

As Introduced

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Representative Cross

Cosponsors: Representatives Swearingen, Lipps, Becker

A BILL

To amend section 5747.01 of the Revised Code to 1
authorize a two-year income tax deduction for 2
out-of-pocket dental expenses. 3

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

Section 1. That section 5747.01 of the Revised Code be 4
amended to read as follows: 5

Sec. 5747.01. Except as otherwise expressly provided or 6
clearly appearing from the context, any term used in this 7
chapter that is not otherwise defined in this section has the 8
same meaning as when used in a comparable context in the laws of 9
the United States relating to federal income taxes or if not 10
used in a comparable context in those laws, has the same meaning 11
as in section 5733.40 of the Revised Code. Any reference in this 12
chapter to the Internal Revenue Code includes other laws of the 13
United States relating to federal income taxes. 14

As used in this chapter: 15

(A) "Adjusted gross income" or "Ohio adjusted gross 16
income" means federal adjusted gross income, as defined and used 17
in the Internal Revenue Code, adjusted as provided in this 18

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

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

(7) Deduct the amount of wages and salaries, if any, not 64
otherwise allowable as a deduction but that would have been 65
allowable as a deduction in computing federal adjusted gross 66
income for the taxable year, had the targeted jobs credit 67
allowed and determined under sections 38, 51, and 52 of the 68
Internal Revenue Code not been in effect. 69

(8) Deduct any interest or interest equivalent on public 70
obligations and purchase obligations to the extent that the 71
interest or interest equivalent is included in federal adjusted 72
gross income. 73

(9) Add any loss or deduct any gain resulting from the 74
sale, exchange, or other disposition of public obligations to 75
the extent that the loss has been deducted or the gain has been 76
included in computing federal adjusted gross income. 77

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

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

(b) Deduct, to the extent not otherwise deducted or 101
excluded in computing federal or Ohio adjusted gross income 102
during the taxable year, the amount the taxpayer paid during the 103
taxable year, not compensated for by any insurance or otherwise, 104
for medical care of the taxpayer, the taxpayer's spouse, and 105
dependents, to the extent the expenses exceed seven and one-half 106
per cent of the taxpayer's federal adjusted gross income. 107

(c) Deduct, to the extent not otherwise deducted or 108
excluded in computing federal or Ohio adjusted gross income, any 109
amount included in federal adjusted gross income under section 110
105 or not excluded under section 106 of the Internal Revenue 111
Code solely because it relates to an accident and health plan 112
for a person who otherwise would be a "qualifying relative" and 113
thus a "dependent" under section 152 of the Internal Revenue 114
Code but for the fact that the person fails to meet the income 115
and support limitations under section 152(d)(1)(B) and (C) of 116
the Internal Revenue Code. 117

(d) For taxable years beginning on or after January 1, 118
2020, and ending before January 1, 2022, deduct, to the extent 119
not otherwise deducted or excluded in computing federal or Ohio 120
adjusted gross income for any taxable year, the amount the 121
taxpayer paid during the taxable year, not compensated for by 122
any insurance or otherwise, for expenses, including copayments 123
and deductibles, for dental services provided to the taxpayer, 124
the taxpayer's spouse, or the taxpayer's dependent. As used in 125
division (A)(11)(d) of this section, "dental services" means 126
diagnostic, preventive, restorative, emergency, palliative, or 127
cosmetic treatment of the teeth or associated structures of the 128
oral cavity provided by a licensed dentist or dental hygienist. 129

(e) For purposes of division (A)(11) of this section, 130
"medical care" has the meaning given in section 213 of the 131
Internal Revenue Code, subject to the special rules, 132
limitations, and exclusions set forth therein, and "qualified 133
long-term care" has the same meaning given in section 7702B(c) 134
of the Internal Revenue Code. Solely for purposes of divisions 135
(A)(11)(a) ~~and~~, (c) and (d) of this section, "dependent" 136
includes a person who otherwise would be a "qualifying relative" 137
and thus a "dependent" under section 152 of the Internal Revenue 138

Code but for the fact that the person fails to meet the income 139
and support limitations under section 152(d)(1)(B) and (C) of 140
the Internal Revenue Code. 141

(12) (a) Deduct any amount included in federal adjusted 142
gross income solely because the amount represents a 143
reimbursement or refund of expenses that in any year the 144
taxpayer had deducted as an itemized deduction pursuant to 145
section 63 of the Internal Revenue Code and applicable United 146
States department of the treasury regulations. The deduction 147
otherwise allowed under division (A) (12) (a) of this section 148
shall be reduced to the extent the reimbursement is attributable 149
to an amount the taxpayer deducted under this section in any 150
taxable year. 151

(b) Add any amount not otherwise included in Ohio adjusted 152
gross income for any taxable year to the extent that the amount 153
is attributable to the recovery during the taxable year of any 154
amount deducted or excluded in computing federal or Ohio 155
adjusted gross income in any taxable year. 156

(13) Deduct any portion of the deduction described in 157
section 1341(a)(2) of the Internal Revenue Code, for repaying 158
previously reported income received under a claim of right, that 159
meets both of the following requirements: 160

(a) It is allowable for repayment of an item that was 161
included in the taxpayer's adjusted gross income for a prior 162
taxable year and did not qualify for a credit under division (A) 163
or (B) of section 5747.05 of the Revised Code for that year; 164

(b) It does not otherwise reduce the taxpayer's adjusted 165
gross income for the current or any other taxable year. 166

(14) Deduct an amount equal to the deposits made to, and 167

net investment earnings of, a medical savings account during the 168
taxable year, in accordance with section 3924.66 of the Revised 169
Code. The deduction allowed by division (A) (14) of this section 170
does not apply to medical savings account deposits and earnings 171
otherwise deducted or excluded for the current or any other 172
taxable year from the taxpayer's federal adjusted gross income. 173

(15) (a) Add an amount equal to the funds withdrawn from a 174
medical savings account during the taxable year, and the net 175
investment earnings on those funds, when the funds withdrawn 176
were used for any purpose other than to reimburse an account 177
holder for, or to pay, eligible medical expenses, in accordance 178
with section 3924.66 of the Revised Code; 179

(b) Add the amounts distributed from a medical savings 180
account under division (A) (2) of section 3924.68 of the Revised 181
Code during the taxable year. 182

(16) Add any amount claimed as a credit under section 183
5747.059 of the Revised Code to the extent that such amount 184
satisfies either of the following: 185

(a) The amount was deducted or excluded from the 186
computation of the taxpayer's federal adjusted gross income as 187
required to be reported for the taxpayer's taxable year under 188
the Internal Revenue Code; 189

(b) The amount resulted in a reduction of the taxpayer's 190
federal adjusted gross income as required to be reported for any 191
of the taxpayer's taxable years under the Internal Revenue Code. 192

(17) Deduct the amount contributed by the taxpayer to an 193
individual development account program established by a county 194
department of job and family services pursuant to sections 195
329.11 to 329.14 of the Revised Code for the purpose of matching 196

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 227
depreciation expense allowed by that subsection to a pass- 228
through entity in which the taxpayer has a direct or indirect 229
ownership interest. 230

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 231
of this section, add five-sixths of the amount of qualifying 232
section 179 depreciation expense, including the taxpayer's 233
proportionate or distributive share of the amount of qualifying 234
section 179 depreciation expense allowed to any pass-through 235
entity in which the taxpayer has a direct or indirect ownership 236
interest. 237

(iii) Subject to division (A) (20) (a) (v) of this section, 238
for taxable years beginning in 2012 or thereafter, if the 239
increase in income taxes withheld by the taxpayer is equal to or 240
greater than ten per cent of income taxes withheld by the 241
taxpayer during the taxpayer's immediately preceding taxable 242
year, "two-thirds" shall be substituted for "five-sixths" for 243
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 244

(iv) Subject to division (A) (20) (a) (v) of this section, 245
for taxable years beginning in 2012 or thereafter, a taxpayer is 246
not required to add an amount under division (A) (20) of this 247
section if the increase in income taxes withheld by the taxpayer 248
and by any pass-through entity in which the taxpayer has a 249
direct or indirect ownership interest is equal to or greater 250
than the sum of (I) the amount of qualifying section 179 251
depreciation expense and (II) the amount of depreciation expense 252
allowed to the taxpayer by subsection (k) of section 168 of the 253
Internal Revenue Code, and including the taxpayer's 254
proportionate or distributive shares of such amounts allowed to 255
any such pass-through entities. 256

(v) If a taxpayer directly or indirectly incurs a net 257
operating loss for the taxable year for federal income tax 258
purposes, to the extent such loss resulted from depreciation 259
expense allowed by subsection (k) of section 168 of the Internal 260
Revenue Code and by qualifying section 179 depreciation expense, 261
"the entire" shall be substituted for "five-sixths of the" for 262
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 263

The tax commissioner, under procedures established by the 264
commissioner, may waive the add-backs related to a pass-through 265
entity if the taxpayer owns, directly or indirectly, less than 266
five per cent of the pass-through entity. 267

(b) Nothing in division (A) (20) of this section shall be 268
construed to adjust or modify the adjusted basis of any asset. 269

(c) To the extent the add-back required under division (A) 270
(20) (a) of this section is attributable to property generating 271
nonbusiness income or loss allocated under section 5747.20 of 272
the Revised Code, the add-back shall be situated to the same 273
location as the nonbusiness income or loss generated by the 274
property for the purpose of determining the credit under 275
division (A) of section 5747.05 of the Revised Code. Otherwise, 276
the add-back shall be apportioned, subject to one or more of the 277
four alternative methods of apportionment enumerated in section 278
5747.21 of the Revised Code. 279

(d) For the purposes of division (A) (20) (a) (v) of this 280
section, net operating loss carryback and carryforward shall not 281
include the allowance of any net operating loss deduction 282
carryback or carryforward to the taxable year to the extent such 283
loss resulted from depreciation allowed by section 168(k) of the 284
Internal Revenue Code and by the qualifying section 179 285
depreciation expense amount. 286

(e) For the purposes of divisions (A) (20) and (21) of this section:	287 288
(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.	289 290 291
(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.	292 293 294 295 296
(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.	297 298 299 300 301 302 303
(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:	304 305 306
(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;	307 308 309 310 311
(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;	312 313 314
(iii) One-sixth of the amount so added for each of the six	315

succeeding taxable years if the entire amount of such 316
depreciation expense was so added. 317

(b) If the amount deducted under division (A) (21) (a) of 318
this section is attributable to an add-back allocated under 319
division (A) (20) (c) of this section, the amount deducted shall 320
be situated to the same location. Otherwise, the add-back shall 321
be apportioned using the apportionment factors for the taxable 322
year in which the deduction is taken, subject to one or more of 323
the four alternative methods of apportionment enumerated in 324
section 5747.21 of the Revised Code. 325

(c) No deduction is available under division (A) (21) (a) of 326
this section with regard to any depreciation allowed by section 327
168(k) of the Internal Revenue Code and by the qualifying 328
section 179 depreciation expense amount to the extent that such 329
depreciation results in or increases a federal net operating 330
loss carryback or carryforward. If no such deduction is 331
available for a taxable year, the taxpayer may carry forward the 332
amount not deducted in such taxable year to the next taxable 333
year and add that amount to any deduction otherwise available 334
under division (A) (21) (a) of this section for that next taxable 335
year. The carryforward of amounts not so deducted shall continue 336
until the entire addition required by division (A) (20) (a) of 337
this section has been deducted. 338

(d) No refund shall be allowed as a result of adjustments 339
made by division (A) (21) of this section. 340

(22) Deduct, to the extent not otherwise deducted or 341
excluded in computing federal or Ohio adjusted gross income for 342
the taxable year, the amount the taxpayer received during the 343
taxable year as reimbursement for life insurance premiums under 344
section 5919.31 of the Revised Code. 345

(23) Deduct, to the extent not otherwise deducted or 346
excluded in computing federal or Ohio adjusted gross income for 347
the taxable year, the amount the taxpayer received during the 348
taxable year as a death benefit paid by the adjutant general 349
under section 5919.33 of the Revised Code. 350

(24) Deduct, to the extent included in federal adjusted 351
gross income and not otherwise allowable as a deduction or 352
exclusion in computing federal or Ohio adjusted gross income for 353
the taxable year, military pay and allowances received by the 354
taxpayer during the taxable year for active duty service in the 355
United States army, air force, navy, marine corps, or coast 356
guard or reserve components thereof or the national guard. The 357
deduction may not be claimed for military pay and allowances 358
received by the taxpayer while the taxpayer is stationed in this 359
state. 360

(25) Deduct, to the extent not otherwise allowable as a 361
deduction or exclusion in computing federal or Ohio adjusted 362
gross income for the taxable year and not otherwise compensated 363
for by any other source, the amount of qualified organ donation 364
expenses incurred by the taxpayer during the taxable year, not 365
to exceed ten thousand dollars. A taxpayer may deduct qualified 366
organ donation expenses only once for all taxable years 367
beginning with taxable years beginning in 2007. 368

For the purposes of division (A) (25) of this section: 369

(a) "Human organ" means all or any portion of a human 370
liver, pancreas, kidney, intestine, or lung, and any portion of 371
human bone marrow. 372

(b) "Qualified organ donation expenses" means travel 373
expenses, lodging expenses, and wages and salary forgone by a 374

taxpayer in connection with the taxpayer's donation, while 375
living, of one or more of the taxpayer's human organs to another 376
human being. 377

(26) Deduct, to the extent not otherwise deducted or 378
excluded in computing federal or Ohio adjusted gross income for 379
the taxable year, amounts received by the taxpayer as retired 380
personnel pay for service in the uniformed services or reserve 381
components thereof, or the national guard, or received by the 382
surviving spouse or former spouse of such a taxpayer under the 383
survivor benefit plan on account of such a taxpayer's death. If 384
the taxpayer receives income on account of retirement paid under 385
the federal civil service retirement system or federal employees 386
retirement system, or under any successor retirement program 387
enacted by the congress of the United States that is established 388
and maintained for retired employees of the United States 389
government, and such retirement income is based, in whole or in 390
part, on credit for the taxpayer's uniformed service, the 391
deduction allowed under this division shall include only that 392
portion of such retirement income that is attributable to the 393
taxpayer's uniformed service, to the extent that portion of such 394
retirement income is otherwise included in federal adjusted 395
gross income and is not otherwise deducted under this section. 396
Any amount deducted under division (A) (26) of this section is 397
not included in a taxpayer's adjusted gross income for the 398
purposes of section 5747.055 of the Revised Code. No amount may 399
be deducted under division (A) (26) of this section on the basis 400
of which a credit was claimed under section 5747.055 of the 401
Revised Code. 402

(27) Deduct, to the extent not otherwise deducted or 403
excluded in computing federal or Ohio adjusted gross income for 404
the taxable year, the amount the taxpayer received during the 405

taxable year from the military injury relief fund created in 406
section 5902.05 of the Revised Code. 407

(28) Deduct, to the extent not otherwise deducted or 408
excluded in computing federal or Ohio adjusted gross income for 409
the taxable year, the amount the taxpayer received as a veterans 410
bonus during the taxable year from the Ohio department of 411
veterans services as authorized by Section 2r of Article VIII, 412
Ohio Constitution. 413

(29) Deduct, to the extent not otherwise deducted or 414
excluded in computing federal or Ohio adjusted gross income for 415
the taxable year, any income derived from a transfer agreement 416
or from the enterprise transferred under that agreement under 417
section 4313.02 of the Revised Code. 418

(30) Deduct, to the extent not otherwise deducted or 419
excluded in computing federal or Ohio adjusted gross income for 420
the taxable year, Ohio college opportunity or federal Pell grant 421
amounts received by the taxpayer or the taxpayer's spouse or 422
dependent pursuant to section 3333.122 of the Revised Code or 20 423
U.S.C. 1070a, et seq., and used to pay room or board furnished 424
by the educational institution for which the grant was awarded 425
at the institution's facilities, including meal plans 426
administered by the institution. For the purposes of this 427
division, receipt of a grant includes the distribution of a 428
grant directly to an educational institution and the crediting 429
of the grant to the enrollee's account with the institution. 430

(31) Deduct from the portion of an individual's federal 431
adjusted gross income that is business income, to the extent not 432
otherwise deducted or excluded in computing federal adjusted 433
gross income for the taxable year, one hundred twenty-five 434
thousand dollars for each spouse if spouses file separate 435

returns under section 5747.08 of the Revised Code or two hundred 436
fifty thousand dollars for all other individuals. 437

(32) Deduct, as provided under section 5747.78 of the 438
Revised Code, contributions to ABLE savings accounts made in 439
accordance with sections 113.50 to 113.56 of the Revised Code. 440

(33) (a) Deduct, to the extent not otherwise deducted or 441
excluded in computing federal or Ohio adjusted gross income 442
during the taxable year, all of the following: 443

(i) Compensation paid to a qualifying employee described 444
in division (A) (14) (a) of section 5703.94 of the Revised Code to 445
the extent such compensation is for disaster work conducted in 446
this state during a disaster response period pursuant to a 447
qualifying solicitation received by the employee's employer; 448

(ii) Compensation paid to a qualifying employee described 449
in division (A) (14) (b) of section 5703.94 of the Revised Code to 450
the extent such compensation is for disaster work conducted in 451
this state by the employee during the disaster response period 452
on critical infrastructure owned or used by the employee's 453
employer; 454

(iii) Income received by an out-of-state disaster business 455
for disaster work conducted in this state during a disaster 456
response period, or, if the out-of-state disaster business is a 457
pass-through entity, a taxpayer's distributive share of the 458
pass-through entity's income from the business conducting 459
disaster work in this state during a disaster response period, 460
if, in either case, the disaster work is conducted pursuant to a 461
qualifying solicitation received by the business. 462

(b) All terms used in division (A) (33) of this section 463
have the same meanings as in section 5703.94 of the Revised 464

Code. 465

(34) For a taxpayer who is a qualifying Ohio educator, 466
deduct, to the extent not otherwise deducted or excluded in 467
computing federal or Ohio adjusted gross income for the taxable 468
year, the lesser of two hundred fifty dollars or the amount of 469
expenses described in subsections (a)(2)(D)(i) and (ii) of 470
section 62 of the Internal Revenue Code paid or incurred by the 471
taxpayer during the taxpayer's taxable year in excess of the 472
amount the taxpayer is authorized to deduct for that taxable 473
year under subsection (a)(2)(D) of that section. 474

(B) "Business income" means income, including gain or 475
loss, arising from transactions, activities, and sources in the 476
regular course of a trade or business and includes income, gain, 477
or loss from real property, tangible property, and intangible 478
property if the acquisition, rental, management, and disposition 479
of the property constitute integral parts of the regular course 480
of a trade or business operation. "Business income" includes 481
income, including gain or loss, from a partial or complete 482
liquidation of a business, including, but not limited to, gain 483
or loss from the sale or other disposition of goodwill. 484

(C) "Nonbusiness income" means all income other than 485
business income and may include, but is not limited to, 486
compensation, rents and royalties from real or tangible personal 487
property, capital gains, interest, dividends and distributions, 488
patent or copyright royalties, or lottery winnings, prizes, and 489
awards. 490

(D) "Compensation" means any form of remuneration paid to 491
an employee for personal services. 492

(E) "Fiduciary" means a guardian, trustee, executor, 493

administrator, receiver, conservator, or any other person acting	494
in any fiduciary capacity for any individual, trust, or estate.	495
(F) "Fiscal year" means an accounting period of twelve	496
months ending on the last day of any month other than December.	497
(G) "Individual" means any natural person.	498
(H) "Internal Revenue Code" means the "Internal Revenue	499
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	500
(I) "Resident" means any of the following, provided that	501
division (I) (3) of this section applies only to taxable years of	502
a trust beginning in 2002 or thereafter:	503
(1) An individual who is domiciled in this state, subject	504
to section 5747.24 of the Revised Code;	505
(2) The estate of a decedent who at the time of death was	506
domiciled in this state. The domicile tests of section 5747.24	507
of the Revised Code are not controlling for purposes of division	508
(I) (2) of this section.	509
(3) A trust that, in whole or part, resides in this state.	510
If only part of a trust resides in this state, the trust is a	511
resident only with respect to that part.	512
For the purposes of division (I) (3) of this section:	513
(a) A trust resides in this state for the trust's current	514
taxable year to the extent, as described in division (I) (3) (d)	515
of this section, that the trust consists directly or indirectly,	516
in whole or in part, of assets, net of any related liabilities,	517
that were transferred, or caused to be transferred, directly or	518
indirectly, to the trust by any of the following:	519
(i) A person, a court, or a governmental entity or	520

instrumentality on account of the death of a decedent, but only 521
if the trust is described in division (I) (3) (e) (i) or (ii) of 522
this section; 523

(ii) A person who was domiciled in this state for the 524
purposes of this chapter when the person directly or indirectly 525
transferred assets to an irrevocable trust, but only if at least 526
one of the trust's qualifying beneficiaries is domiciled in this 527
state for the purposes of this chapter during all or some 528
portion of the trust's current taxable year; 529

(iii) A person who was domiciled in this state for the 530
purposes of this chapter when the trust document or instrument 531
or part of the trust document or instrument became irrevocable, 532
but only if at least one of the trust's qualifying beneficiaries 533
is a resident domiciled in this state for the purposes of this 534
chapter during all or some portion of the trust's current 535
taxable year. If a trust document or instrument became 536
irrevocable upon the death of a person who at the time of death 537
was domiciled in this state for purposes of this chapter, that 538
person is a person described in division (I) (3) (a) (iii) of this 539
section. 540

(b) A trust is irrevocable to the extent that the 541
transferor is not considered to be the owner of the net assets 542
of the trust under sections 671 to 678 of the Internal Revenue 543
Code. 544

(c) With respect to a trust other than a charitable lead 545
trust, "qualifying beneficiary" has the same meaning as 546
"potential current beneficiary" as defined in section 1361(e) (2) 547
of the Internal Revenue Code, and with respect to a charitable 548
lead trust "qualifying beneficiary" is any current, future, or 549
contingent beneficiary, but with respect to any trust 550

"qualifying beneficiary" excludes a person or a governmental 551
entity or instrumentality to any of which a contribution would 552
qualify for the charitable deduction under section 170 of the 553
Internal Revenue Code. 554

(d) For the purposes of division (I)(3)(a) of this 555
section, the extent to which a trust consists directly or 556
indirectly, in whole or in part, of assets, net of any related 557
liabilities, that were transferred directly or indirectly, in 558
whole or part, to the trust by any of the sources enumerated in 559
that division shall be ascertained by multiplying the fair 560
market value of the trust's assets, net of related liabilities, 561
by the qualifying ratio, which shall be computed as follows: 562

(i) The first time the trust receives assets, the 563
numerator of the qualifying ratio is the fair market value of 564
those assets at that time, net of any related liabilities, from 565
sources enumerated in division (I)(3)(a) of this section. The 566
denominator of the qualifying ratio is the fair market value of 567
all the trust's assets at that time, net of any related 568
liabilities. 569

(ii) Each subsequent time the trust receives assets, a 570
revised qualifying ratio shall be computed. The numerator of the 571
revised qualifying ratio is the sum of (1) the fair market value 572
of the trust's assets immediately prior to the subsequent 573
transfer, net of any related liabilities, multiplied by the 574
qualifying ratio last computed without regard to the subsequent 575
transfer, and (2) the fair market value of the subsequently 576
transferred assets at the time transferred, net of any related 577
liabilities, from sources enumerated in division (I)(3)(a) of 578
this section. The denominator of the revised qualifying ratio is 579
the fair market value of all the trust's assets immediately 580

after the subsequent transfer, net of any related liabilities. 581

(iii) Whether a transfer to the trust is by or from any of 582
the sources enumerated in division (I) (3) (a) of this section 583
shall be ascertained without regard to the domicile of the 584
trust's beneficiaries. 585

(e) For the purposes of division (I) (3) (a) (i) of this 586
section: 587

(i) A trust is described in division (I) (3) (e) (i) of this 588
section if the trust is a testamentary trust and the testator of 589
that testamentary trust was domiciled in this state at the time 590
of the testator's death for purposes of the taxes levied under 591
Chapter 5731. of the Revised Code. 592

(ii) A trust is described in division (I) (3) (e) (ii) of 593
this section if the transfer is a qualifying transfer described 594
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 595
trust is an irrevocable inter vivos trust, and at least one of 596
the trust's qualifying beneficiaries is domiciled in this state 597
for purposes of this chapter during all or some portion of the 598
trust's current taxable year. 599

(f) For the purposes of division (I) (3) (e) (ii) of this 600
section, a "qualifying transfer" is a transfer of assets, net of 601
any related liabilities, directly or indirectly to a trust, if 602
the transfer is described in any of the following: 603

(i) The transfer is made to a trust, created by the 604
decedent before the decedent's death and while the decedent was 605
domiciled in this state for the purposes of this chapter, and, 606
prior to the death of the decedent, the trust became irrevocable 607
while the decedent was domiciled in this state for the purposes 608
of this chapter. 609

(ii) The transfer is made to a trust to which the 610
decedent, prior to the decedent's death, had directly or 611
indirectly transferred assets, net of any related liabilities, 612
while the decedent was domiciled in this state for the purposes 613
of this chapter, and prior to the death of the decedent the 614
trust became irrevocable while the decedent was domiciled in 615
this state for the purposes of this chapter. 616

(iii) The transfer is made on account of a contractual 617
relationship existing directly or indirectly between the 618
transferor and either the decedent or the estate of the decedent 619
at any time prior to the date of the decedent's death, and the 620
decedent was domiciled in this state at the time of death for 621
purposes of the taxes levied under Chapter 5731. of the Revised 622
Code. 623

(iv) The transfer is made to a trust on account of a 624
contractual relationship existing directly or indirectly between 625
the transferor and another person who at the time of the 626
decedent's death was domiciled in this state for purposes of 627
this chapter. 628

(v) The transfer is made to a trust on account of the will 629
of a testator who was domiciled in this state at the time of the 630
testator's death for purposes of the taxes levied under Chapter 631
5731. of the Revised Code. 632

(vi) The transfer is made to a trust created by or caused 633
to be created by a court, and the trust was directly or 634
indirectly created in connection with or as a result of the 635
death of an individual who, for purposes of the taxes levied 636
under Chapter 5731. of the Revised Code, was domiciled in this 637
state at the time of the individual's death. 638

(g) The tax commissioner may adopt rules to ascertain the 639
part of a trust residing in this state. 640

(J) "Nonresident" means an individual or estate that is 641
not a resident. An individual who is a resident for only part of 642
a taxable year is a nonresident for the remainder of that 643
taxable year. 644

(K) "Pass-through entity" has the same meaning as in 645
section 5733.04 of the Revised Code. 646

(L) "Return" means the notifications and reports required 647
to be filed pursuant to this chapter for the purpose of 648
reporting the tax due and includes declarations of estimated tax 649
when so required. 650

(M) "Taxable year" means the calendar year or the 651
taxpayer's fiscal year ending during the calendar year, or 652
fractional part thereof, upon which the adjusted gross income is 653
calculated pursuant to this chapter. 654

(N) "Taxpayer" means any person subject to the tax imposed 655
by section 5747.02 of the Revised Code or any pass-through 656
entity that makes the election under division (D) of section 657
5747.08 of the Revised Code. 658

(O) "Dependents" means one of the following: 659

(1) For taxable years beginning on or after January 1, 660
2018, and before January 1, 2026, dependents as defined in the 661
Internal Revenue Code; 662

(2) For all other taxable years, dependents as defined in 663
the Internal Revenue Code and as claimed in the taxpayer's 664
federal income tax return for the taxable year or which the 665
taxpayer would have been permitted to claim had the taxpayer 666

filed a federal income tax return. 667

(P) "Principal county of employment" means, in the case of 668
a nonresident, the county within the state in which a taxpayer 669
performs services for an employer or, if those services are 670
performed in more than one county, the county in which the major 671
portion of the services are performed. 672

(Q) As used in sections 5747.50 to 5747.55 of the Revised 673
Code: 674

(1) "Subdivision" means any county, municipal corporation, 675
park district, or township. 676

(2) "Essential local government purposes" includes all 677
functions that any subdivision is required by general law to 678
exercise, including like functions that are exercised under a 679
charter adopted pursuant to the Ohio Constitution. 680

(R) "Overpayment" means any amount already paid that 681
exceeds the figure determined to be the correct amount of the 682
tax. 683

(S) "Taxable income" or "Ohio taxable income" applies only 684
to estates and trusts, and means federal taxable income, as 685
defined and used in the Internal Revenue Code, adjusted as 686
follows: 687

(1) Add interest or dividends, net of ordinary, necessary, 688
and reasonable expenses not deducted in computing federal 689
taxable income, on obligations or securities of any state or of 690
any political subdivision or authority of any state, other than 691
this state and its subdivisions and authorities, but only to the 692
extent that such net amount is not otherwise includible in Ohio 693
taxable income and is described in either division (S) (1) (a) or 694
(b) of this section: 695

(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;	696 697 698
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	699 700
(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;	701 702 703 704 705 706 707 708 709
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	710 711
(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;	712 713 714 715 716 717 718 719 720
(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	721 722 723 724

sections 38, 51, and 52 of the Internal Revenue Code not been in 725
effect, but only to the extent such amount relates either to 726
income included in federal taxable income for the taxable year 727
or to income of the S portion of an electing small business 728
trust for the taxable year; 729

(6) Deduct any interest or interest equivalent, net of 730
related expenses deducted in computing federal taxable income, 731
on public obligations and purchase obligations, but only to the 732
extent that such net amount relates either to income included in 733
federal taxable income for the taxable year or to income of the 734
S portion of an electing small business trust for the taxable 735
year; 736

(7) Add any loss or deduct any gain resulting from sale, 737
exchange, or other disposition of public obligations to the 738
extent that such loss has been deducted or such gain has been 739
included in computing either federal taxable income or income of 740
the S portion of an electing small business trust for the 741
taxable year; 742

(8) Except in the case of the final return of an estate, 743
add any amount deducted by the taxpayer on both its Ohio estate 744
tax return pursuant to section 5731.14 of the Revised Code, and 745
on its federal income tax return in determining federal taxable 746
income; 747

(9) (a) Deduct any amount included in federal taxable 748
income solely because the amount represents a reimbursement or 749
refund of expenses that in a previous year the decedent had 750
deducted as an itemized deduction pursuant to section 63 of the 751
Internal Revenue Code and applicable treasury regulations. The 752
deduction otherwise allowed under division (S) (9) (a) of this 753
section shall be reduced to the extent the reimbursement is 754

attributable to an amount the taxpayer or decedent deducted 755
under this section in any taxable year. 756

(b) Add any amount not otherwise included in Ohio taxable 757
income for any taxable year to the extent that the amount is 758
attributable to the recovery during the taxable year of any 759
amount deducted or excluded in computing federal or Ohio taxable 760
income in any taxable year, but only to the extent such amount 761
has not been distributed to beneficiaries for the taxable year. 762

(10) Deduct any portion of the deduction described in 763
section 1341(a) (2) of the Internal Revenue Code, for repaying 764
previously reported income received under a claim of right, that 765
meets both of the following requirements: 766

(a) It is allowable for repayment of an item that was 767
included in the taxpayer's taxable income or the decedent's 768
adjusted gross income for a prior taxable year and did not 769
qualify for a credit under division (A) or (B) of section 770
5747.05 of the Revised Code for that year. 771

(b) It does not otherwise reduce the taxpayer's taxable 772
income or the decedent's adjusted gross income for the current 773
or any other taxable year. 774

(11) Add any amount claimed as a credit under section 775
5747.059 of the Revised Code to the extent that the amount 776
satisfies either of the following: 777

(a) The amount was deducted or excluded from the 778
computation of the taxpayer's federal taxable income as required 779
to be reported for the taxpayer's taxable year under the 780
Internal Revenue Code; 781

(b) The amount resulted in a reduction in the taxpayer's 782
federal taxable income as required to be reported for any of the 783

taxpayer's taxable years under the Internal Revenue Code. 784

(12) Deduct any amount, net of related expenses deducted 785
in computing federal taxable income, that a trust is required to 786
report as farm income on its federal income tax return, but only 787
if the assets of the trust include at least ten acres of land 788
satisfying the definition of "land devoted exclusively to 789
agricultural use" under section 5713.30 of the Revised Code, 790
regardless of whether the land is valued for tax purposes as 791
such land under sections 5713.30 to 5713.38 of the Revised Code. 792
If the trust is a pass-through entity investor, section 5747.231 793
of the Revised Code applies in ascertaining if the trust is 794
eligible to claim the deduction provided by division (S) (12) of 795
this section in connection with the pass-through entity's farm 796
income. 797

Except for farm income attributable to the S portion of an 798
electing small business trust, the deduction provided by 799
division (S) (12) of this section is allowed only to the extent 800
that the trust has not distributed such farm income. Division 801
(S) (12) of this section applies only to taxable years of a trust 802
beginning in 2002 or thereafter. 803

(13) Add the net amount of income described in section 804
641(c) of the Internal Revenue Code to the extent that amount is 805
not included in federal taxable income. 806

(14) Add or deduct the amount the taxpayer would be 807
required to add or deduct under division (A) (20) or (21) of this 808
section if the taxpayer's Ohio taxable income were computed in 809
the same manner as an individual's Ohio adjusted gross income is 810
computed under this section. In the case of a trust, division 811
(S) (14) of this section applies only to any of the trust's 812
taxable years beginning in 2002 or thereafter. 813

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code. 814
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(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. 817
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(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. 821
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(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. 824
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(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code. 828
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(Y) "Month" means a calendar month. 830

(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. 831
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833

(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. 834
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(2) "Qualified tuition and fees" means tuition and fees 843
imposed by an eligible institution as a condition of enrollment 844
or attendance, not exceeding two thousand five hundred dollars 845
in each of the individual's first two years of post-secondary 846
education. If the individual is a part-time student, "qualified 847
tuition and fees" includes tuition and fees paid for the 848
academic equivalent of the first two years of post-secondary 849
education during a maximum of five taxable years, not exceeding 850
a total of five thousand dollars. "Qualified tuition and fees" 851
does not include: 852

(a) Expenses for any course or activity involving sports, 853
games, or hobbies unless the course or activity is part of the 854
individual's degree or diploma program; 855

(b) The cost of books, room and board, student activity 856
fees, athletic fees, insurance expenses, or other expenses 857
unrelated to the individual's academic course of instruction; 858

(c) Tuition, fees, or other expenses paid or reimbursed 859
through an employer, scholarship, grant in aid, or other 860
educational benefit program. 861

(BB)(1) "Modified business income" means the business 862
income included in a trust's Ohio taxable income after such 863
taxable income is first reduced by the qualifying trust amount, 864
if any. 865

(2) "Qualifying trust amount" of a trust means capital 866
gains and losses from the sale, exchange, or other disposition 867
of equity or ownership interests in, or debt obligations of, a 868
qualifying investee to the extent included in the trust's Ohio 869
taxable income, but only if the following requirements are 870
satisfied: 871

(a) The book value of the qualifying investee's physical 872
assets in this state and everywhere, as of the last day of the 873
qualifying investee's fiscal or calendar year ending immediately 874
prior to the date on which the trust recognizes the gain or 875
loss, is available to the trust. 876

(b) The requirements of section 5747.011 of the Revised 877
Code are satisfied for the trust's taxable year in which the 878
trust recognizes the gain or loss. 879

Any gain or loss that is not a qualifying trust amount is 880
modified business income, qualifying investment income, or 881
modified nonbusiness income, as the case may be. 882

(3) "Modified nonbusiness income" means a trust's Ohio 883
taxable income other than modified business income, other than 884
the qualifying trust amount, and other than qualifying 885
investment income, as defined in section 5747.012 of the Revised 886
Code, to the extent such qualifying investment income is not 887
otherwise part of modified business income. 888

(4) "Modified Ohio taxable income" applies only to trusts, 889
and means the sum of the amounts described in divisions (BB) (4) 890
(a) to (c) of this section: 891

(a) The fraction, calculated under section 5747.013, and 892
applying section 5747.231 of the Revised Code, multiplied by the 893
sum of the following amounts: 894

(i) The trust's modified business income; 895

(ii) The trust's qualifying investment income, as defined 896
in section 5747.012 of the Revised Code, but only to the extent 897
the qualifying investment income does not otherwise constitute 898
modified business income and does not otherwise constitute a 899
qualifying trust amount. 900

(b) The qualifying trust amount multiplied by a fraction, 901
the numerator of which is the sum of the book value of the 902
qualifying investee's physical assets in this state on the last 903
day of the qualifying investee's fiscal or calendar year ending 904
immediately prior to the day on which the trust recognizes the 905
qualifying trust amount, and the denominator of which is the sum 906
of the book value of the qualifying investee's total physical 907
assets everywhere on the last day of the qualifying investee's 908
fiscal or calendar year ending immediately prior to the day on 909
which the trust recognizes the qualifying trust amount. If, for 910
a taxable year, the trust recognizes a qualifying trust amount 911
with respect to more than one qualifying investee, the amount 912
described in division (BB) (4) (b) of this section shall equal the 913
sum of the products so computed for each such qualifying 914
investee. 915

(c) (i) With respect to a trust or portion of a trust that 916
is a resident as ascertained in accordance with division (I) (3) 917
(d) of this section, its modified nonbusiness income. 918

(ii) With respect to a trust or portion of a trust that is 919
not a resident as ascertained in accordance with division (I) (3) 920
(d) of this section, the amount of its modified nonbusiness 921
income satisfying the descriptions in divisions (B) (2) to (5) of 922
section 5747.20 of the Revised Code, except as otherwise 923
provided in division (BB) (4) (c) (ii) of this section. With 924
respect to a trust or portion of a trust that is not a resident 925
as ascertained in accordance with division (I) (3) (d) of this 926
section, the trust's portion of modified nonbusiness income 927
recognized from the sale, exchange, or other disposition of a 928
debt interest in or equity interest in a section 5747.212 929
entity, as defined in section 5747.212 of the Revised Code, 930
without regard to division (A) of that section, shall not be 931

allocated to this state in accordance with section 5747.20 of 932
the Revised Code but shall be apportioned to this state in 933
accordance with division (B) of section 5747.212 of the Revised 934
Code without regard to division (A) of that section. 935

If the allocation and apportionment of a trust's income 936
under divisions (BB) (4) (a) and (c) of this section do not fairly 937
represent the modified Ohio taxable income of the trust in this 938
state, the alternative methods described in division (C) of 939
section 5747.21 of the Revised Code may be applied in the manner 940
and to the same extent provided in that section. 941

(5) (a) Except as set forth in division (BB) (5) (b) of this 942
section, "qualifying investee" means a person in which a trust 943
has an equity or ownership interest, or a person or unit of 944
government the debt obligations of either of which are owned by 945
a trust. For the purposes of division (BB) (2) (a) of this section 946
and for the purpose of computing the fraction described in 947
division (BB) (4) (b) of this section, all of the following apply: 948

(i) If the qualifying investee is a member of a qualifying 949
controlled group on the last day of the qualifying investee's 950
fiscal or calendar year ending immediately prior to the date on 951
which the trust recognizes the gain or loss, then "qualifying 952
investee" includes all persons in the qualifying controlled 953
group on such last day. 954

(ii) If the qualifying investee, or if the qualifying 955
investee and any members of the qualifying controlled group of 956
which the qualifying investee is a member on the last day of the 957
qualifying investee's fiscal or calendar year ending immediately 958
prior to the date on which the trust recognizes the gain or 959
loss, separately or cumulatively own, directly or indirectly, on 960
the last day of the qualifying investee's fiscal or calendar 961

year ending immediately prior to the date on which the trust 962
recognizes the qualifying trust amount, more than fifty per cent 963
of the equity of a pass-through entity, then the qualifying 964
investee and the other members are deemed to own the 965
proportionate share of the pass-through entity's physical assets 966
which the pass-through entity directly or indirectly owns on the 967
last day of the pass-through entity's calendar or fiscal year 968
ending within or with the last day of the qualifying investee's 969
fiscal or calendar year ending immediately prior to the date on 970
which the trust recognizes the qualifying trust amount. 971

(iii) For the purposes of division (BB) (5) (a) (iii) of this 972
section, "upper level pass-through entity" means a pass-through 973
entity directly or indirectly owning any equity of another pass- 974
through entity, and "lower level pass-through entity" means that 975
other pass-through entity. 976

An upper level pass-through entity, whether or not it is 977
also a qualifying investee, is deemed to own, on the last day of 978
the upper level pass-through entity's calendar or fiscal year, 979
the proportionate share of the lower level pass-through entity's 980
physical assets that the lower level pass-through entity 981
directly or indirectly owns on the last day of the lower level 982
pass-through entity's calendar or fiscal year ending within or 983
with the last day of the upper level pass-through entity's 984
fiscal or calendar year. If the upper level pass-through entity 985
directly and indirectly owns less than fifty per cent of the 986
equity of the lower level pass-through entity on each day of the 987
upper level pass-through entity's calendar or fiscal year in 988
which or with which ends the calendar or fiscal year of the 989
lower level pass-through entity and if, based upon clear and 990
convincing evidence, complete information about the location and 991
cost of the physical assets of the lower pass-through entity is 992

not available to the upper level pass-through entity, then 993
solely for purposes of ascertaining if a gain or loss 994
constitutes a qualifying trust amount, the upper level pass- 995
through entity shall be deemed as owning no equity of the lower 996
level pass-through entity for each day during the upper level 997
pass-through entity's calendar or fiscal year in which or with 998
which ends the lower level pass-through entity's calendar or 999
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1000
shall be construed to provide for any deduction or exclusion in 1001
computing any trust's Ohio taxable income. 1002

(b) With respect to a trust that is not a resident for the 1003
taxable year and with respect to a part of a trust that is not a 1004
resident for the taxable year, "qualifying investee" for that 1005
taxable year does not include a C corporation if both of the 1006
following apply: 1007

(i) During the taxable year the trust or part of the trust 1008
recognizes a gain or loss from the sale, exchange, or other 1009
disposition of equity or ownership interests in, or debt 1010
obligations of, the C corporation. 1011

(ii) Such gain or loss constitutes nonbusiness income. 1012

(6) "Available" means information is such that a person is 1013
able to learn of the information by the due date plus 1014
extensions, if any, for filing the return for the taxable year 1015
in which the trust recognizes the gain or loss. 1016

(CC) "Qualifying controlled group" has the same meaning as 1017
in section 5733.04 of the Revised Code. 1018

(DD) "Related member" has the same meaning as in section 1019
5733.042 of the Revised Code. 1020

(EE) (1) For the purposes of division (EE) of this section: 1021

(a) "Qualifying person" means any person other than a qualifying corporation.	1022 1023
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1024 1025 1026
(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;	1027 1028 1029 1030
(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.	1031 1032 1033 1034 1035
(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.	1036 1037 1038
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1039 1040
(1) "Trust" does not include a qualified pre-income tax trust.	1041 1042
(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.	1043 1044 1045
(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	1046 1047 1048 1049

controls, directly, indirectly, or constructively through 1050
related interests, five per cent or more of the ownership or 1051
equity interests. The trustee shall notify the tax commissioner 1052
in writing of the election on or before April 15, 2006. The 1053
election, if timely made, shall be effective on and after 1054
January 1, 2006, and shall apply for all tax periods and tax 1055
years until revoked by the trustee of the trust. 1056

(4) A "pre-income tax trust" is a trust that satisfies all 1057
of the following requirements: 1058

(a) The document or instrument creating the trust was 1059
executed by the grantor before January 1, 1972; 1060

(b) The trust became irrevocable upon the creation of the 1061
trust; and 1062

(c) The grantor was domiciled in this state at the time 1063
the trust was created. 1064

(GG) "Uniformed services" has the same meaning as in 10 1065
U.S.C. 101. 1066

(HH) "Taxable business income" means the amount by which 1067
an individual's business income that is included in federal 1068
adjusted gross income exceeds the amount of business income the 1069
individual is authorized to deduct under division (A) (31) of 1070
this section for the taxable year. 1071

(II) "Employer" does not include a franchisor with respect 1072
to the franchisor's relationship with a franchisee or an 1073
employee of a franchisee, unless the franchisor agrees to assume 1074
that role in writing or a court of competent jurisdiction 1075
determines that the franchisor exercises a type or degree of 1076
control over the franchisee or the franchisee's employees that 1077
is not customarily exercised by a franchisor for the purpose of 1078

protecting the franchisor's trademark, brand, or both. For 1079
purposes of this division, "franchisor" and "franchisee" have 1080
the same meanings as in 16 C.F.R. 436.1. 1081

(JJ) "Modified adjusted gross income" means Ohio adjusted 1082
gross income plus any amount deducted under division (A) (31) of 1083
this section for the taxable year. 1084

(KK) "Qualifying Ohio educator" means an individual who, 1085
for a taxable year, qualifies as an eligible educator, as that 1086
term is defined in section 62 of the Internal Revenue Code, and 1087
who holds a certificate, license, or permit described in Chapter 1088
3319. or section 3301.071 of the Revised Code. 1089

Section 2. That existing section 5747.01 of the Revised 1090
Code is hereby repealed. 1091

Section 3. Pursuant to division (G) of section 5703.95 of 1092
the Revised Code, which states that any bill introduced in the 1093
House of Representatives or the Senate that proposes to enact or 1094
modify one or more tax expenditures should include a statement 1095
explaining the objectives of the tax expenditure or its 1096
modification and the sponsor's intent in proposing the tax 1097
expenditure or its modification: 1098

The purpose of this bill is to create an incentive for 1099
individuals to seek out dental services, to increase the number 1100
of individuals that visit dental offices, and to help dental 1101
offices and dental services providers to financially recover 1102
after the COVID-19 pandemic forced many dental offices to close. 1103