursement or refund of expenses that in any year the 407  
taxpayer had deducted as an itemized deduction pursuant to 408  
section 63 of the Internal Revenue Code and applicable United 409  
States department of the treasury regulations. The deduction 410  
otherwise allowed under division (A) (12) (a) of this section 411  
shall be reduced to the extent the reimbursement is attributable 412  
to an amount the taxpayer deducted under this section in any 413  
taxable year. 414

(b) Add any amount not otherwise included in Ohio adjusted 415  
gross income for any taxable year to the extent that the amount 416  
is attributable to the recovery during the taxable year of any 417  
amount deducted or excluded in computing federal or Ohio 418  
adjusted gross income in any taxable year. 419

(13) Deduct any portion of the deduction described in 420  
section 1341(a) (2) of the Internal Revenue Code, for repaying 421  
previously reported income received under a claim of right, that 422  
meets both of the following requirements: 423

(a) It is allowable for repayment of an item that was 424  
included in the taxpayer's adjusted gross income for a prior 425  
taxable year and did not qualify for a credit under division (A) 426

or (B) of section 5747.05 of the Revised Code for that year;	427
(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	428 429
(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.	430 431 432 433 434 435 436
(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;	437 438 439 440 441 442
(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.	443 444 445
(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:	446 447 448
(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;	449 450 451 452
(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.	453 454 455

(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.

(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 this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

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

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 486  
(v) of this section, add five-sixths of the amount of 487  
depreciation expense allowed by subsection (k) of section 168 of 488  
the Internal Revenue Code, including the taxpayer's 489  
proportionate or distributive share of the amount of 490  
depreciation expense allowed by that subsection to a pass- 491  
through entity in which the taxpayer has a direct or indirect 492  
ownership interest. 493

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 494  
of this section, add five-sixths of the amount of qualifying 495  
section 179 depreciation expense, including the taxpayer's 496  
proportionate or distributive share of the amount of qualifying 497  
section 179 depreciation expense allowed to any pass-through 498  
entity in which the taxpayer has a direct or indirect ownership 499  
interest. 500

(iii) Subject to division (A) (20) (a) (v) of this section, 501  
for taxable years beginning in 2012 or thereafter, if the 502  
increase in income taxes withheld by the taxpayer is equal to or 503  
greater than ten per cent of income taxes withheld by the 504  
taxpayer during the taxpayer's immediately preceding taxable 505  
year, "two-thirds" shall be substituted for "five-sixths" for 506  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 507

(iv) Subject to division (A) (20) (a) (v) of this section, 508  
for taxable years beginning in 2012 or thereafter, a taxpayer is 509  
not required to add an amount under division (A) (20) of this 510  
section if the increase in income taxes withheld by the taxpayer 511  
and by any pass-through entity in which the taxpayer has a 512  
direct or indirect ownership interest is equal to or greater 513  
than the sum of (I) the amount of qualifying section 179 514  
depreciation expense and (II) the amount of depreciation expense 515

allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

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

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

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

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

(d) For the purposes of division (A) (20) (a) (v) of this section, net operating loss carryback and carryforward shall not

include the allowance of any net operating loss deduction 545  
carryback or carryforward to the taxable year to the extent such 546  
loss resulted from depreciation allowed by section 168(k) of the 547  
Internal Revenue Code and by the qualifying section 179 548  
depreciation expense amount. 549

(e) For the purposes of divisions (A) (20) and (21) of this 550  
section: 551

(i) "Income taxes withheld" means the total amount 552  
withheld and remitted under sections 5747.06 and 5747.07 of the 553  
Revised Code by an employer during the employer's taxable year. 554

(ii) "Increase in income taxes withheld" means the amount 555  
by which the amount of income taxes withheld by an employer 556  
during the employer's current taxable year exceeds the amount of 557  
income taxes withheld by that employer during the employer's 558  
immediately preceding taxable year. 559

(iii) "Qualifying section 179 depreciation expense" means 560  
the difference between (I) the amount of depreciation expense 561  
directly or indirectly allowed to a taxpayer under section 179 562  
of the Internal Revised Code, and (II) the amount of 563  
depreciation expense directly or indirectly allowed to the 564  
taxpayer under section 179 of the Internal Revenue Code as that 565  
section existed on December 31, 2002. 566

(21) (a) If the taxpayer was required to add an amount 567  
under division (A) (20) (a) of this section for a taxable year, 568  
deduct one of the following: 569

(i) One-fifth of the amount so added for each of the five 570  
succeeding taxable years if the amount so added was five-sixths 571  
of qualifying section 179 depreciation expense or depreciation 572  
expense allowed by subsection (k) of section 168 of the Internal 573

Revenue Code;	574
(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;	575 576 577
(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.	578 579 580
(b) If the amount deducted under division (A) (21) (a) of this section is attributable to an add-back allocated under division (A) (20) (c) of this section, the amount deducted shall be sitused to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.	581 582 583 584 585 586 587 588
(c) No deduction is available under division (A) (21) (a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A) (21) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A) (20) (a) of this section has been deducted.	589 590 591 592 593 594 595 596 597 598 599 600 601
(d) No refund shall be allowed as a result of adjustments	602

made by division (A) (21) of this section. 603

(22) Deduct, to the extent not otherwise deducted or 604  
excluded in computing federal or Ohio adjusted gross income for 605  
the taxable year, the amount the taxpayer received during the 606  
taxable year as reimbursement for life insurance premiums under 607  
section 5919.31 of the Revised Code. 608

(23) Deduct, to the extent not otherwise deducted or 609  
excluded in computing federal or Ohio adjusted gross income for 610  
the taxable year, the amount the taxpayer received during the 611  
taxable year as a death benefit paid by the adjutant general 612  
under section 5919.33 of the Revised Code. 613

(24) Deduct, to the extent included in federal adjusted 614  
gross income and not otherwise allowable as a deduction or 615  
exclusion in computing federal or Ohio adjusted gross income for 616  
the taxable year, military pay and allowances received by the 617  
taxpayer during the taxable year for active duty service in the 618  
United States army, air force, navy, marine corps, or coast 619  
guard or reserve components thereof or the national guard. The 620  
deduction may not be claimed for military pay and allowances 621  
received by the taxpayer while the taxpayer is stationed in this 622  
state. 623

(25) Deduct, to the extent not otherwise allowable as a 624  
deduction or exclusion in computing federal or Ohio adjusted 625  
gross income for the taxable year and not otherwise compensated 626  
for by any other source, the amount of qualified organ donation 627  
expenses incurred by the taxpayer during the taxable year, not 628  
to exceed ten thousand dollars. A taxpayer may deduct qualified 629  
organ donation expenses only once for all taxable years 630  
beginning with taxable years beginning in 2007. 631

For the purposes of division (A) (25) of this section: 632

(a) "Human organ" means all or any portion of a human 633  
liver, pancreas, kidney, intestine, or lung, and any portion of 634  
human bone marrow. 635

(b) "Qualified organ donation expenses" means travel 636  
expenses, lodging expenses, and wages and salary forgone by a 637  
taxpayer in connection with the taxpayer's donation, while 638  
living, of one or more of the taxpayer's human organs to another 639  
human being. 640

(26) Deduct, to the extent not otherwise deducted or 641  
excluded in computing federal or Ohio adjusted gross income for 642  
the taxable year, amounts received by the taxpayer as retired 643  
personnel pay for service in the uniformed services or reserve 644  
components thereof, or the national guard, or received by the 645  
surviving spouse or former spouse of such a taxpayer under the 646  
survivor benefit plan on account of such a taxpayer's death. If 647  
the taxpayer receives income on account of retirement paid under 648  
the federal civil service retirement system or federal employees 649  
retirement system, or under any successor retirement program 650  
enacted by the congress of the United States that is established 651  
and maintained for retired employees of the United States 652  
government, and such retirement income is based, in whole or in 653  
part, on credit for the taxpayer's uniformed service, the 654  
deduction allowed under this division shall include only that 655  
portion of such retirement income that is attributable to the 656  
taxpayer's uniformed service, to the extent that portion of such 657  
retirement income is otherwise included in federal adjusted 658  
gross income and is not otherwise deducted under this section. 659  
Any amount deducted under division (A) (26) of this section is 660  
not included in a taxpayer's adjusted gross income for the 661

purposes of section 5747.055 of the Revised Code. No amount may 662  
be deducted under division (A) (26) of this section on the basis 663  
of which a credit was claimed under section 5747.055 of the 664  
Revised Code. 665

(27) Deduct, to the extent not otherwise deducted or 666  
excluded in computing federal or Ohio adjusted gross income for 667  
the taxable year, the amount the taxpayer received during the 668  
taxable year from the military injury relief fund created in 669  
section 5902.05 of the Revised Code. 670

(28) Deduct, to the extent not otherwise deducted or 671  
excluded in computing federal or Ohio adjusted gross income for 672  
the taxable year, the amount the taxpayer received as a veterans 673  
bonus during the taxable year from the Ohio department of 674  
veterans services as authorized by Section 2r of Article VIII, 675  
Ohio Constitution. 676

(29) Deduct, to the extent not otherwise deducted or 677  
excluded in computing federal or Ohio adjusted gross income for 678  
the taxable year, any income derived from a transfer agreement 679  
or from the enterprise transferred under that agreement under 680  
section 4313.02 of the Revised Code. 681

(30) Deduct, to the extent not otherwise deducted or 682  
excluded in computing federal or Ohio adjusted gross income for 683  
the taxable year, Ohio college opportunity or federal Pell grant 684  
amounts received by the taxpayer or the taxpayer's spouse or 685  
dependent pursuant to section 3333.122 of the Revised Code or 20 686  
U.S.C. 1070a, et seq., and used to pay room or board furnished 687  
by the educational institution for which the grant was awarded 688  
at the institution's facilities, including meal plans 689  
administered by the institution. For the purposes of this 690  
division, receipt of a grant includes the distribution of a 691

grant directly to an educational institution and the crediting 692  
of the grant to the enrollee's account with the institution. 693

(31) (a) For taxable years beginning in 2015, deduct from 694  
the portion of an individual's adjusted gross income that is 695  
business income, to the extent not otherwise deducted or 696  
excluded in computing federal or Ohio adjusted gross income for 697  
the taxable year, the lesser of the following amounts: 698

(i) Seventy-five per cent of the individual's business 699  
income; 700

(ii) Ninety-three thousand seven hundred fifty dollars for 701  
each spouse if spouses file separate returns under section 702  
5747.08 of the Revised Code or one hundred eighty-seven thousand 703  
five hundred dollars for all other individuals. 704

(b) For taxable years beginning in 2016 or thereafter, 705  
deduct from the portion of an individual's adjusted gross income 706  
that is business income, to the extent not otherwise deducted or 707  
excluded in computing federal adjusted gross income for the 708  
taxable year, one hundred twenty-five thousand dollars for each 709  
spouse if spouses file separate returns under section 5747.08 of 710  
the Revised Code or two hundred fifty thousand dollars for all 711  
other individuals. 712

(32) Deduct, as provided under section 5747.78 of the 713  
Revised Code, contributions to ABLE savings accounts made in 714  
accordance with sections 113.50 to 113.56 of the Revised Code. 715

(33) (a) Deduct, to the extent not otherwise deducted or 716  
excluded in computing federal or Ohio adjusted gross income 717  
during the taxable year, all of the following: 718

(i) Compensation paid to a qualifying employee described 719  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 720

the extent such compensation is for disaster work conducted in 721  
this state during a disaster response period pursuant to a 722  
qualifying solicitation received by the employee's employer; 723

(ii) Compensation paid to a qualifying employee described 724  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 725  
the extent such compensation is for disaster work conducted in 726  
this state by the employee during the disaster response period 727  
on critical infrastructure owned or used by the employee's 728  
employer; 729

(iii) Income received by an out-of-state disaster business 730  
for disaster work conducted in this state during a disaster 731  
response period, or, if the out-of-state disaster business is a 732  
pass-through entity, a taxpayer's distributive share of the 733  
pass-through entity's income from the business conducting 734  
disaster work in this state during a disaster response period, 735  
if, in either case, the disaster work is conducted pursuant to a 736  
qualifying solicitation received by the business. 737

(b) All terms used in division (A) (33) of this section 738  
have the same meanings as in section 5703.94 of the Revised 739  
Code. 740

(34) (a) Deduct the amounts described in division (A) of 741  
section 193.05 of the Revised Code pertaining to deposits made 742  
to, and the interest and other income on the principal balance 743  
of, a first-time home buyer savings account during the taxable 744  
year. The deduction allowed by division (A) (34) (a) of this 745  
section does not apply to first-time home buyer savings account 746  
deposits and earnings otherwise deducted or excluded for the 747  
current or any other taxable year from the taxpayer's federal 748  
adjusted gross income. 749

(b) Add the amounts described in division (B) of section 750  
193.05 of the Revised Code pertaining to withdrawals from a 751  
first-time home buyer savings account during the taxable year 752  
that are not used to pay eligible costs for the purchase of a 753  
single-family residence by a qualified beneficiary, investment 754  
earnings on such withdrawals, and amounts remaining in a first- 755  
time home buyer savings account on the thirty-first day of 756  
December of the fourteenth taxable year following the date the 757  
account was opened. 758

(B) "Business income" means income, including gain or 759  
loss, arising from transactions, activities, and sources in the 760  
regular course of a trade or business and includes income, gain, 761  
or loss from real property, tangible property, and intangible 762  
property if the acquisition, rental, management, and disposition 763  
of the property constitute integral parts of the regular course 764  
of a trade or business operation. "Business income" includes 765  
income, including gain or loss, from a partial or complete 766  
liquidation of a business, including, but not limited to, gain 767  
or loss from the sale or other disposition of goodwill. 768

(C) "Nonbusiness income" means all income other than 769  
business income and may include, but is not limited to, 770  
compensation, rents and royalties from real or tangible personal 771  
property, capital gains, interest, dividends and distributions, 772  
patent or copyright royalties, or lottery winnings, prizes, and 773  
awards. 774

(D) "Compensation" means any form of remuneration paid to 775  
an employee for personal services. 776

(E) "Fiduciary" means a guardian, trustee, executor, 777  
administrator, receiver, conservator, or any other person acting 778  
in any fiduciary capacity for any individual, trust, or estate. 779

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	780 781
(G) "Individual" means any natural person.	782
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	783 784
(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:	785 786 787
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	788 789
(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.	790 791 792 793
(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.	794 795 796
For the purposes of division (I) (3) of this section:	797
(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:	798 799 800 801 802 803
(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;	804 805 806 807

(ii) A person who was domiciled in this state for the 808  
purposes of this chapter when the person directly or indirectly 809  
transferred assets to an irrevocable trust, but only if at least 810  
one of the trust's qualifying beneficiaries is domiciled in this 811  
state for the purposes of this chapter during all or some 812  
portion of the trust's current taxable year; 813

(iii) A person who was domiciled in this state for the 814  
purposes of this chapter when the trust document or instrument 815  
or part of the trust document or instrument became irrevocable, 816  
but only if at least one of the trust's qualifying beneficiaries 817  
is a resident domiciled in this state for the purposes of this 818  
chapter during all or some portion of the trust's current 819  
taxable year. If a trust document or instrument became 820  
irrevocable upon the death of a person who at the time of death 821  
was domiciled in this state for purposes of this chapter, that 822  
person is a person described in division (I) (3) (a) (iii) of this 823  
section. 824

(b) A trust is irrevocable to the extent that the 825  
transferor is not considered to be the owner of the net assets 826  
of the trust under sections 671 to 678 of the Internal Revenue 827  
Code. 828

(c) With respect to a trust other than a charitable lead 829  
trust, "qualifying beneficiary" has the same meaning as 830  
"potential current beneficiary" as defined in section 1361(e) (2) 831  
of the Internal Revenue Code, and with respect to a charitable 832  
lead trust "qualifying beneficiary" is any current, future, or 833  
contingent beneficiary, but with respect to any trust 834  
"qualifying beneficiary" excludes a person or a governmental 835  
entity or instrumentality to any of which a contribution would 836  
qualify for the charitable deduction under section 170 of the 837

Internal Revenue Code. 838

(d) For the purposes of division (I)(3)(a) of this 839  
section, the extent to which a trust consists directly or 840  
indirectly, in whole or in part, of assets, net of any related 841  
liabilities, that were transferred directly or indirectly, in 842  
whole or part, to the trust by any of the sources enumerated in 843  
that division shall be ascertained by multiplying the fair 844  
market value of the trust's assets, net of related liabilities, 845  
by the qualifying ratio, which shall be computed as follows: 846

(i) The first time the trust receives assets, the 847  
numerator of the qualifying ratio is the fair market value of 848  
those assets at that time, net of any related liabilities, from 849  
sources enumerated in division (I)(3)(a) of this section. The 850  
denominator of the qualifying ratio is the fair market value of 851  
all the trust's assets at that time, net of any related 852  
liabilities. 853

(ii) Each subsequent time the trust receives assets, a 854  
revised qualifying ratio shall be computed. The numerator of the 855  
revised qualifying ratio is the sum of (1) the fair market value 856  
of the trust's assets immediately prior to the subsequent 857  
transfer, net of any related liabilities, multiplied by the 858  
qualifying ratio last computed without regard to the subsequent 859  
transfer, and (2) the fair market value of the subsequently 860  
transferred assets at the time transferred, net of any related 861  
liabilities, from sources enumerated in division (I)(3)(a) of 862  
this section. The denominator of the revised qualifying ratio is 863  
the fair market value of all the trust's assets immediately 864  
after the subsequent transfer, net of any related liabilities. 865

(iii) Whether a transfer to the trust is by or from any of 866  
the sources enumerated in division (I)(3)(a) of this section 867

shall be ascertained without regard to the domicile of the 868  
trust's beneficiaries. 869

(e) For the purposes of division (I) (3) (a) (i) of this 870  
section: 871

(i) A trust is described in division (I) (3) (e) (i) of this 872  
section if the trust is a testamentary trust and the testator of 873  
that testamentary trust was domiciled in this state at the time 874  
of the testator's death for purposes of the taxes levied under 875  
Chapter 5731. of the Revised Code. 876

(ii) A trust is described in division (I) (3) (e) (ii) of 877  
this section if the transfer is a qualifying transfer described 878  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 879  
trust is an irrevocable inter vivos trust, and at least one of 880  
the trust's qualifying beneficiaries is domiciled in this state 881  
for purposes of this chapter during all or some portion of the 882  
trust's current taxable year. 883

(f) For the purposes of division (I) (3) (e) (ii) of this 884  
section, a "qualifying transfer" is a transfer of assets, net of 885  
any related liabilities, directly or indirectly to a trust, if 886  
the transfer is described in any of the following: 887

(i) The transfer is made to a trust, created by the 888  
decedent before the decedent's death and while the decedent was 889  
domiciled in this state for the purposes of this chapter, and, 890  
prior to the death of the decedent, the trust became irrevocable 891  
while the decedent was domiciled in this state for the purposes 892  
of this chapter. 893

(ii) The transfer is made to a trust to which the 894  
decedent, prior to the decedent's death, had directly or 895  
indirectly transferred assets, net of any related liabilities, 896

while the decedent was domiciled in this state for the purposes 897  
of this chapter, and prior to the death of the decedent the 898  
trust became irrevocable while the decedent was domiciled in 899  
this state for the purposes of this chapter. 900

(iii) The transfer is made on account of a contractual 901  
relationship existing directly or indirectly between the 902  
transferor and either the decedent or the estate of the decedent 903  
at any time prior to the date of the decedent's death, and the 904  
decedent was domiciled in this state at the time of death for 905  
purposes of the taxes levied under Chapter 5731. of the Revised 906  
Code. 907

(iv) The transfer is made to a trust on account of a 908  
contractual relationship existing directly or indirectly between 909  
the transferor and another person who at the time of the 910  
decedent's death was domiciled in this state for purposes of 911  
this chapter. 912

(v) The transfer is made to a trust on account of the will 913  
of a testator who was domiciled in this state at the time of the 914  
testator's death for purposes of the taxes levied under Chapter 915  
5731. of the Revised Code. 916

(vi) The transfer is made to a trust created by or caused 917  
to be created by a court, and the trust was directly or 918  
indirectly created in connection with or as a result of the 919  
death of an individual who, for purposes of the taxes levied 920  
under Chapter 5731. of the Revised Code, was domiciled in this 921  
state at the time of the individual's death. 922

(g) The tax commissioner may adopt rules to ascertain the 923  
part of a trust residing in this state. 924

(J) "Nonresident" means an individual or estate that is 925

not a resident. An individual who is a resident for only part of 926  
a taxable year is a nonresident for the remainder of that 927  
taxable year. 928

(K) "Pass-through entity" has the same meaning as in 929  
section 5733.04 of the Revised Code. 930

(L) "Return" means the notifications and reports required 931  
to be filed pursuant to this chapter for the purpose of 932  
reporting the tax due and includes declarations of estimated tax 933  
when so required. 934

(M) "Taxable year" means the calendar year or the 935  
taxpayer's fiscal year ending during the calendar year, or 936  
fractional part thereof, upon which the adjusted gross income is 937  
calculated pursuant to this chapter. 938

(N) "Taxpayer" means any person subject to the tax imposed 939  
by section 5747.02 of the Revised Code or any pass-through 940  
entity that makes the election under division (D) of section 941  
5747.08 of the Revised Code. 942

(O) "Dependents" means dependents as defined in the 943  
Internal Revenue Code and as claimed in the taxpayer's federal 944  
income tax return for the taxable year or which the taxpayer 945  
would have been permitted to claim had the taxpayer filed a 946  
federal income tax return. 947

(P) "Principal county of employment" means, in the case of 948  
a nonresident, the county within the state in which a taxpayer 949  
performs services for an employer or, if those services are 950  
performed in more than one county, the county in which the major 951  
portion of the services are performed. 952

(Q) As used in sections 5747.50 to 5747.55 of the Revised 953  
Code: 954

(1) "Subdivision" means any county, municipal corporation,	955
park district, or township.	956
(2) "Essential local government purposes" includes all	957
functions that any subdivision is required by general law to	958
exercise, including like functions that are exercised under a	959
charter adopted pursuant to the Ohio Constitution.	960
(R) "Overpayment" means any amount already paid that	961
exceeds the figure determined to be the correct amount of the	962
tax.	963
(S) "Taxable income" or "Ohio taxable income" applies only	964
to estates and trusts, and means federal taxable income, as	965
defined and used in the Internal Revenue Code, adjusted as	966
follows:	967
(1) Add interest or dividends, net of ordinary, necessary,	968
and reasonable expenses not deducted in computing federal	969
taxable income, on obligations or securities of any state or of	970
any political subdivision or authority of any state, other than	971
this state and its subdivisions and authorities, but only to the	972
extent that such net amount is not otherwise includible in Ohio	973
taxable income and is described in either division (S) (1) (a) or	974
(b) of this section:	975
(a) The net amount is not attributable to the S portion of	976
an electing small business trust and has not been distributed to	977
beneficiaries for the taxable year;	978
(b) The net amount is attributable to the S portion of an	979
electing small business trust for the taxable year.	980
(2) Add interest or dividends, net of ordinary, necessary,	981
and reasonable expenses not deducted in computing federal	982
taxable income, on obligations of any authority, commission,	983

instrumentality, territory, or possession of the United States 984  
to the extent that the interest or dividends are exempt from 985  
federal income taxes but not from state income taxes, but only 986  
to the extent that such net amount is not otherwise includible 987  
in Ohio taxable income and is described in either division (S) 988  
(1) (a) or (b) of this section; 989

(3) Add the amount of personal exemption allowed to the 990  
estate pursuant to section 642(b) of the Internal Revenue Code; 991

(4) Deduct interest or dividends, net of related expenses 992  
deducted in computing federal taxable income, on obligations of 993  
the United States and its territories and possessions or of any 994  
authority, commission, or instrumentality of the United States 995  
to the extent that the interest or dividends are exempt from 996  
state taxes under the laws of the United States, but only to the 997  
extent that such amount is included in federal taxable income 998  
and is described in either division (S) (1) (a) or (b) of this 999  
section; 1000

(5) Deduct the amount of wages and salaries, if any, not 1001  
otherwise allowable as a deduction but that would have been 1002  
allowable as a deduction in computing federal taxable income for 1003  
the taxable year, had the targeted jobs credit allowed under 1004  
sections 38, 51, and 52 of the Internal Revenue Code not been in 1005  
effect, but only to the extent such amount relates either to 1006  
income included in federal taxable income for the taxable year 1007  
or to income of the S portion of an electing small business 1008  
trust for the taxable year; 1009

(6) Deduct any interest or interest equivalent, net of 1010  
related expenses deducted in computing federal taxable income, 1011  
on public obligations and purchase obligations, but only to the 1012  
extent that such net amount relates either to income included in 1013

federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

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

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

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

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

(10) Deduct any portion of the deduction described in 1043  
section 1341(a) (2) of the Internal Revenue Code, for repaying 1044  
previously reported income received under a claim of right, that 1045  
meets both of the following requirements: 1046

(a) It is allowable for repayment of an item that was 1047  
included in the taxpayer's taxable income or the decedent's 1048  
adjusted gross income for a prior taxable year and did not 1049  
qualify for a credit under division (A) or (B) of section 1050  
5747.05 of the Revised Code for that year. 1051

(b) It does not otherwise reduce the taxpayer's taxable 1052  
income or the decedent's adjusted gross income for the current 1053  
or any other taxable year. 1054

(11) Add any amount claimed as a credit under section 1055  
5747.059 or 5747.65 of the Revised Code to the extent that the 1056  
amount satisfies either of the following: 1057

(a) The amount was deducted or excluded from the 1058  
computation of the taxpayer's federal taxable income as required 1059  
to be reported for the taxpayer's taxable year under the 1060  
Internal Revenue Code; 1061

(b) The amount resulted in a reduction in the taxpayer's 1062  
federal taxable income as required to be reported for any of the 1063  
taxpayer's taxable years under the Internal Revenue Code. 1064

(12) Deduct any amount, net of related expenses deducted 1065  
in computing federal taxable income, that a trust is required to 1066  
report as farm income on its federal income tax return, but only 1067  
if the assets of the trust include at least ten acres of land 1068  
satisfying the definition of "land devoted exclusively to 1069  
agricultural use" under section 5713.30 of the Revised Code, 1070  
regardless of whether the land is valued for tax purposes as 1071

such land under sections 5713.30 to 5713.38 of the Revised Code. 1072  
If the trust is a pass-through entity investor, section 5747.231 1073  
of the Revised Code applies in ascertaining if the trust is 1074  
eligible to claim the deduction provided by division (S)(12) of 1075  
this section in connection with the pass-through entity's farm 1076  
income. 1077

Except for farm income attributable to the S portion of an 1078  
electing small business trust, the deduction provided by 1079  
division (S)(12) of this section is allowed only to the extent 1080  
that the trust has not distributed such farm income. Division 1081  
(S)(12) of this section applies only to taxable years of a trust 1082  
beginning in 2002 or thereafter. 1083

(13) Add the net amount of income described in section 1084  
641(c) of the Internal Revenue Code to the extent that amount is 1085  
not included in federal taxable income. 1086

(14) Add or deduct the amount the taxpayer would be 1087  
required to add or deduct under division (A)(20) or (21) of this 1088  
section if the taxpayer's Ohio taxable income were computed in 1089  
the same manner as an individual's Ohio adjusted gross income is 1090  
computed under this section. In the case of a trust, division 1091  
(S)(14) of this section applies only to any of the trust's 1092  
taxable years beginning in 2002 or thereafter. 1093

(T) "School district income" and "school district income 1094  
tax" have the same meanings as in section 5748.01 of the Revised 1095  
Code. 1096

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S) 1097  
(7) of this section, "public obligations," "purchase 1098  
obligations," and "interest or interest equivalent" have the 1099  
same meanings as in section 5709.76 of the Revised Code. 1100

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

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

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

(Y) "Month" means a calendar month.

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

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

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary

education during a maximum of five taxable years, not exceeding 1130  
a total of five thousand dollars. "Qualified tuition and fees" 1131  
does not include: 1132

(a) Expenses for any course or activity involving sports, 1133  
games, or hobbies unless the course or activity is part of the 1134  
individual's degree or diploma program; 1135

(b) The cost of books, room and board, student activity 1136  
fees, athletic fees, insurance expenses, or other expenses 1137  
unrelated to the individual's academic course of instruction; 1138

(c) Tuition, fees, or other expenses paid or reimbursed 1139  
through an employer, scholarship, grant in aid, or other 1140  
educational benefit program. 1141

(BB) (1) "Modified business income" means the business 1142  
income included in a trust's Ohio taxable income after such 1143  
taxable income is first reduced by the qualifying trust amount, 1144  
if any. 1145

(2) "Qualifying trust amount" of a trust means capital 1146  
gains and losses from the sale, exchange, or other disposition 1147  
of equity or ownership interests in, or debt obligations of, a 1148  
qualifying investee to the extent included in the trust's Ohio 1149  
taxable income, but only if the following requirements are 1150  
satisfied: 1151

(a) The book value of the qualifying investee's physical 1152  
assets in this state and everywhere, as of the last day of the 1153  
qualifying investee's fiscal or calendar year ending immediately 1154  
prior to the date on which the trust recognizes the gain or 1155  
loss, is available to the trust. 1156

(b) The requirements of section 5747.011 of the Revised 1157  
Code are satisfied for the trust's taxable year in which the 1158

trust recognizes the gain or loss. 1159

Any gain or loss that is not a qualifying trust amount is 1160  
modified business income, qualifying investment income, or 1161  
modified nonbusiness income, as the case may be. 1162

(3) "Modified nonbusiness income" means a trust's Ohio 1163  
taxable income other than modified business income, other than 1164  
the qualifying trust amount, and other than qualifying 1165  
investment income, as defined in section 5747.012 of the Revised 1166  
Code, to the extent such qualifying investment income is not 1167  
otherwise part of modified business income. 1168

(4) "Modified Ohio taxable income" applies only to trusts, 1169  
and means the sum of the amounts described in divisions (BB) (4) 1170  
(a) to (c) of this section: 1171

(a) The fraction, calculated under section 5747.013, and 1172  
applying section 5747.231 of the Revised Code, multiplied by the 1173  
sum of the following amounts: 1174

(i) The trust's modified business income; 1175

(ii) The trust's qualifying investment income, as defined 1176  
in section 5747.012 of the Revised Code, but only to the extent 1177  
the qualifying investment income does not otherwise constitute 1178  
modified business income and does not otherwise constitute a 1179  
qualifying trust amount. 1180

(b) The qualifying trust amount multiplied by a fraction, 1181  
the numerator of which is the sum of the book value of the 1182  
qualifying investee's physical assets in this state on the last 1183  
day of the qualifying investee's fiscal or calendar year ending 1184  
immediately prior to the day on which the trust recognizes the 1185  
qualifying trust amount, and the denominator of which is the sum 1186  
of the book value of the qualifying investee's total physical 1187

assets everywhere on the last day of the qualifying investee's 1188  
fiscal or calendar year ending immediately prior to the day on 1189  
which the trust recognizes the qualifying trust amount. If, for 1190  
a taxable year, the trust recognizes a qualifying trust amount 1191  
with respect to more than one qualifying investee, the amount 1192  
described in division (BB) (4) (b) of this section shall equal the 1193  
sum of the products so computed for each such qualifying 1194  
investee. 1195

(c) (i) With respect to a trust or portion of a trust that 1196  
is a resident as ascertained in accordance with division (I) (3) 1197  
(d) of this section, its modified nonbusiness income. 1198

(ii) With respect to a trust or portion of a trust that is 1199  
not a resident as ascertained in accordance with division (I) (3) 1200  
(d) of this section, the amount of its modified nonbusiness 1201  
income satisfying the descriptions in divisions (B) (2) to (5) of 1202  
section 5747.20 of the Revised Code, except as otherwise 1203  
provided in division (BB) (4) (c) (ii) of this section. With 1204  
respect to a trust or portion of a trust that is not a resident 1205  
as ascertained in accordance with division (I) (3) (d) of this 1206  
section, the trust's portion of modified nonbusiness income 1207  
recognized from the sale, exchange, or other disposition of a 1208  
debt interest in or equity interest in a section 5747.212 1209  
entity, as defined in section 5747.212 of the Revised Code, 1210  
without regard to division (A) of that section, shall not be 1211  
allocated to this state in accordance with section 5747.20 of 1212  
the Revised Code but shall be apportioned to this state in 1213  
accordance with division (B) of section 5747.212 of the Revised 1214  
Code without regard to division (A) of that section. 1215

If the allocation and apportionment of a trust's income 1216  
under divisions (BB) (4) (a) and (c) of this section do not fairly 1217

represent the modified Ohio taxable income of the trust in this 1218  
state, the alternative methods described in division (C) of 1219  
section 5747.21 of the Revised Code may be applied in the manner 1220  
and to the same extent provided in that section. 1221

(5) (a) Except as set forth in division (BB) (5) (b) of this 1222  
section, "qualifying investee" means a person in which a trust 1223  
has an equity or ownership interest, or a person or unit of 1224  
government the debt obligations of either of which are owned by 1225  
a trust. For the purposes of division (BB) (2) (a) of this section 1226  
and for the purpose of computing the fraction described in 1227  
division (BB) (4) (b) of this section, all of the following apply: 1228

(i) If the qualifying investee is a member of a qualifying 1229  
controlled group on the last day of the qualifying investee's 1230  
fiscal or calendar year ending immediately prior to the date on 1231  
which the trust recognizes the gain or loss, then "qualifying 1232  
investee" includes all persons in the qualifying controlled 1233  
group on such last day. 1234

(ii) If the qualifying investee, or if the qualifying 1235  
investee and any members of the qualifying controlled group of 1236  
which the qualifying investee is a member on the last day of the 1237  
qualifying investee's fiscal or calendar year ending immediately 1238  
prior to the date on which the trust recognizes the gain or 1239  
loss, separately or cumulatively own, directly or indirectly, on 1240  
the last day of the qualifying investee's fiscal or calendar 1241  
year ending immediately prior to the date on which the trust 1242  
recognizes the qualifying trust amount, more than fifty per cent 1243  
of the equity of a pass-through entity, then the qualifying 1244  
investee and the other members are deemed to own the 1245  
proportionate share of the pass-through entity's physical assets 1246  
which the pass-through entity directly or indirectly owns on the 1247

last day of the pass-through entity's calendar or fiscal year 1248  
ending within or with the last day of the qualifying investee's 1249  
fiscal or calendar year ending immediately prior to the date on 1250  
which the trust recognizes the qualifying trust amount. 1251

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1252  
section, "upper level pass-through entity" means a pass-through 1253  
entity directly or indirectly owning any equity of another pass- 1254  
through entity, and "lower level pass-through entity" means that 1255  
other pass-through entity. 1256

An upper level pass-through entity, whether or not it is 1257  
also a qualifying investee, is deemed to own, on the last day of 1258  
the upper level pass-through entity's calendar or fiscal year, 1259  
the proportionate share of the lower level pass-through entity's 1260  
physical assets that the lower level pass-through entity 1261  
directly or indirectly owns on the last day of the lower level 1262  
pass-through entity's calendar or fiscal year ending within or 1263  
with the last day of the upper level pass-through entity's 1264  
fiscal or calendar year. If the upper level pass-through entity 1265  
directly and indirectly owns less than fifty per cent of the 1266  
equity of the lower level pass-through entity on each day of the 1267  
upper level pass-through entity's calendar or fiscal year in 1268  
which or with which ends the calendar or fiscal year of the 1269  
lower level pass-through entity and if, based upon clear and 1270  
convincing evidence, complete information about the location and 1271  
cost of the physical assets of the lower pass-through entity is 1272  
not available to the upper level pass-through entity, then 1273  
solely for purposes of ascertaining if a gain or loss 1274  
constitutes a qualifying trust amount, the upper level pass- 1275  
through entity shall be deemed as owning no equity of the lower 1276  
level pass-through entity for each day during the upper level 1277  
pass-through entity's calendar or fiscal year in which or with 1278

which ends the lower level pass-through entity's calendar or 1279  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1280  
shall be construed to provide for any deduction or exclusion in 1281  
computing any trust's Ohio taxable income. 1282

(b) With respect to a trust that is not a resident for the 1283  
taxable year and with respect to a part of a trust that is not a 1284  
resident for the taxable year, "qualifying investee" for that 1285  
taxable year does not include a C corporation if both of the 1286  
following apply: 1287

(i) During the taxable year the trust or part of the trust 1288  
recognizes a gain or loss from the sale, exchange, or other 1289  
disposition of equity or ownership interests in, or debt 1290  
obligations of, the C corporation. 1291

(ii) Such gain or loss constitutes nonbusiness income. 1292

(6) "Available" means information is such that a person is 1293  
able to learn of the information by the due date plus 1294  
extensions, if any, for filing the return for the taxable year 1295  
in which the trust recognizes the gain or loss. 1296

(CC) "Qualifying controlled group" has the same meaning as 1297  
in section 5733.04 of the Revised Code. 1298

(DD) "Related member" has the same meaning as in section 1299  
5733.042 of the Revised Code. 1300

(EE) (1) For the purposes of division (EE) of this section: 1301

(a) "Qualifying person" means any person other than a 1302  
qualifying corporation. 1303

(b) "Qualifying corporation" means any person classified 1304  
for federal income tax purposes as an association taxable as a 1305  
corporation, except either of the following: 1306

(i) A corporation that has made an election under 1307  
subchapter S, chapter one, subtitle A, of the Internal Revenue 1308  
Code for its taxable year ending within, or on the last day of, 1309  
the investor's taxable year; 1310

(ii) A subsidiary that is wholly owned by any corporation 1311  
that has made an election under subchapter S, chapter one, 1312  
subtitle A of the Internal Revenue Code for its taxable year 1313  
ending within, or on the last day of, the investor's taxable 1314  
year. 1315

(2) For the purposes of this chapter, unless expressly 1316  
stated otherwise, no qualifying person indirectly owns any asset 1317  
directly or indirectly owned by any qualifying corporation. 1318

(FF) For purposes of this chapter and Chapter 5751. of the 1319  
Revised Code: 1320

(1) "Trust" does not include a qualified pre-income tax 1321  
trust. 1322

(2) A "qualified pre-income tax trust" is any pre-income 1323  
tax trust that makes a qualifying pre-income tax trust election 1324  
as described in division (FF)(3) of this section. 1325

(3) A "qualifying pre-income tax trust election" is an 1326  
election by a pre-income tax trust to subject to the tax imposed 1327  
by section 5751.02 of the Revised Code the pre-income tax trust 1328  
and all pass-through entities of which the trust owns or 1329  
controls, directly, indirectly, or constructively through 1330  
related interests, five per cent or more of the ownership or 1331  
equity interests. The trustee shall notify the tax commissioner 1332  
in writing of the election on or before April 15, 2006. The 1333  
election, if timely made, shall be effective on and after 1334  
January 1, 2006, and shall apply for all tax periods and tax 1335

years until revoked by the trustee of the trust. 1336

(4) A "pre-income tax trust" is a trust that satisfies all 1337  
of the following requirements: 1338

(a) The document or instrument creating the trust was 1339  
executed by the grantor before January 1, 1972; 1340

(b) The trust became irrevocable upon the creation of the 1341  
trust; and 1342

(c) The grantor was domiciled in this state at the time 1343  
the trust was created. 1344

(GG) "Uniformed services" has the same meaning as in 10 1345  
U.S.C. 101. 1346

(HH) "Taxable business income" means the amount by which 1347  
an individual's business income that is included in federal 1348  
adjusted gross income exceeds the amount of business income the 1349  
individual is authorized to deduct under division (A) (31) of 1350  
this section for the taxable year. 1351

(II) "Employer" does not include a franchisor with respect 1352  
to the franchisor's relationship with a franchisee or an 1353  
employee of a franchisee, unless the franchisor agrees to assume 1354  
that role in writing or a court of competent jurisdiction 1355  
determines that the franchisor exercises a type or degree of 1356  
control over the franchisee or the franchisee's employees that 1357  
is not customarily exercised by a franchisor for the purpose of 1358  
protecting the franchisor's trademark, brand, or both. For 1359  
purposes of this division, "franchisor" and "franchisee" have 1360  
the same meanings as in 16 C.F.R. 436.1. 1361

**Section 2.** That existing section 5747.01 of the Revised 1362  
Code is hereby repealed. 1363

**Section 3.** This act shall be known as the "First-time Home  
Buyer Savings Act." 1364  
1365