A BILL

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

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

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

Sec. 193.01. As used in this chapter:

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

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

(C) "Eligible costs" means the down payment and allowable
closing costs for the purchase of a single-family residence in this state by a qualified beneficiary.

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

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

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

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

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

(I) "Single-family residence" means a dwelling, including a unit in a multiple-unit dwelling and a manufactured home or
mobile home, owned and occupied by a qualified beneficiary as a principal residence. A single-family residence includes so much of the land surrounding it as is reasonably necessary for the use of the dwelling or unit as a home.

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

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

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

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

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

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

(E) An individual may be designated as the qualified beneficiary on more than one first-time home buyer savings account only if the accounts are owned by different account holders.

(F) Only cash and marketable securities may be deposited to a first-time home buyer savings account.

(G) Any person may deposit money in a first-time home buyer savings account. There is no limitation on the amount of money that may be deposited to or retained in a first-time home buyer savings account. Only deposits made by an account holder qualify for the income tax deduction authorized under section 193.05 of the Revised Code.

Sec. 193.03. (A) For each taxable year that an account holder claims a deduction or is required to make an addition to the account holder's federal adjusted gross income under section 193.05 of the Revised Code, the account holder shall include the following information with the account holder's state income tax return filed pursuant to section 5747.08 of the Revised Code in the manner prescribed by the tax commissioner:

(1) A ledger listing the deposits to and withdrawals from each first-time home buyer savings account owned by the account holder during the taxable year, including debits for service fees associated with administering the account;

(2) The internal revenue service form 1099 issued pursuant to the Internal Revenue Code by the financial institution or financial institutions with which the account or accounts are held.

(B) In addition to the reporting requirements of division
(A) of this section, each time money is withdrawn from a first-time home buyer savings account for purposes other than reimbursing the financial institution with which the account is held for a service fee associated with administering the account, the account holder shall provide the following information to the department of taxation:

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

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

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

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

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

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

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

(1) Designate an account as a first-time home buyer savings account, or designate the qualified beneficiary of an
account, in the financial institution's account contracts or systems or in any other way;

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

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

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

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

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

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

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

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

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

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

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

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

(1) Amounts withdrawn from a first-time home buyer savings account owned by the account holder that are not transferred to another first-time home buyer savings account, debited by the financial institution with which the account is held to pay a service fee for administering the account, or used to pay eligible costs for the purchase of a single-family residence by a qualified beneficiary or to reimburse a qualified beneficiary for such eligible costs;
(2) Investment earnings during the taxable year on amounts withdrawn from the account that are described in division (B)(1) of this section;

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

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

(2) The total amount of deposits, interest, and other income deducted by an account holder under divisions (A)(1) and (2) of this section for all taxable years, regardless of how many first-time home buyer savings accounts the account holder owns, shall not exceed one hundred thousand dollars for spouses filing a joint income tax return under section 5747.08 of the Revised Code or fifty thousand dollars for all other account holders.
(3) No account holder may claim a deduction under division (A) of this section after the fourteenth taxable year following the taxable year in which the account holder first opens a first-time home buyer savings account under section 193.02 of the Revised Code.

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

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

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

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

(2) A disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101, et seq., more than one year after the date the
account was established under section 193.02 of the Revised Code or, if the account includes amounts transferred from other first-time home buyer savings accounts, more than one year after the earliest date that a first-time home buyer savings account from which the funds were transferred was established;

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

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

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

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

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

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

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

(C) The department of taxation shall prepare and distribute informational materials on the first-time home buyer account.
savings account program to financial institutions and potential home buyers to publicize the availability of the program.

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

As used in this chapter:

(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:

(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.

(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.

(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.

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

(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.

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

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(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:

(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;

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

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

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

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

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

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

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

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be sitused 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
carryback or carryforward to the taxable year to the extent such
loss resulted from depreciation allowed by section 168(k) of the
Internal Revenue Code and by the qualifying section 179
depreciation expense amount.

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

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

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

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

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

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

(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;

(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.

(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.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34)(a) Deduct the amounts described in division (A) of section 193.05 of the Revised Code pertaining to deposits made to, and the interest and other income on the principal balance of, a first-time home buyer savings account during the taxable year. The deduction allowed by division (A)(34)(a) of this section does not apply to first-time home buyer 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.
(b) Add the amounts described in division (B) of section 193.05 of the Revised Code pertaining to withdrawals from a first-time home buyer savings account during the taxable year that are not used to pay eligible costs for the purchase of a single-family residence by a qualified beneficiary, investment earnings on such withdrawals, and amounts remaining in a first-time home buyer savings account on the thirty-first day of December of the fourteenth taxable year following the date the account was opened.

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

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

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

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.


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

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

(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.

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

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

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

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

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

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

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the
(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:
(1) "Subdivision" means any county, municipal corporation, park district, or township.

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

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

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

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

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

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

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

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

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, 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 exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

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

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

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

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

(9) (a) Deduct any amount included in federal taxable
income 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 section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's 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.

(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.

(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:

(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;

(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.

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

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

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

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

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

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)
(7) of this section, "public obligations," "purchase
obligations," and "interest or interest equivalent" have the
same meanings as in section 5709.76 of the Revised Code.
(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.
education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

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

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

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

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

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

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

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

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

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

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

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

(i) The trust's modified business income;

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

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

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

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

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

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

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

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

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with
which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

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

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

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

(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.

(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.

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

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

(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.

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

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

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

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

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

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

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

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

Section 2. That existing section 5747.01 of the Revised Code is hereby repealed.
Section 3. This act shall be known as the "First-time Home Buyer Savings Act."