

As Introduced

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Representatives Rogers, Scherer

**Cosponsors: Representatives Sobecki, Strahorn, Lepore-Hagan, Sweeney, Blair,
Riedel, Smith, K., West, Carfagna, Patterson, Crossman, Weinstein**

A BILL

To amend section 5747.01 and to enact section 1
5747.82 of the Revised Code to enact the "Blair 2
Deduction" to allow an individual obtaining a 3
post-secondary degree or credential from an 4
eligible educational institution to claim an 5
income tax deduction for qualified higher 6
education expenses. 7

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

Section 1. That section 5747.01 be amended and section 8
5747.82 of the Revised Code be enacted to read as follows: 9

Sec. 5747.01. Except as otherwise expressly provided or 10
clearly appearing from the context, any term used in this 11
chapter that is not otherwise defined in this section has the 12
same meaning as when used in a comparable context in the laws of 13
the United States relating to federal income taxes or if not 14
used in a comparable context in those laws, has the same meaning 15
as in section 5733.40 of the Revised Code. Any reference in this 16
chapter to the Internal Revenue Code includes other laws of the 17
United States relating to federal income taxes. 18

As used in this chapter:	19
(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:	20 21 22 23
(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.	24 25 26 27
(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.	28 29 30 31 32
(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.	33 34 35 36 37 38
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	39 40
(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.	41 42 43 44
(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	45 46 47

beneficiary's taxable years beginning before 2002, the portion, 48
if any, of such distribution that does not exceed the 49
undistributed net income of the trust for the three taxable 50
years preceding the taxable year in which the distribution is 51
made to the extent that the portion was not included in the 52
trust's taxable income for any of the trust's taxable years 53
beginning in 2002 or thereafter. "Undistributed net income of a 54
trust" means the taxable income of the trust increased by (a) (i) 55
the additions to adjusted gross income required under division 56
(A) of this section and (ii) the personal exemptions allowed to 57
the trust pursuant to section 642(b) of the Internal Revenue 58
Code, and decreased by (b) (i) the deductions to adjusted gross 59
income required under division (A) of this section, (ii) the 60
amount of federal income taxes attributable to such income, and 61
(iii) the amount of taxable income that has been included in the 62
adjusted gross income of a beneficiary by reason of a prior 63
accumulation distribution. Any undistributed net income included 64
in the adjusted gross income of a beneficiary shall reduce the 65
undistributed net income of the trust commencing with the 66
earliest years of the accumulation period. 67

(7) Deduct the amount of wages and salaries, if any, not 68
otherwise allowable as a deduction but that would have been 69
allowable as a deduction in computing federal adjusted gross 70
income for the taxable year, had the targeted jobs credit 71
allowed and determined under sections 38, 51, and 52 of the 72
Internal Revenue Code not been in effect. 73

(8) Deduct any interest or interest equivalent on public 74
obligations and purchase obligations to the extent that the 75
interest or interest equivalent is included in federal adjusted 76
gross income. 77

(9) Add any loss or deduct any gain resulting from the 78
sale, exchange, or other disposition of public obligations to 79
the extent that the loss has been deducted or the gain has been 80
included in computing federal adjusted gross income. 81

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

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

(b) Deduct, to the extent not otherwise deducted or 105
excluded in computing federal or Ohio adjusted gross income 106
during the taxable year, the amount the taxpayer paid during the 107

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

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

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

(12)(a) Deduct any amount included in federal adjusted 134
gross income solely because the amount represents a 135
reimbursement or refund of expenses that in any year the 136
taxpayer had deducted as an itemized deduction pursuant to 137

section 63 of the Internal Revenue Code and applicable United 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 167
investment earnings on those funds, when the funds withdrawn 168
were used for any purpose other than to reimburse an account 169
holder for, or to pay, eligible medical expenses, in accordance 170
with section 3924.66 of the Revised Code; 171

(b) Add the amounts distributed from a medical savings 172
account under division (A) (2) of section 3924.68 of the Revised 173
Code during the taxable year. 174

(16) Add any amount claimed as a credit under section 175
5747.059 or 5747.65 of the Revised Code to the extent that such 176
amount satisfies either of the following: 177

(a) The amount was deducted or excluded from the 178
computation of the taxpayer's federal adjusted gross income as 179
required to be reported for the taxpayer's taxable year under 180
the Internal Revenue Code; 181

(b) The amount resulted in a reduction of the taxpayer's 182
federal adjusted gross income as required to be reported for any 183
of the taxpayer's taxable years under the Internal Revenue Code. 184

(17) Deduct the amount contributed by the taxpayer to an 185
individual development account program established by a county 186
department of job and family services pursuant to sections 187
329.11 to 329.14 of the Revised Code for the purpose of matching 188
funds deposited by program participants. On request of the tax 189
commissioner, the taxpayer shall provide any information that, 190
in the tax commissioner's opinion, is necessary to establish the 191
amount deducted under division (A) (17) of this section. 192

(18) Beginning in taxable year 2001 but not for any 193
taxable year beginning after December 31, 2005, if the taxpayer 194
is married and files a joint return and the combined federal 195

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

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

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

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 223
of this section, add five-sixths of the amount of qualifying 224
section 179 depreciation expense, including the taxpayer's 225

proportionate or distributive share of the amount of qualifying 226
section 179 depreciation expense allowed to any pass-through 227
entity in which the taxpayer has a direct or indirect ownership 228
interest. 229

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

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

(v) If a taxpayer directly or indirectly incurs a net 249
operating loss for the taxable year for federal income tax 250
purposes, to the extent such loss resulted from depreciation 251
expense allowed by subsection (k) of section 168 of the Internal 252
Revenue Code and by qualifying section 179 depreciation expense, 253
"the entire" shall be substituted for "five-sixths of the" for 254
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 255

The tax commissioner, under procedures established by the 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 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 285
during the employer's current taxable year exceeds the amount of 286
income taxes withheld by that employer during the employer's 287
immediately preceding taxable year. 288

(iii) "Qualifying section 179 depreciation expense" means 289
the difference between (I) the amount of depreciation expense 290
directly or indirectly allowed to a taxpayer under section 179 291
of the Internal Revised Code, and (II) the amount of 292
depreciation expense directly or indirectly allowed to the 293
taxpayer under section 179 of the Internal Revenue Code as that 294
section existed on December 31, 2002. 295

(21) (a) If the taxpayer was required to add an amount 296
under division (A) (20) (a) of this section for a taxable year, 297
deduct one of the following: 298

(i) One-fifth of the amount so added for each of the five 299
succeeding taxable years if the amount so added was five-sixths 300
of qualifying section 179 depreciation expense or depreciation 301
expense allowed by subsection (k) of section 168 of the Internal 302
Revenue Code; 303

(ii) One-half of the amount so added for each of the two 304
succeeding taxable years if the amount so added was two-thirds 305
of such depreciation expense; 306

(iii) One-sixth of the amount so added for each of the six 307
succeeding taxable years if the entire amount of such 308
depreciation expense was so added. 309

(b) If the amount deducted under division (A) (21) (a) of 310
this section is attributable to an add-back allocated under 311
division (A) (20) (c) of this section, the amount deducted shall 312
be situated to the same location. Otherwise, the add-back shall 313

be apportioned using the apportionment factors for the taxable 314
year in which the deduction is taken, subject to one or more of 315
the four alternative methods of apportionment enumerated in 316
section 5747.21 of the Revised Code. 317

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

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

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

(23) Deduct, to the extent not otherwise deducted or 338
excluded in computing federal or Ohio adjusted gross income for 339
the taxable year, the amount the taxpayer received during the 340
taxable year as a death benefit paid by the adjutant general 341
under section 5919.33 of the Revised Code. 342

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

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

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

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

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

(26) Deduct, to the extent not otherwise deducted or 370
excluded in computing federal or Ohio adjusted gross income for 371

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

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

(28) Deduct, to the extent not otherwise deducted or 400
excluded in computing federal or Ohio adjusted gross income for 401
the taxable year, the amount the taxpayer received as a veterans 402

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

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

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

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

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

(ii) Ninety-three thousand seven hundred fifty dollars for 430
each spouse if spouses file separate returns under section 431

5747.08 of the Revised Code or one hundred eighty-seven thousand 432
five hundred dollars for all other individuals. 433

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

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

(33) (a) Deduct, to the extent not otherwise deducted or 445
excluded in computing federal or Ohio adjusted gross income 446
during the taxable year, all of the following: 447

(i) Compensation paid to a qualifying employee described 448
in division (A) (14) (a) of section 5703.94 of the Revised Code to 449
the extent such compensation is for disaster work conducted in 450
this state during a disaster response period pursuant to a 451
qualifying solicitation received by the employee's employer; 452

(ii) Compensation paid to a qualifying employee described 453
in division (A) (14) (b) of section 5703.94 of the Revised Code to 454
the extent such compensation is for disaster work conducted in 455
this state by the employee during the disaster response period 456
on critical infrastructure owned or used by the employee's 457
employer; 458

(iii) Income received by an out-of-state disaster business 459
for disaster work conducted in this state during a disaster 460

response period, or, if the out-of-state disaster business is a 461
pass-through entity, a taxpayer's distributive share of the 462
pass-through entity's income from the business conducting 463
disaster work in this state during a disaster response period, 464
if, in either case, the disaster work is conducted pursuant to a 465
qualifying solicitation received by the business. 466

(b) All terms used in division (A) (33) of this section 467
have the same meanings as in section 5703.94 of the Revised 468
Code. 469

(34) Deduct qualified higher education expenses to the 470
extent allowed under section 5747.82 of the Revised Code. 471

(B) "Business income" means income, including gain or 472
loss, arising from transactions, activities, and sources in the 473
regular course of a trade or business and includes income, gain, 474
or loss from real property, tangible property, and intangible 475
property if the acquisition, rental, management, and disposition 476
of the property constitute integral parts of the regular course 477
of a trade or business operation. "Business income" includes 478
income, including gain or loss, from a partial or complete 479
liquidation of a business, including, but not limited to, gain 480
or loss from the sale or other disposition of goodwill. 481

(C) "Nonbusiness income" means all income other than 482
business income and may include, but is not limited to, 483
compensation, rents and royalties from real or tangible personal 484
property, capital gains, interest, dividends and distributions, 485
patent or copyright royalties, or lottery winnings, prizes, and 486
awards. 487

(D) "Compensation" means any form of remuneration paid to 488
an employee for personal services. 489

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

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

(G) "Individual" means any natural person.

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

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

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

(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 517
instrumentality on account of the death of a decedent, but only 518
if the trust is described in division (I) (3) (e) (i) or (ii) of 519
this section; 520

(ii) A person who was domiciled in this state for the 521
purposes of this chapter when the person directly or indirectly 522
transferred assets to an irrevocable trust, but only if at least 523
one of the trust's qualifying beneficiaries is domiciled in this 524
state for the purposes of this chapter during all or some 525
portion of the trust's current taxable year; 526

(iii) A person who was domiciled in this state for the 527
purposes of this chapter when the trust document or instrument 528
or part of the trust document or instrument became irrevocable, 529
but only if at least one of the trust's qualifying beneficiaries 530
is a resident domiciled in this state for the purposes of this 531
chapter during all or some portion of the trust's current 532
taxable year. If a trust document or instrument became 533
irrevocable upon the death of a person who at the time of death 534
was domiciled in this state for purposes of this chapter, that 535
person is a person described in division (I) (3) (a) (iii) of this 536
section. 537

(b) A trust is irrevocable to the extent that the 538
transferor is not considered to be the owner of the net assets 539
of the trust under sections 671 to 678 of the Internal Revenue 540
Code. 541

(c) With respect to a trust other than a charitable lead 542
trust, "qualifying beneficiary" has the same meaning as 543
"potential current beneficiary" as defined in section 1361(e) (2) 544
of the Internal Revenue Code, and with respect to a charitable 545
lead trust "qualifying beneficiary" is any current, future, or 546

contingent beneficiary, but with respect to any trust 547
"qualifying beneficiary" excludes a person or a governmental 548
entity or instrumentality to any of which a contribution would 549
qualify for the charitable deduction under section 170 of the 550
Internal Revenue Code. 551

(d) For the purposes of division (I) (3) (a) of this 552
section, the extent to which a trust consists directly or 553
indirectly, in whole or in part, of assets, net of any related 554
liabilities, that were transferred directly or indirectly, in 555
whole or part, to the trust by any of the sources enumerated in 556
that division shall be ascertained by multiplying the fair 557
market value of the trust's assets, net of related liabilities, 558
by the qualifying ratio, which shall be computed as follows: 559

(i) The first time the trust receives assets, the 560
numerator of the qualifying ratio is the fair market value of 561
those assets at that time, net of any related liabilities, from 562
sources enumerated in division (I) (3) (a) of this section. The 563
denominator of the qualifying ratio is the fair market value of 564
all the trust's assets at that time, net of any related 565
liabilities. 566

(ii) Each subsequent time the trust receives assets, a 567
revised qualifying ratio shall be computed. The numerator of the 568
revised qualifying ratio is the sum of (1) the fair market value 569
of the trust's assets immediately prior to the subsequent 570
transfer, net of any related liabilities, multiplied by the 571
qualifying ratio last computed without regard to the subsequent 572
transfer, and (2) the fair market value of the subsequently 573
transferred assets at the time transferred, net of any related 574
liabilities, from sources enumerated in division (I) (3) (a) of 575
this section. The denominator of the revised qualifying ratio is 576

the fair market value of all the trust's assets immediately 577
after the subsequent transfer, net of any related liabilities. 578

(iii) Whether a transfer to the trust is by or from any of 579
the sources enumerated in division (I) (3) (a) of this section 580
shall be ascertained without regard to the domicile of the 581
trust's beneficiaries. 582

(e) For the purposes of division (I) (3) (a) (i) of this 583
section: 584

(i) A trust is described in division (I) (3) (e) (i) of this 585
section if the trust is a testamentary trust and the testator of 586
that testamentary trust was domiciled in this state at the time 587
of the testator's death for purposes of the taxes levied under 588
Chapter 5731. of the Revised Code. 589

(ii) A trust is described in division (I) (3) (e) (ii) of 590
this section if the transfer is a qualifying transfer described 591
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 592
trust is an irrevocable inter vivos trust, and at least one of 593
the trust's qualifying beneficiaries is domiciled in this state 594
for purposes of this chapter during all or some portion of the 595
trust's current taxable year. 596

(f) For the purposes of division (I) (3) (e) (ii) of this 597
section, a "qualifying transfer" is a transfer of assets, net of 598
any related liabilities, directly or indirectly to a trust, if 599
the transfer is described in any of the following: 600

(i) The transfer is made to a trust, created by the 601
decedent before the decedent's death and while the decedent was 602
domiciled in this state for the purposes of this chapter, and, 603
prior to the death of the decedent, the trust became irrevocable 604
while the decedent was domiciled in this state for the purposes 605

of this chapter. 606

(ii) The transfer is made to a trust to which the 607
decedent, prior to the decedent's death, had directly or 608
indirectly transferred assets, net of any related liabilities, 609
while the decedent was domiciled in this state for the purposes 610
of this chapter, and prior to the death of the decedent the 611
trust became irrevocable while the decedent was domiciled in 612
this state for the purposes of this chapter. 613

(iii) The transfer is made on account of a contractual 614
relationship existing directly or indirectly between the 615
transferor and either the decedent or the estate of the decedent 616
at any time prior to the date of the decedent's death, and the 617
decedent was domiciled in this state at the time of death for 618
purposes of the taxes levied under Chapter 5731. of the Revised 619
Code. 620

(iv) The transfer is made to a trust on account of a 621
contractual relationship existing directly or indirectly between 622
the transferor and another person who at the time of the 623
decedent's death was domiciled in this state for purposes of 624
this chapter. 625

(v) The transfer is made to a trust on account of the will 626
of a testator who was domiciled in this state at the time of the 627
testator's death for purposes of the taxes levied under Chapter 628
5731. of the Revised Code. 629

(vi) The transfer is made to a trust created by or caused 630
to be created by a court, and the trust was directly or 631
indirectly created in connection with or as a result of the 632
death of an individual who, for purposes of the taxes levied 633
under Chapter 5731. of the Revised Code, was domiciled in this 634

state at the time of the individual's death. 635

(g) The tax commissioner may adopt rules to ascertain the 636
part of a trust residing in this state. 637

(J) "Nonresident" means an individual or estate that is 638
not a resident. An individual who is a resident for only part of 639
a taxable year is a nonresident for the remainder of that 640
taxable year. 641

(K) "Pass-through entity" has the same meaning as in 642
section 5733.04 of the Revised Code. 643

(L) "Return" means the notifications and reports required 644
to be filed pursuant to this chapter for the purpose of 645
reporting the tax due and includes declarations of estimated tax 646
when so required. 647

(M) "Taxable year" means the calendar year or the 648
taxpayer's fiscal year ending during the calendar year, or 649
fractional part thereof, upon which the adjusted gross income is 650
calculated pursuant to this chapter. 651

(N) "Taxpayer" means any person subject to the tax imposed 652
by section 5747.02 of the Revised Code or any pass-through 653
entity that makes the election under division (D) of section 654
5747.08 of the Revised Code. 655

(O) "Dependents" means dependents as defined in the 656
Internal Revenue Code and as claimed in the taxpayer's federal 657
income tax return for the taxable year or which the taxpayer 658
would have been permitted to claim had the taxpayer filed a 659
federal income tax return. 660

(P) "Principal county of employment" means, in the case of 661
a nonresident, the county within the state in which a taxpayer 662

performs services for an employer or, if those services are 663
performed in more than one county, the county in which the major 664
portion of the services are performed. 665

(Q) As used in sections 5747.50 to 5747.55 of the Revised 666
Code: 667

(1) "Subdivision" means any county, municipal corporation, 668
park district, or township. 669

(2) "Essential local government purposes" includes all 670
functions that any subdivision is required by general law to 671
exercise, including like functions that are exercised under a 672
charter adopted pursuant to the Ohio Constitution. 673

(R) "Overpayment" means any amount already paid that 674
exceeds the figure determined to be the correct amount of the 675
tax. 676

(S) "Taxable income" or "Ohio taxable income" applies only 677
to estates and trusts, and means federal taxable income, as 678
defined and used in the Internal Revenue Code, adjusted as 679
follows: 680

(1) Add interest or dividends, net of ordinary, necessary, 681
and reasonable expenses not deducted in computing federal 682
taxable income, on obligations or securities of any state or of 683
any political subdivision or authority of any state, other than 684
this state and its subdivisions and authorities, but only to the 685
extent that such net amount is not otherwise includible in Ohio 686
taxable income and is described in either division (S)(1)(a) or 687
(b) of this section: 688

(a) The net amount is not attributable to the S portion of 689
an electing small business trust and has not been distributed to 690
beneficiaries for the taxable year; 691

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	692 693
(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;	694 695 696 697 698 699 700 701 702
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	703 704
(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;	705 706 707 708 709 710 711 712 713
(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	714 715 716 717 718 719 720 721

trust for the taxable year;	722
(6) Deduct any interest or interest equivalent, net of	723
related expenses deducted in computing federal taxable income,	724
on public obligations and purchase obligations, but only to the	725
extent that such net amount relates either to income included in	726
federal taxable income for the taxable year or to income of the	727
S portion of an electing small business trust for the taxable	728
year;	729
(7) Add any loss or deduct any gain resulting from sale,	730
exchange, or other disposition of public obligations to the	731
extent that such loss has been deducted or such gain has been	732
included in computing either federal taxable income or income of	733
the S portion of an electing small business trust for the	734
taxable year;	735
(8) Except in the case of the final return of an estate,	736
add any amount deducted by the taxpayer on both its Ohio estate	737
tax return pursuant to section 5731.14 of the Revised Code, and	738
on its federal income tax return in determining federal taxable	739
income;	740
(9) (a) Deduct any amount included in federal taxable	741
income solely because the amount represents a reimbursement or	742
refund of expenses that in a previous year the decedent had	743
deducted as an itemized deduction pursuant to section 63 of the	744
Internal Revenue Code and applicable treasury regulations. The	745
deduction otherwise allowed under division (S) (9) (a) of this	746
section shall be reduced to the extent the reimbursement is	747
attributable to an amount the taxpayer or decedent deducted	748
under this section in any taxable year.	749
(b) Add any amount not otherwise included in Ohio taxable	750

income for any taxable year to the extent that the amount is 751
attributable to the recovery during the taxable year of any 752
amount deducted or excluded in computing federal or Ohio taxable 753
income in any taxable year, but only to the extent such amount 754
has not been distributed to beneficiaries for the taxable year. 755

(10) Deduct any portion of the deduction described in 756
section 1341(a)(2) of the Internal Revenue Code, for repaying 757
previously reported income received under a claim of right, that 758
meets both of the following requirements: 759

(a) It is allowable for repayment of an item that was 760
included in the taxpayer's taxable income or the decedent's 761
adjusted gross income for a prior taxable year and did not 762
qualify for a credit under division (A) or (B) of section 763
5747.05 of the Revised Code for that year. 764

(b) It does not otherwise reduce the taxpayer's taxable 765
income or the decedent's adjusted gross income for the current 766
or any other taxable year. 767

(11) Add any amount claimed as a credit under section 768
5747.059 or 5747.65 of the Revised Code to the extent that the 769
amount satisfies either of the following: 770

(a) The amount was deducted or excluded from the 771
computation of the taxpayer's federal taxable income as required 772
to be reported for the taxpayer's taxable year under the 773
Internal Revenue Code; 774

(b) The amount resulted in a reduction in the taxpayer's 775
federal taxable income as required to be reported for any of the 776
taxpayer's taxable years under the Internal Revenue Code. 777

(12) Deduct any amount, net of related expenses deducted 778
in computing federal taxable income, that a trust is required to 779

report as farm income on its federal income tax return, but only 780
if the assets of the trust include at least ten acres of land 781
satisfying the definition of "land devoted exclusively to 782
agricultural use" under section 5713.30 of the Revised Code, 783
regardless of whether the land is valued for tax purposes as 784
such land under sections 5713.30 to 5713.38 of the Revised Code. 785
If the trust is a pass-through entity investor, section 5747.231 786
of the Revised Code applies in ascertaining if the trust is 787
eligible to claim the deduction provided by division (S) (12) of 788
this section in connection with the pass-through entity's farm 789
income. 790

Except for farm income attributable to the S portion of an 791
electing small business trust, the deduction provided by 792
division (S) (12) of this section is allowed only to the extent 793
that the trust has not distributed such farm income. Division 794
(S) (12) of this section applies only to taxable years of a trust 795
beginning in 2002 or thereafter. 796

(13) Add the net amount of income described in section 797
641(c) of the Internal Revenue Code to the extent that amount is 798
not included in federal taxable income. 799

(14) Add or deduct the amount the taxpayer would be 800
required to add or deduct under division (A) (20) or (21) of this 801
section if the taxpayer's Ohio taxable income were computed in 802
the same manner as an individual's Ohio adjusted gross income is 803
computed under this section. In the case of a trust, division 804
(S) (14) of this section applies only to any of the trust's 805
taxable years beginning in 2002 or thereafter. 806

(T) "School district income" and "school district income 807
tax" have the same meanings as in section 5748.01 of the Revised 808
Code. 809

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 810
(7) of this section, "public obligations," "purchase 811
obligations," and "interest or interest equivalent" have the 812
same meanings as in section 5709.76 of the Revised Code. 813

(V) "Limited liability company" means any limited 814
liability company formed under Chapter 1705. of the Revised Code 815
or under the laws of any other state. 816

(W) "Pass-through entity investor" means any person who, 817
during any portion of a taxable year of a pass-through entity, 818
is a partner, member, shareholder, or equity investor in that 819
pass-through entity. 820

(X) "Banking day" has the same meaning as in section 821
1304.01 of the Revised Code. 822

(Y) "Month" means a calendar month. 823

(Z) "Quarter" means the first three months, the second 824
three months, the third three months, or the last three months 825
of the taxpayer's taxable year. 826

(AA) (1) "Eligible institution" means a state university or 827
state institution of higher education as defined in section 828
3345.011 of the Revised Code, or a private, nonprofit college, 829
university, or other post-secondary institution located in this 830
state that possesses a certificate of authorization issued by 831
the chancellor of higher education pursuant to Chapter 1713. of 832
the Revised Code or a certificate of registration issued by the 833
state board of career colleges and schools under Chapter 3332. 834
of the Revised Code. 835

(2) "Qualified tuition and fees" means tuition and fees 836
imposed by an eligible institution as a condition of enrollment 837
or attendance, not exceeding two thousand five hundred dollars 838

in each of the individual's first two years of post-secondary 839
education. If the individual is a part-time student, "qualified 840
tuition and fees" includes tuition and fees paid for the 841
academic equivalent of the first two years of post-secondary 842
education during a maximum of five taxable years, not exceeding 843
a total of five thousand dollars. "Qualified tuition and fees" 844
does not include: 845

(a) Expenses for any course or activity involving sports, 846
games, or hobbies unless the course or activity is part of the 847
individual's degree or diploma program; 848

(b) The cost of books, room and board, student activity 849
fees, athletic fees, insurance expenses, or other expenses 850
unrelated to the individual's academic course of instruction; 851

(c) Tuition, fees, or other expenses paid or reimbursed 852
through an employer, scholarship, grant in aid, or other 853
educational benefit program. 854

(BB) (1) "Modified business income" means the business 855
income included in a trust's Ohio taxable income after such 856
taxable income is first reduced by the qualifying trust amount, 857
if any. 858

(2) "Qualifying trust amount" of a trust means capital 859
gains and losses from the sale, exchange, or other disposition 860
of equity or ownership interests in, or debt obligations of, a 861
qualifying investee to the extent included in the trust's Ohio 862
taxable income, but only if the following requirements are 863
satisfied: 864

(a) The book value of the qualifying investee's physical 865
assets in this state and everywhere, as of the last day of the 866
qualifying investee's fiscal or calendar year ending immediately 867

prior to the date on which the trust recognizes the gain or 868
loss, is available to the trust. 869

(b) The requirements of section 5747.011 of the Revised 870
Code are satisfied for the trust's taxable year in which the 871
trust recognizes the gain or loss. 872

Any gain or loss that is not a qualifying trust amount is 873
modified business income, qualifying investment income, or 874
modified nonbusiness income, as the case may be. 875

(3) "Modified nonbusiness income" means a trust's Ohio 876
taxable income other than modified business income, other than 877
the qualifying trust amount, and other than qualifying 878
investment income, as defined in section 5747.012 of the Revised 879
Code, to the extent such qualifying investment income is not 880
otherwise part of modified business income. 881

(4) "Modified Ohio taxable income" applies only to trusts, 882
and means the sum of the amounts described in divisions (BB) (4) 883
(a) to (c) of this section: 884

(a) The fraction, calculated under section 5747.013, and 885
applying section 5747.231 of the Revised Code, multiplied by the 886
sum of the following amounts: 887

(i) The trust's modified business income; 888

(ii) The trust's qualifying investment income, as defined 889
in section 5747.012 of the Revised Code, but only to the extent 890
the qualifying investment income does not otherwise constitute 891
modified business income and does not otherwise constitute a 892
qualifying trust amount. 893

(b) The qualifying trust amount multiplied by a fraction, 894
the numerator of which is the sum of the book value of the 895

qualifying investee's physical assets in this state on the last 896
day of the qualifying investee's fiscal or calendar year ending 897
immediately prior to the day on which the trust recognizes the 898
qualifying trust amount, and the denominator of which is the sum 899
of the book value of the qualifying investee's total physical 900
assets everywhere on the last day of the qualifying investee's 901
fiscal or calendar year ending immediately prior to the day on 902
which the trust recognizes the qualifying trust amount. If, for 903
a taxable year, the trust recognizes a qualifying trust amount 904
with respect to more than one qualifying investee, the amount 905
described in division (BB) (4) (b) of this section shall equal the 906
sum of the products so computed for each such qualifying 907
investee. 908

(c) (i) With respect to a trust or portion of a trust that 909
is a resident as ascertained in accordance with division (I) (3) 910
(d) of this section, its modified nonbusiness income. 911

(ii) With respect to a trust or portion of a trust that is 912
not a resident as ascertained in accordance with division (I) (3) 913
(d) of this section, the amount of its modified nonbusiness 914
income satisfying the descriptions in divisions (B) (2) to (5) of 915
section 5747.20 of the Revised Code, except as otherwise 916
provided in division (BB) (4) (c) (ii) of this section. With 917
respect to a trust or portion of a trust that is not a resident 918
as ascertained in accordance with division (I) (3) (d) of this 919
section, the trust's portion of modified nonbusiness income 920
recognized from the sale, exchange, or other disposition of a 921
debt interest in or equity interest in a section 5747.212 922
entity, as defined in section 5747.212 of the Revised Code, 923
without regard to division (A) of that section, shall not be 924
allocated to this state in accordance with section 5747.20 of 925
the Revised Code but shall be apportioned to this state in 926

accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section. 927
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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. 929
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(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: 935
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(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. 942
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(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 948
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of the equity of a pass-through entity, then the qualifying 957
investee and the other members are deemed to own the 958
proportionate share of the pass-through entity's physical assets 959
which the pass-through entity directly or indirectly owns on the 960
last day of the pass-through entity's calendar or fiscal year 961
ending within or with the last day of the qualifying investee's 962
fiscal or calendar year ending immediately prior to the date on 963
which the trust recognizes the qualifying trust amount. 964

(iii) For the purposes of division (BB) (5) (a) (iii) of this 965
section, "upper level pass-through entity" means a pass-through 966
entity directly or indirectly owning any equity of another pass- 967
through entity, and "lower level pass-through entity" means that 968
other pass-through entity. 969

An upper level pass-through entity, whether or not it is 970
also a qualifying investee, is deemed to own, on the last day of 971
the upper level pass-through entity's calendar or fiscal year, 972
the proportionate share of the lower level pass-through entity's 973
physical assets that the lower level pass-through entity 974
directly or indirectly owns on the last day of the lower level 975
pass-through entity's calendar or fiscal year ending within or 976
with the last day of the upper level pass-through entity's 977
fiscal or calendar year. If the upper level pass-through entity 978
directly and indirectly owns less than fifty per cent of the 979
equity of the lower level pass-through entity on each day of the 980
upper level pass-through entity's calendar or fiscal year in 981
which or with which ends the calendar or fiscal year of the 982
lower level pass-through entity and if, based upon clear and 983
convincing evidence, complete information about the location and 984
cost of the physical assets of the lower pass-through entity is 985
not available to the upper level pass-through entity, then 986
solely for purposes of ascertaining if a gain or loss 987

constitutes a qualifying trust amount, the upper level pass- 988
through entity shall be deemed as owning no equity of the lower 989
level pass-through entity for each day during the upper level 990
pass-through entity's calendar or fiscal year in which or with 991
which ends the lower level pass-through entity's calendar or 992
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 993
shall be construed to provide for any deduction or exclusion in 994
computing any trust's Ohio taxable income. 995

(b) With respect to a trust that is not a resident for the 996
taxable year and with respect to a part of a trust that is not a 997
resident for the taxable year, "qualifying investee" for that 998
taxable year does not include a C corporation if both of the 999
following apply: 1000

(i) During the taxable year the trust or part of the trust 1001
recognizes a gain or loss from the sale, exchange, or other 1002
disposition of equity or ownership interests in, or debt 1003
obligations of, the C corporation. 1004

(ii) Such gain or loss constitutes nonbusiness income. 1005

(6) "Available" means information is such that a person is 1006
able to learn of the information by the due date plus 1007
extensions, if any, for filing the return for the taxable year 1008
in which the trust recognizes the gain or loss. 1009

(CC) "Qualifying controlled group" has the same meaning as 1010
in section 5733.04 of the Revised Code. 1011

(DD) "Related member" has the same meaning as in section 1012
5733.042 of the Revised Code. 1013

(EE) (1) For the purposes of division (EE) of this section: 1014

(a) "Qualifying person" means any person other than a 1015

qualifying corporation. 1016

(b) "Qualifying corporation" means any person classified 1017
for federal income tax purposes as an association taxable as a 1018
corporation, except either of the following: 1019

(i) A corporation that has made an election under 1020
subchapter S, chapter one, subtitle A, of the Internal Revenue 1021
Code for its taxable year ending within, or on the last day of, 1022
the investor's taxable year; 1023

(ii) A subsidiary that is wholly owned by any corporation 1024
that has made an election under subchapter S, chapter one, 1025
subtitle A of the Internal Revenue Code for its taxable year 1026
ending within, or on the last day of, the investor's taxable 1027
year. 1028

(2) For the purposes of this chapter, unless expressly 1029
stated otherwise, no qualifying person indirectly owns any asset 1030
directly or indirectly owned by any qualifying corporation. 1031

(FF) For purposes of this chapter and Chapter 5751. of the 1032
Revised Code: 1033

(1) "Trust" does not include a qualified pre-income tax 1034
trust. 1035

(2) A "qualified pre-income tax trust" is any pre-income 1036
tax trust that makes a qualifying pre-income tax trust election 1037
as described in division (FF)(3) of this section. 1038

(3) A "qualifying pre-income tax trust election" is an 1039
election by a pre-income tax trust to subject to the tax imposed 1040
by section 5751.02 of the Revised Code the pre-income tax trust 1041
and all pass-through entities of which the trust owns or 1042
controls, directly, indirectly, or constructively through 1043

related interests, five per cent or more of the ownership or 1044
equity interests. The trustee shall notify the tax commissioner 1045
in writing of the election on or before April 15, 2006. The 1046
election, if timely made, shall be effective on and after 1047
January 1, 2006, and shall apply for all tax periods and tax 1048
years until revoked by the trustee of the trust. 1049

(4) A "pre-income tax trust" is a trust that satisfies all 1050
of the following requirements: 1051

(a) The document or instrument creating the trust was 1052
executed by the grantor before January 1, 1972; 1053

(b) The trust became irrevocable upon the creation of the 1054
trust; and 1055

(c) The grantor was domiciled in this state at the time 1056
the trust was created. 1057

(GG) "Uniformed services" has the same meaning as in 10 1058
U.S.C. 101. 1059

(HH) "Taxable business income" means the amount by which 1060
an individual's business income that is included in federal 1061
adjusted gross income exceeds the amount of business income the 1062
individual is authorized to deduct under division (A) (31) of 1063
this section for the taxable year. 1064

(II) "Employer" does not include a franchisor with respect 1065
to the franchisor's relationship with a franchisee or an 1066
employee of a franchisee, unless the franchisor agrees to assume 1067
that role in writing or a court of competent jurisdiction 1068
determines that the franchisor exercises a type or degree of 1069
control over the franchisee or the franchisee's employees that 1070
is not customarily exercised by a franchisor for the purpose of 1071
protecting the franchisor's trademark, brand, or both. For 1072

purposes of this division, "franchisor" and "franchisee" have 1073
the same meanings as in 16 C.F.R. 436.1. 1074

Sec. 5747.82. (A) As used in this section: 1075

(1) "Higher education expenses" means all of the following 1076
expenses incurred by a taxpayer while enrolled in an eligible 1077
educational institution: 1078

(a) Tuition, fees, books, supplies, and equipment required 1079
for the enrollment or attendance of the taxpayer at the eligible 1080
education institution; 1081

(b) Room and board expenses incurred while the taxpayer is 1082
carrying at least one-half of the normal full-time academic 1083
workload for the course of study the taxpayer is pursuing, as 1084
determined by the eligible educational institution, to the 1085
extent that the expenses for an academic period do not exceed 1086
the greater of the following: 1087

(i) The allowance for room and board determined by the 1088
eligible educational institution for federal financial aid 1089
purposes for that academic period; 1090

(ii) If the taxpayer lives in a residence that is owned or 1091
operated by or located on the campus of the eligible educational 1092
institution, the amount actually charged to the taxpayer for 1093
room and board for that academic period. 1094

(c) Expenses for special needs services required by the 1095
taxpayer in connection with the taxpayer's enrollment or 1096
attendance at the eligible educational institution. 1097

(2) "Eligible educational institution" has the same 1098
meaning as in section 529 of the Internal Revenue Code. 1099

(3) (a) "Qualified higher education expenses" means the 1100

total amount of higher education expenses paid by a taxpayer 1101
toward the completion of a qualifying credential program, 1102
excluding the following: 1103

(i) The amount of such expenses paid on behalf of the 1104
taxpayer in the form of grants, scholarships, gifts, or 1105
bequests; 1106

(ii) The amount of any tuition units or payments applied 1107
toward such expenses under a qualified tuition program 1108
established under section 529 of the Internal Revenue Code. 1109

(b) "Qualified higher education expenses" shall be reduced 1110
by the following amounts, as applicable: 1111

(i) The amount of any reduction in federal income tax 1112
resulting from a federal deduction or credit claimed by the 1113
taxpayer on the basis of such expenses; 1114

(ii) For a taxpayer that obtained a qualifying credential 1115
during a taxable year ending before the effective date, an 1116
amount equal to the product of two thousand dollars multiplied 1117
by the number of the taxpayer's taxable years between and 1118
including the taxable year during which the taxpayer obtained 1119
that credential and the taxable year that includes the effective 1120
date, excluding any taxable year within that span that includes 1121
a date on which the individual is enrolled full-time in an 1122
eligible educational institution to pursue a qualifying 1123
credential. 1124

(4) "Annual contribution limit" means the limit prescribed 1125
in section 5747.70 of the Revised Code on the dollar amount of 1126
contributions and purchases that a taxpayer, or a taxpayer and 1127
the taxpayer's spouse, may deduct during a taxable year under 1128
that section with respect to each beneficiary for whom 1129

contributions or purchases are made. 1130

(5) "Qualifying credential" means a technical 1131
certification; an associate, technical, baccalaureate, master's, 1132
or professional degree; or another post-secondary credential 1133
obtained from an eligible educational institution. 1134

(6) "Effective date" means the effective date of the 1135
enactment of this section. 1136

(B) An individual who obtains a qualifying credential 1137
before, on, or after the effective date may deduct from the 1138
individual's federal adjusted gross income for a taxable year 1139
the lesser of the annual contribution limit or the qualified 1140
higher education expenses paid by the taxpayer toward the 1141
completion of that credential to the extent that such expenses 1142
are not otherwise deducted or excluded in computing Ohio 1143
adjusted gross income for the taxable year and not otherwise 1144
deducted by the taxpayer under this section and division (A) (34) 1145
of section 5747.01 of the Revised Code in computing Ohio 1146
adjusted gross income for a prior taxable year. The taxpayer may 1147
make the deduction beginning with one of the following taxable 1148
years, as applicable, and for each ensuing taxable year: 1149

(1) For a qualifying credential obtained during a taxable 1150
year ending before the effective date, the taxable year that 1151
includes the effective date; 1152

(2) For a qualifying credential obtained during any other 1153
taxable year, the taxable year immediately following the taxable 1154
year in which the taxpayer obtained the credential. 1155

The aggregate amount a taxpayer deducts under this section 1156
and division (A) (34) of section 5747.01 of the Revised Code for 1157
all taxable years shall not exceed the total amount of those 1158

qualified higher education expenses. 1159

(C) An individual who is allowed a deduction under this 1160
section and division (A) (34) of section 5747.01 of the Revised 1161
Code may elect to defer the deduction for each taxable year that 1162
includes a date on which the individual is enrolled full-time in 1163
an eligible educational institution to pursue a qualifying 1164
credential. Evidence of such enrollment shall be retained for 1165
inspection by the tax commissioner until the expiration of four 1166
years after the end of the last taxable year the deduction is 1167
made. 1168

(D) An individual who is allowed a deduction under this 1169
section and division (A) (34) of section 5747.01 of the Revised 1170
Code shall retain evidence of having obtained a qualifying 1171
credential for inspection by the tax commissioner until the 1172
expiration of four years after the end of the last taxable year 1173
the deduction is made. 1174

An individual who is allowed a deduction under this 1175
section and division (A) (34) of section 5747.01 of the Revised 1176
Code on the basis of a qualifying credential obtained during a 1177
taxable year ending before the effective date and whose 1178
reduction under division (A) (3) (b) (ii) of this section is 1179
limited because the individual is enrolled full-time in an 1180
eligible educational institution to pursue a more advanced 1181
qualifying credential shall retain evidence of such enrollment 1182
for inspection by the tax commissioner until the expiration of 1183
four years after the end of the last taxable year the deduction 1184
is made. 1185

Any amount deducted pursuant to this section shall be 1186
included in Ohio adjusted gross income for the purpose of 1187
determining eligibility for the credit allowed under section 1188

<u>5747.056 of the Revised Code.</u>	1189
Section 2. That existing section 5747.01 of the Revised	1190
Code is hereby repealed.	1191
Section 3. The income tax deduction authorized under	1192
section 5747.82 and division (A) (34) of section 5747.01 of the	1193
Revised Code shall be known as the "Blair Deduction."	1194