

**As Reported by the House Ways and Means Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. S. B. No. 125**

**Senators Hottinger, Brenner**

**Cosponsors: Senators Terhar, Wilson, Fedor, Roegner, Hackett, Blessing, Coley,  
Huffman, S., Lehner, Manning, McColley, O'Brien, Peterson, Rulli, Yuko  
Representative Merrin**

---

**A BILL**

To amend sections 3333.26, 5747.01, and 5747.70 of 1  
the Revised Code to expand the income tax 2  
deduction allowed for contributions to 529 3  
education savings plans, to enact the "Anthony 4  
Dia Act" regarding residency determination for 5  
tuition and fee waivers for survivors of service 6  
officers and service members killed in the line 7  
of duty, and to make other changes to those 8  
waivers. 9

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

**Section 1.** That sections 3333.26, 5747.01, and 5747.70 of 10  
the Revised Code be amended to read as follows: 11

**Sec. 3333.26.** (A) Any citizen of this state who has 12  
resided within the state for one year, who was in the active 13  
service of the United States as a soldier, sailor, nurse, or 14  
marine between April 6, 1917, and November 11, 1918, and who has 15  
been honorably discharged from that service, shall be admitted 16  
to any school, college, or university that receives state funds 17

in support thereof, without being required to pay any tuition or 18  
matriculation fee, but is not relieved from the payment of 19  
laboratory or similar fees. 20

(B) (1) As used in this ~~division~~: section: 21

(a) "Volunteer firefighter" has the meaning as in division 22  
(B) (1) of section 146.01 of the Revised Code. 23

(b) "Public service officer" means an Ohio firefighter, 24  
volunteer firefighter, police officer, member of the state 25  
highway patrol, employee designated to exercise the powers of 26  
police officers pursuant to section 1545.13 of the Revised Code, 27  
or other peace officer as defined by division (B) of section 28  
2935.01 of the Revised Code, or a person holding any equivalent 29  
position in another state. 30

(c) "Qualified former spouse" means the former spouse of a 31  
public service officer, or of a member of the armed services of 32  
the United States, who is the custodial parent of a minor child 33  
of that marriage pursuant to an order allocating the parental 34  
rights and responsibilities for care of the child issued 35  
pursuant to section 3109.04 of the Revised Code. 36

(d) "Operation enduring freedom" means that period of 37  
conflict which began October 7, 2001, and ends on a date 38  
declared by the president of the United States or the congress. 39

(e) "Operation Iraqi freedom" means that period of 40  
conflict which began March 20, 2003, and ends on a date declared 41  
by the president of the United States or the congress. 42

(f) "Combat zone" means an area that the president of the 43  
United States by executive order designates, for purposes of 26 44  
U.S.C. 112, as an area in which armed forces of the United 45  
States are or have engaged in combat. 46

(2) Any Subject to division (D) of this section, any 47  
resident of this state who is under twenty-six years of age, or 48  
under thirty years of age if the resident has been honorably 49  
discharged from the armed services of the United States, who is 50  
the child of a public service officer killed in the line of duty 51  
or of a member of the armed services of the United States killed 52  
in the line of duty during operation enduring freedom or 53  
operation Iraqi freedom, and who is admitted to any state 54  
university or college as defined in division (A) (1) of section 55  
3345.12 of the Revised Code, community college, state community 56  
college, university branch, or technical college shall not be 57  
required to pay any tuition or any student fee for up to four 58  
academic years of education, which shall be at the undergraduate 59  
level, or a certificate program as prescribed under division (E) 60  
of this section. 61

A child of a member of the armed services of the United 62  
States killed in the line of duty during operation enduring 63  
freedom or operation Iraqi freedom is eligible for a waiver of 64  
tuition and student fees under this division only if the student 65  
is not eligible for a war orphans and severely disabled 66  
veterans' children scholarship authorized by Chapter 5910. of 67  
the Revised Code. In any year in which the war orphans and 68  
severely disabled veterans' children scholarship board reduces 69  
the percentage of tuition covered by a war orphans and severely 70  
disabled veterans' children scholarship below one hundred per 71  
cent pursuant to division (A) of section 5910.04 of the Revised 72  
Code, the waiver of tuition and student fees under this division 73  
for a child of a member of the armed services of the United 74  
States killed in the line of duty during operation enduring 75  
freedom or operation Iraqi freedom shall be reduced by the same 76  
percentage. 77

(3) ~~Any Subject to division (D) of this section, any~~ 78  
resident of this state who is the spouse or qualified former 79  
spouse of a public service officer killed in the line of duty, 80  
and who is admitted to any state university or college as 81  
defined in division (A)(1) of section 3345.12 of the Revised 82  
Code, community college, state community college, university 83  
branch, or technical college, shall not be required to pay any 84  
tuition or any student fee for up to four academic years of 85  
education, which shall be at the undergraduate level, or a 86  
certificate program as prescribed under division (E) of this 87  
section. 88

(4) Any resident of this state who is the spouse or 89  
qualified former spouse of a member of the armed services of the 90  
United States killed in the line of duty while serving in a 91  
combat zone after May 7, 1975, and who is admitted to any state 92  
university or college as defined in division (A)(1) of section 93  
3345.12 of the Revised Code, community college, state community 94  
college, university branch, or technical college, shall not be 95  
required to pay any tuition or any student fee for up to four 96  
years of academic education, which shall be at the undergraduate 97  
level, or a certificate program as prescribed under division (E) 98  
of this section. In order to qualify under division (B)(4) of 99  
this section, the spouse or qualified former spouse shall have 100  
been a resident of this state at the time the member was killed 101  
in the line of duty. 102

(C) Any institution that is not subject to division (B) of 103  
this section and that holds a valid certificate of registration 104  
issued under Chapter 3332. of the Revised Code, a valid 105  
certificate issued under Chapter 4709. of the Revised Code, or a 106  
valid license issued under Chapter 4713. of the Revised Code, or 107  
that is nonprofit and has a certificate of authorization issued 108

under section 1713.02 of the Revised Code, or that is a private 109  
institution exempt from regulation under Chapter 3332. of the 110  
Revised Code as prescribed in section 3333.046 of the Revised 111  
Code, which reduces tuition and student fees of a student who is 112  
eligible to attend an institution of higher education under the 113  
provisions of division (B) of this section by an amount 114  
indicated by the chancellor of higher education shall be 115  
eligible to receive a grant in that amount from the chancellor. 116

Each institution that enrolls students under division (B) 117  
of this section shall report to the chancellor, by the first day 118  
of July of each year, the number of students who were so 119  
enrolled and the average amount of all such tuition and student 120  
fees waived during the preceding year. The chancellor shall 121  
determine the average amount of all such tuition and student 122  
fees waived during the preceding year. The average amount of the 123  
tuition and student fees waived under division (B) of this 124  
section during the preceding year shall be the amount of grants 125  
that participating institutions shall receive under this 126  
division during the current year, but no grant under this 127  
division shall exceed the tuition and student fees due and 128  
payable by the student prior to the reduction referred to in 129  
this division. The grants shall be made for two certificate 130  
programs or four years of undergraduate education of an eligible 131  
student. 132

(D) Notwithstanding anything to the contrary in section 133  
3333.31 of the Revised Code, for the purposes of divisions (B) 134  
(2) and (3) of this section, the child, spouse, or qualified 135  
former spouse of a public service officer or a member of the 136  
armed services of the United States killed in the line of duty 137  
shall be considered a resident of this state for the purposes of 138  
this section if the child, spouse, or qualified former spouse 139

was a resident of this state at the time that the public service 140  
officer or member of the armed services was killed. 141

However, no child, spouse, or qualified former spouse of a 142  
public service officer or a member of the armed services of the 143  
United States killed in the line of duty shall be required to be 144  
a resident of this state at the time the public service officer 145  
or member of the armed services of the United States was killed 146  
in order to receive benefits under divisions (B) (2) and (3) of 147  
this section. 148

(E) A child, spouse, or qualified former spouse of a 149  
public service officer or a member of the armed services killed 150  
in the line of duty shall receive benefits for a certificate 151  
program in accordance with division (B) or (C) of this section, 152  
except that a particular child, spouse, or qualified former 153  
spouse shall not receive benefits for: 154

(1) More than two certificate programs; 155

(2) A total number of academic credits or instructional 156  
hours equivalent to more than four academic years; 157

(3) For any particular academic year, an amount that is 158  
greater than eight thousand dollars. 159

**Sec. 5747.01.** Except as otherwise expressly provided or 160  
clearly appearing from the context, any term used in this 161  
chapter that is not otherwise defined in this section has the 162  
same meaning as when used in a comparable context in the laws of 163  
the United States relating to federal income taxes or if not 164  
used in a comparable context in those laws, has the same meaning 165  
as in section 5733.40 of the Revised Code. Any reference in this 166  
chapter to the Internal Revenue Code includes other laws of the 167  
United States relating to federal income taxes. 168

|  |  |
|--|--|
| As used in this chapter:   | 169                                    |
| (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:   | 170<br>171<br>172<br>173               |
| (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.   | 174<br>175<br>176<br>177               |
| (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.   | 178<br>179<br>180<br>181<br>182        |
| (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. | 183<br>184<br>185<br>186<br>187<br>188 |
| (4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.   | 189<br>190                             |
| (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.   | 191<br>192<br>193<br>194               |
| (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   | 195<br>196<br>197                      |

beneficiary's taxable years beginning before 2002, the portion, 198  
if any, of such distribution that does not exceed the 199  
undistributed net income of the trust for the three taxable 200  
years preceding the taxable year in which the distribution is 201  
made to the extent that the portion was not included in the 202  
trust's taxable income for any of the trust's taxable years 203  
beginning in 2002 or thereafter. "Undistributed net income of a 204  
trust" means the taxable income of the trust increased by (a) (i) 205  
the additions to adjusted gross income required under division 206  
(A) of this section and (ii) the personal exemptions allowed to 207  
the trust pursuant to section 642(b) of the Internal Revenue 208  
Code, and decreased by (b) (i) the deductions to adjusted gross 209  
income required under division (A) of this section, (ii) the 210  
amount of federal income taxes attributable to such income, and 211  
(iii) the amount of taxable income that has been included in the 212  
adjusted gross income of a beneficiary by reason of a prior 213  
accumulation distribution. Any undistributed net income included 214  
in the adjusted gross income of a beneficiary shall reduce the 215  
undistributed net income of the trust commencing with the 216  
earliest years of the accumulation period. 217

(7) Deduct the amount of wages and salaries, if any, not 218  
otherwise allowable as a deduction but that would have been 219  
allowable as a deduction in computing federal adjusted gross 220  
income for the taxable year, had the targeted jobs credit 221  
allowed and determined under sections 38, 51, and 52 of the 222  
Internal Revenue Code not been in effect. 223

(8) Deduct any interest or interest equivalent on public 224  
obligations and purchase obligations to the extent that the 225  
interest or interest equivalent is included in federal adjusted 226  
gross income. 227

(9) Add any loss or deduct any gain resulting from the 228  
sale, exchange, or other disposition of public obligations to 229  
the extent that the loss has been deducted or the gain has been 230  
included in computing federal adjusted gross income. 231

(10) Deduct or add amounts, as provided under section 232  
5747.70 of the Revised Code, related to contributions made to 233  
~~variable college savings program accounts made~~ or tuition units 234  
purchased pursuant to ~~Chapter 3334. of the Revised Code~~under a 235  
qualified tuition program established pursuant to section 529 of 236  
the Internal Revenue Code. 237

(11) (a) Deduct, to the extent not otherwise allowable as a 238  
deduction or exclusion in computing federal or Ohio adjusted 239  
gross income for the taxable year, the amount the taxpayer paid 240  
during the taxable year for medical care insurance and qualified 241  
long-term care insurance for the taxpayer, the taxpayer's 242  
spouse, and dependents. No deduction for medical care insurance 243  
under division (A) (11) (a) of this section shall be allowed 244  
either to any taxpayer who is eligible to participate in any 245  
subsidized health plan maintained by any employer of the 246  
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 247  
entitled to, or on application would be entitled to, benefits 248  
under part A of Title XVIII of the "Social Security Act," 49 249  
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 250  
division (A) (11) (a) of this section, "subsidized health plan" 251  
means a health plan for which the employer pays any portion of 252  
the plan's cost. The deduction allowed under division (A) (11) (a) 253  
of this section shall be the net of any related premium refunds, 254  
related premium reimbursements, or related insurance premium 255  
dividends received during the taxable year. 256

(b) Deduct, to the extent not otherwise deducted or 257

excluded in computing federal or Ohio adjusted gross income 258  
during the taxable year, the amount the taxpayer paid during the 259  
taxable year, not compensated for by any insurance or otherwise, 260  
for medical care of the taxpayer, the taxpayer's spouse, and 261  
dependents, to the extent the expenses exceed seven and one-half 262  
per cent of the taxpayer's federal adjusted gross income. 263

(c) Deduct, to the extent not otherwise deducted or 264  
excluded in computing federal or Ohio adjusted gross income, any 265  
amount included in federal adjusted gross income under section 266  
105 or not excluded under section 106 of the Internal Revenue 267  
Code solely because it relates to an accident and health plan 268  
for a person who otherwise would be a "qualifying relative" and 269  
thus a "dependent" under section 152 of the Internal Revenue 270  
Code but for the fact that the person fails to meet the income 271  
and support limitations under section 152(d)(1)(B) and (C) of 272  
the Internal Revenue Code. 273

(d) For purposes of division (A)(11) of this section, 274  
"medical care" has the meaning given in section 213 of the 275  
Internal Revenue Code, subject to the special rules, 276  
limitations, and exclusions set forth therein, and "qualified 277  
long-term care" has the same meaning given in section 7702B(c) 278  
of the Internal Revenue Code. Solely for purposes of divisions 279  
(A)(11)(a) and (c) of this section, "dependent" includes a 280  
person who otherwise would be a "qualifying relative" and thus a 281  
"dependent" under section 152 of the Internal Revenue Code but 282  
for the fact that the person fails to meet the income and 283  
support limitations under section 152(d)(1)(B) and (C) of the 284  
Internal Revenue Code. 285

(12)(a) Deduct any amount included in federal adjusted 286  
gross income solely because the amount represents a 287

reimbursement or refund of expenses that in any year the 288  
taxpayer had deducted as an itemized deduction pursuant to 289  
section 63 of the Internal Revenue Code and applicable United 290  
States department of the treasury regulations. The deduction 291  
otherwise allowed under division (A) (12) (a) of this section 292  
shall be reduced to the extent the reimbursement is attributable 293  
to an amount the taxpayer deducted under this section in any 294  
taxable year. 295

(b) Add any amount not otherwise included in Ohio adjusted 296  
gross income for any taxable year to the extent that the amount 297  
is attributable to the recovery during the taxable year of any 298  
amount deducted or excluded in computing federal or Ohio 299  
adjusted gross income in any taxable year. 300

(13) Deduct any portion of the deduction described in 301  
section 1341(a) (2) of the Internal Revenue Code, for repaying 302  
previously reported income received under a claim of right, that 303  
meets both of the following requirements: 304

(a) It is allowable for repayment of an item that was 305  
included in the taxpayer's adjusted gross income for a prior 306  
taxable year and did not qualify for a credit under division (A) 307  
or (B) of section 5747.05 of the Revised Code for that year; 308

(b) It does not otherwise reduce the taxpayer's adjusted 309  
gross income for the current or any other taxable year. 310

(14) Deduct an amount equal to the deposits made to, and 311  
net investment earnings of, a medical savings account during the 312  
taxable year, in accordance with section 3924.66 of the Revised 313  
Code. The deduction allowed by division (A) (14) of this section 314  
does not apply to medical savings account deposits and earnings 315  
otherwise deducted or excluded for the current or any other 316

|  |     |
|--|-----|
| taxable year from the taxpayer's federal adjusted gross income.  | 317 |
| (15) (a) Add an amount equal to the funds withdrawn from a       | 318 |
| medical savings account during the taxable year, and the net     | 319 |
| investment earnings on those funds, when the funds withdrawn     | 320 |
| were used for any purpose other than to reimburse an account     | 321 |
| holder for, or to pay, eligible medical expenses, in accordance  | 322 |
| with section 3924.66 of the Revised Code;                        | 323 |
| (b) Add the amounts distributed from a medical savings           | 324 |
| account under division (A) (2) of section 3924.68 of the Revised | 325 |
| Code during the taxable year.                                    | 326 |
| (16) Add any amount claimed as a credit under section            | 327 |
| 5747.059 of the Revised Code to the extent that such amount      | 328 |
| satisfies either of the following:                               | 329 |
| (a) The amount was deducted or excluded from the                 | 330 |
| computation of the taxpayer's federal adjusted gross income as   | 331 |
| required to be reported for the taxpayer's taxable year under    | 332 |
| the Internal Revenue Code;                                       | 333 |
| (b) The amount resulted in a reduction of the taxpayer's         | 334 |
| federal adjusted gross income as required to be reported for any | 335 |
| of the taxpayer's taxable years under the Internal Revenue Code. | 336 |
| (17) Deduct the amount contributed by the taxpayer to an         | 337 |
| individual development account program established by a county   | 338 |
| department of job and family services pursuant to sections       | 339 |
| 329.11 to 329.14 of the Revised Code for the purpose of matching | 340 |
| funds deposited by program participants. On request of the tax   | 341 |
| commissioner, the taxpayer shall provide any information that,   | 342 |
| in the tax commissioner's opinion, is necessary to establish the | 343 |
| amount deducted under division (A) (17) of this section.         | 344 |
| (18) Beginning in taxable year 2001 but not for any              | 345 |

taxable year beginning after December 31, 2005, if the taxpayer 346  
is married and files a joint return and the combined federal 347  
adjusted gross income of the taxpayer and the taxpayer's spouse 348  
for the taxable year does not exceed one hundred thousand 349  
dollars, or if the taxpayer is single and has a federal adjusted 350  
gross income for the taxable year not exceeding fifty thousand 351  
dollars, deduct amounts paid during the taxable year for 352  
qualified tuition and fees paid to an eligible institution for 353  
the taxpayer, the taxpayer's spouse, or any dependent of the 354  
taxpayer, who is a resident of this state and is enrolled in or 355  
attending a program that culminates in a degree or diploma at an 356  
eligible institution. The deduction may be claimed only to the 357  
extent that qualified tuition and fees are not otherwise 358  
deducted or excluded for any taxable year from federal or Ohio 359  
adjusted gross income. The deduction may not be claimed for 360  
educational expenses for which the taxpayer claims a credit 361  
under section 5747.27 of the Revised Code. 362

(19) Add any reimbursement received during the taxable 363  
year of any amount the taxpayer deducted under division (A) (18) 364  
of this section in any previous taxable year to the extent the 365  
amount is not otherwise included in Ohio adjusted gross income. 366

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 367  
(v) of this section, add five-sixths of the amount of 368  
depreciation expense allowed by subsection (k) of section 168 of 369  
the Internal Revenue Code, including the taxpayer's 370  
proportionate or distributive share of the amount of 371  
depreciation expense allowed by that subsection to a pass- 372  
through entity in which the taxpayer has a direct or indirect 373  
ownership interest. 374

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 375

of this section, add five-sixths of the amount of qualifying 376  
section 179 depreciation expense, including the taxpayer's 377  
proportionate or distributive share of the amount of qualifying 378  
section 179 depreciation expense allowed to any pass-through 379  
entity in which the taxpayer has a direct or indirect ownership 380  
interest. 381

(iii) Subject to division (A)(20)(a)(v) of this section, 382  
for taxable years beginning in 2012 or thereafter, if the 383  
increase in income taxes withheld by the taxpayer is equal to or 384  
greater than ten per cent of income taxes withheld by the 385  
taxpayer during the taxpayer's immediately preceding taxable 386  
year, "two-thirds" shall be substituted for "five-sixths" for 387  
the purpose of divisions (A)(20)(a)(i) and (ii) of this section. 388

(iv) Subject to division (A)(20)(a)(v) of this section, 389  
for taxable years beginning in 2012 or thereafter, a taxpayer is 390  
not required to add an amount under division (A)(20) of this 391  
section if the increase in income taxes withheld by the taxpayer 392  
and by any pass-through entity in which the taxpayer has a 393  
direct or indirect ownership interest is equal to or greater 394  
than the sum of (I) the amount of qualifying section 179 395  
depreciation expense and (II) the amount of depreciation expense 396  
allowed to the taxpayer by subsection (k) of section 168 of the 397  
Internal Revenue Code, and including the taxpayer's 398  
proportionate or distributive shares of such amounts allowed to 399  
any such pass-through entities. 400

(v) If a taxpayer directly or indirectly incurs a net 401  
operating loss for the taxable year for federal income tax 402  
purposes, to the extent such loss resulted from depreciation 403  
expense allowed by subsection (k) of section 168 of the Internal 404  
Revenue Code and by qualifying section 179 depreciation expense, 405

"the entire" shall be substituted for "five-sixths of the" for 406  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 407

The tax commissioner, under procedures established by the 408  
commissioner, may waive the add-backs related to a pass-through 409  
entity if the taxpayer owns, directly or indirectly, less than 410  
five per cent of the pass-through entity. 411

(b) Nothing in division (A) (20) of this section shall be 412  
construed to adjust or modify the adjusted basis of any asset. 413

(c) To the extent the add-back required under division (A) 414  
(20) (a) of this section is attributable to property generating 415  
nonbusiness income or loss allocated under section 5747.20 of 416  
the Revised Code, the add-back shall be situated to the same 417  
location as the nonbusiness income or loss generated by the 418  
property for the purpose of determining the credit under 419  
division (A) of section 5747.05 of the Revised Code. Otherwise, 420  
the add-back shall be apportioned, subject to one or more of the 421  
four alternative methods of apportionment enumerated in section 422  
5747.21 of the Revised Code. 423

(d) For the purposes of division (A) (20) (a) (v) of this 424  
section, net operating loss carryback and carryforward shall not 425  
include the allowance of any net operating loss deduction 426  
carryback or carryforward to the taxable year to the extent such 427  
loss resulted from depreciation allowed by section 168(k) of the 428  
Internal Revenue Code and by the qualifying section 179 429  
depreciation expense amount. 430

(e) For the purposes of divisions (A) (20) and (21) of this 431  
section: 432

(i) "Income taxes withheld" means the total amount 433  
withheld and remitted under sections 5747.06 and 5747.07 of the 434

Revised Code by an employer during the employer's taxable year. 435

(ii) "Increase in income taxes withheld" means the amount 436  
by which the amount of income taxes withheld by an employer 437  
during the employer's current taxable year exceeds the amount of 438  
income taxes withheld by that employer during the employer's 439  
immediately preceding taxable year. 440

(iii) "Qualifying section 179 depreciation expense" means 441  
the difference between (I) the amount of depreciation expense 442  
directly or indirectly allowed to a taxpayer under section 179 443  
of the Internal Revised Code, and (II) the amount of 444  
depreciation expense directly or indirectly allowed to the 445  
taxpayer under section 179 of the Internal Revenue Code as that 446  
section existed on December 31, 2002. 447

(21) (a) If the taxpayer was required to add an amount 448  
under division (A) (20) (a) of this section for a taxable year, 449  
deduct one of the following: 450

(i) One-fifth of the amount so added for each of the five 451  
succeeding taxable years if the amount so added was five-sixths 452  
of qualifying section 179 depreciation expense or depreciation 453  
expense allowed by subsection (k) of section 168 of the Internal 454  
Revenue Code; 455

(ii) One-half of the amount so added for each of the two 456  
succeeding taxable years if the amount so added was two-thirds 457  
of such depreciation expense; 458

(iii) One-sixth of the amount so added for each of the six 459  
succeeding taxable years if the entire amount of such 460  
depreciation expense was so added. 461

(b) If the amount deducted under division (A) (21) (a) of 462  
this section is attributable to an add-back allocated under 463

division (A) (20) (c) of this section, the amount deducted shall 464  
be sitused to the same location. Otherwise, the add-back shall 465  
be apportioned using the apportionment factors for the taxable 466  
year in which the deduction is taken, subject to one or more of 467  
the four alternative methods of apportionment enumerated in 468  
section 5747.21 of the Revised Code. 469

(c) No deduction is available under division (A) (21) (a) of 470  
this section with regard to any depreciation allowed by section 471  
168(k) of the Internal Revenue Code and by the qualifying 472  
section 179 depreciation expense amount to the extent that such 473  
depreciation results in or increases a federal net operating 474  
loss carryback or carryforward. If no such deduction is 475  
available for a taxable year, the taxpayer may carry forward the 476  
amount not deducted in such taxable year to the next taxable 477  
year and add that amount to any deduction otherwise available 478  
under division (A) (21) (a) of this section for that next taxable 479  
year. The carryforward of amounts not so deducted shall continue 480  
until the entire addition required by division (A) (20) (a) of 481  
this section has been deducted. 482

(d) No refund shall be allowed as a result of adjustments 483  
made by division (A) (21) of this section. 484

(22) Deduct, to the extent not otherwise deducted or 485  
excluded in computing federal or Ohio adjusted gross income for 486  
the taxable year, the amount the taxpayer received during the 487  
taxable year as reimbursement for life insurance premiums under 488  
section 5919.31 of the Revised Code. 489

(23) Deduct, to the extent not otherwise deducted or 490  
excluded in computing federal or Ohio adjusted gross income for 491  
the taxable year, the amount the taxpayer received during the 492  
taxable year as a death benefit paid by the adjutant general 493

under section 5919.33 of the Revised Code. 494

(24) Deduct, to the extent included in federal adjusted 495  
gross income and not otherwise allowable as a deduction or 496  
exclusion in computing federal or Ohio adjusted gross income for 497  
the taxable year, military pay and allowances received by the 498  
taxpayer during the taxable year for active duty service in the 499  
United States army, air force, navy, marine corps, or coast 500  
guard or reserve components thereof or the national guard. The 501  
deduction may not be claimed for military pay and allowances 502  
received by the taxpayer while the taxpayer is stationed in this 503  
state. 504

(25) Deduct, to the extent not otherwise allowable as a 505  
deduction or exclusion in computing federal or Ohio adjusted 506  
gross income for the taxable year and not otherwise compensated 507  
for by any other source, the amount of qualified organ donation 508  
expenses incurred by the taxpayer during the taxable year, not 509  
to exceed ten thousand dollars. A taxpayer may deduct qualified 510  
organ donation expenses only once for all taxable years 511  
beginning with taxable years beginning in 2007. 512

For the purposes of division (A) (25) of this section: 513

(a) "Human organ" means all or any portion of a human 514  
liver, pancreas, kidney, intestine, or lung, and any portion of 515  
human bone marrow. 516

(b) "Qualified organ donation expenses" means travel 517  
expenses, lodging expenses, and wages and salary forgone by a 518  
taxpayer in connection with the taxpayer's donation, while 519  
living, of one or more of the taxpayer's human organs to another 520  
human being. 521

(26) Deduct, to the extent not otherwise deducted or 522

excluded in computing federal or Ohio adjusted gross income for 523  
the taxable year, amounts received by the taxpayer as retired 524  
personnel pay for service in the uniformed services or reserve 525  
components thereof, or the national guard, or received by the 526  
surviving spouse or former spouse of such a taxpayer under the 527  
survivor benefit plan on account of such a taxpayer's death. If 528  
the taxpayer receives income on account of retirement paid under 529  
the federal civil service retirement system or federal employees 530  
retirement system, or under any successor retirement program 531  
enacted by the congress of the United States that is established 532  
and maintained for retired employees of the United States 533  
government, and such retirement income is based, in whole or in 534  
part, on credit for the taxpayer's uniformed service, the 535  
deduction allowed under this division shall include only that 536  
portion of such retirement income that is attributable to the 537  
taxpayer's uniformed service, to the extent that portion of such 538  
retirement income is otherwise included in federal adjusted 539  
gross income and is not otherwise deducted under this section. 540  
Any amount deducted under division (A) (26) of this section is 541  
not included in a taxpayer's adjusted gross income for the 542  
purposes of section 5747.055 of the Revised Code. No amount may 543  
be deducted under division (A) (26) of this section on the basis 544  
of which a credit was claimed under section 5747.055 of the 545  
Revised Code. 546

(27) Deduct, to the extent not otherwise deducted or 547  
excluded in computing federal or Ohio adjusted gross income for 548  
the taxable year, the amount the taxpayer received during the 549  
taxable year from the military injury relief fund created in 550  
section 5902.05 of the Revised Code. 551

(28) Deduct, to the extent not otherwise deducted or 552  
excluded in computing federal or Ohio adjusted gross income for 553

the taxable year, the amount the taxpayer received as a veterans 554  
bonus during the taxable year from the Ohio department of 555  
veterans services as authorized by Section 2r of Article VIII, 556  
Ohio Constitution. 557

(29) Deduct, to the extent not otherwise deducted or 558  
excluded in computing federal or Ohio adjusted gross income for 559  
the taxable year, any income derived from a transfer agreement 560  
or from the enterprise transferred under that agreement under 561  
section 4313.02 of the Revised Code. 562

(30) Deduct, to the extent not otherwise deducted or 563  
excluded in computing federal or Ohio adjusted gross income for 564  
the taxable year, Ohio college opportunity or federal Pell grant 565  
amounts received by the taxpayer or the taxpayer's spouse or 566  
dependent pursuant to section 3333.122 of the Revised Code or 20 567  
U.S.C. 1070a, et seq., and used to pay room or board furnished 568  
by the educational institution for which the grant was awarded 569  
at the institution's facilities, including meal plans 570  
administered by the institution. For the purposes of this 571  
division, receipt of a grant includes the distribution of a 572  
grant directly to an educational institution and the crediting 573  
of the grant to the enrollee's account with the institution. 574

(31) Deduct from the portion of an individual's federal 575  
adjusted gross income that is eligible business income, to the 576  
extent not otherwise deducted or excluded in computing federal 577  
adjusted gross income for the taxable year, one hundred twenty- 578  
five thousand dollars for each spouse if spouses file separate 579  
returns under section 5747.08 of the Revised Code or two hundred 580  
fifty thousand dollars for all other individuals. 581

(32) Deduct, as provided under section 5747.78 of the 582  
Revised Code, contributions to ABLE savings accounts made in 583

accordance with sections 113.50 to 113.56 of the Revised Code. 584

(33) (a) Deduct, to the extent not otherwise deducted or 585  
excluded in computing federal or Ohio adjusted gross income 586  
during the taxable year, all of the following: 587

(i) Compensation paid to a qualifying employee described 588  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 589  
the extent such compensation is for disaster work conducted in 590  
this state during a disaster response period pursuant to a 591  
qualifying solicitation received by the employee's employer; 592

(ii) Compensation paid to a qualifying employee described 593  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 594  
the extent such compensation is for disaster work conducted in 595  
this state by the employee during the disaster response period 596  
on critical infrastructure owned or used by the employee's 597  
employer; 598

(iii) Income received by an out-of-state disaster business 599  
for disaster work conducted in this state during a disaster 600  
response period, or, if the out-of-state disaster business is a 601  
pass-through entity, a taxpayer's distributive share of the 602  
pass-through entity's income from the business conducting 603  
disaster work in this state during a disaster response period, 604  
if, in either case, the disaster work is conducted pursuant to a 605  
qualifying solicitation received by the business. 606

(b) All terms used in division (A) (33) of this section 607  
have the same meanings as in section 5703.94 of the Revised 608  
Code. 609

(B) (1) "Business income" means income, including gain or 610  
loss, arising from transactions, activities, and sources in the 611  
regular course of a trade or business and includes income, gain, 612

or loss from real property, tangible property, and intangible 613  
property if the acquisition, rental, management, and disposition 614  
of the property constitute integral parts of the regular course 615  
of a trade or business operation. "Business income" includes 616  
income, including gain or loss, from a partial or complete 617  
liquidation of a business, including, but not limited to, gain 618  
or loss from the sale or other disposition of goodwill. 619

(2) "Eligible business income" means business income 620  
excluding income from a trade or business that performs either 621  
or both of the following: 622

(a) Legal services provided by an active attorney admitted 623  
to the practice of law in this state or by an attorney 624  
registered for corporate counsel status under section 6 of rule 625  
VI of the Ohio supreme court rules for the government of the bar 626  
of Ohio; 627

(b) Executive agency lobbying activity, retirement system 628  
lobbying activity, or actively advocating by a person required 629  
to register with the joint legislative ethics committee under 630  
section 101.78, 101.92, or 121.62 of the Revised Code. Terms 631  
used in division (B) (2) of this section have the same meaning as 632  
in section 101.70, 101.92, or 121.60 of the Revised Code. 633

(C) "Nonbusiness income" means all income other than 634  
business income and may include, but is not limited to, 635  
compensation, rents and royalties from real or tangible personal 636  
property, capital gains, interest, dividends and distributions, 637  
patent or copyright royalties, or lottery winnings, prizes, and 638  
awards. 639

(D) "Compensation" means any form of remuneration paid to 640  
an employee for personal services. 641

(E) "Fiduciary" means a guardian, trustee, executor, 642  
administrator, receiver, conservator, or any other person acting 643  
in any fiduciary capacity for any individual, trust, or estate. 644

(F) "Fiscal year" means an accounting period of twelve 645  
months ending on the last day of any month other than December. 646

(G) "Individual" means any natural person. 647

(H) "Internal Revenue Code" means the "Internal Revenue 648  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 649

(I) "Resident" means any of the following, provided that 650  
division (I) (3) of this section applies only to taxable years of 651  
a trust beginning in 2002 or thereafter: 652

(1) An individual who is domiciled in this state, subject 653  
to section 5747.24 of the Revised Code; 654

(2) The estate of a decedent who at the time of death was 655  
domiciled in this state. The domicile tests of section 5747.24 656  
of the Revised Code are not controlling for purposes of division 657  
(I) (2) of this section. 658

(3) A trust that, in whole or part, resides in this state. 659  
If only part of a trust resides in this state, the trust is a 660  
resident only with respect to that part. 661

For the purposes of division (I) (3) of this section: 662

(a) A trust resides in this state for the trust's current 663  
taxable year to the extent, as described in division (I) (3) (d) 664  
of this section, that the trust consists directly or indirectly, 665  
in whole or in part, of assets, net of any related liabilities, 666  
that were transferred, or caused to be transferred, directly or 667  
indirectly, to the trust by any of the following: 668

(i) A person, a court, or a governmental entity or 669  
instrumentality on account of the death of a decedent, but only 670  
if the trust is described in division (I) (3) (e) (i) or (ii) of 671  
this section; 672

(ii) A person who was domiciled in this state for the 673  
purposes of this chapter when the person directly or indirectly 674  
transferred assets to an irrevocable trust, but only if at least 675  
one of the trust's qualifying beneficiaries is domiciled in this 676  
state for the purposes of this chapter during all or some 677  
portion of the trust's current taxable year; 678

(iii) A person who was domiciled in this state for the 679  
purposes of this chapter when the trust document or instrument 680  
or part of the trust document or instrument became irrevocable, 681  
but only if at least one of the trust's qualifying beneficiaries 682  
is a resident domiciled in this state for the purposes of this 683  
chapter during all or some portion of the trust's current 684  
taxable year. If a trust document or instrument became 685  
irrevocable upon the death of a person who at the time of death 686  
was domiciled in this state for purposes of this chapter, that 687  
person is a person described in division (I) (3) (a) (iii) of this 688  
section. 689

(b) A trust is irrevocable to the extent that the 690  
transferor is not considered to be the owner of the net assets 691  
of the trust under sections 671 to 678 of the Internal Revenue 692  
Code. 693

(c) With respect to a trust other than a charitable lead 694  
trust, "qualifying beneficiary" has the same meaning as 695  
"potential current beneficiary" as defined in section 1361(e) (2) 696  
of the Internal Revenue Code, and with respect to a charitable 697  
lead trust "qualifying beneficiary" is any current, future, or 698

contingent beneficiary, but with respect to any trust 699  
"qualifying beneficiary" excludes a person or a governmental 700  
entity or instrumentality to any of which a contribution would 701  
qualify for the charitable deduction under section 170 of the 702  
Internal Revenue Code. 703

(d) For the purposes of division (I) (3) (a) of this 704  
section, the extent to which a trust consists directly or 705  
indirectly, in whole or in part, of assets, net of any related 706  
liabilities, that were transferred directly or indirectly, in 707  
whole or part, to the trust by any of the sources enumerated in 708  
that division shall be ascertained by multiplying the fair 709  
market value of the trust's assets, net of related liabilities, 710  
by the qualifying ratio, which shall be computed as follows: 711

(i) The first time the trust receives assets, the 712  
numerator of the qualifying ratio is the fair market value of 713  
those assets at that time, net of any related liabilities, from 714  
sources enumerated in division (I) (3) (a) of this section. The 715  
denominator of the qualifying ratio is the fair market value of 716  
all the trust's assets at that time, net of any related 717  
liabilities. 718

(ii) Each subsequent time the trust receives assets, a 719  
revised qualifying ratio shall be computed. The numerator of the 720  
revised qualifying ratio is the sum of (1) the fair market value 721  
of the trust's assets immediately prior to the subsequent 722  
transfer, net of any related liabilities, multiplied by the 723  
qualifying ratio last computed without regard to the subsequent 724  
transfer, and (2) the fair market value of the subsequently 725  
transferred assets at the time transferred, net of any related 726  
liabilities, from sources enumerated in division (I) (3) (a) of 727  
this section. The denominator of the revised qualifying ratio is 728

the fair market value of all the trust's assets immediately 729  
after the subsequent transfer, net of any related liabilities. 730

(iii) Whether a transfer to the trust is by or from any of 731  
the sources enumerated in division (I) (3) (a) of this section 732  
shall be ascertained without regard to the domicile of the 733  
trust's beneficiaries. 734

(e) For the purposes of division (I) (3) (a) (i) of this 735  
section: 736

(i) A trust is described in division (I) (3) (e) (i) of this 737  
section if the trust is a testamentary trust and the testator of 738  
that testamentary trust was domiciled in this state at the time 739  
of the testator's death for purposes of the taxes levied under 740  
Chapter 5731. of the Revised Code. 741

(ii) A trust is described in division (I) (3) (e) (ii) of 742  
this section if the transfer is a qualifying transfer described 743  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 744  
trust is an irrevocable inter vivos trust, and at least one of 745  
the trust's qualifying beneficiaries is domiciled in this state 746  
for purposes of this chapter during all or some portion of the 747  
trust's current taxable year. 748

(f) For the purposes of division (I) (3) (e) (ii) of this 749  
section, a "qualifying transfer" is a transfer of assets, net of 750  
any related liabilities, directly or indirectly to a trust, if 751  
the transfer is described in any of the following: 752

(i) The transfer is made to a trust, created by the 753  
decedent before the decedent's death and while the decedent was 754  
domiciled in this state for the purposes of this chapter, and, 755  
prior to the death of the decedent, the trust became irrevocable 756  
while the decedent was domiciled in this state for the purposes 757

of this chapter. 758

(ii) The transfer is made to a trust to which the 759  
decedent, prior to the decedent's death, had directly or 760  
indirectly transferred assets, net of any related liabilities, 761  
while the decedent was domiciled in this state for the purposes 762  
of this chapter, and prior to the death of the decedent the 763  
trust became irrevocable while the decedent was domiciled in 764  
this state for the purposes of this chapter. 765

(iii) The transfer is made on account of a contractual 766  
relationship existing directly or indirectly between the 767  
transferor and either the decedent or the estate of the decedent 768  
at any time prior to the date of the decedent's death, and the 769  
decedent was domiciled in this state at the time of death for 770  
purposes of the taxes levied under Chapter 5731. of the Revised 771  
Code. 772

(iv) The transfer is made to a trust on account of a 773  
contractual relationship existing directly or indirectly between 774  
the transferor and another person who at the time of the 775  
decedent's death was domiciled in this state for purposes of 776  
this chapter. 777

(v) The transfer is made to a trust on account of the will 778  
of a testator who was domiciled in this state at the time of the 779  
testator's death for purposes of the taxes levied under Chapter 780  
5731. of the Revised Code. 781

(vi) The transfer is made to a trust created by or caused 782  
to be created by a court, and the trust was directly or 783  
indirectly created in connection with or as a result of the 784  
death of an individual who, for purposes of the taxes levied 785  
under Chapter 5731. of the Revised Code, was domiciled in this 786

state at the time of the individual's death. 787

(g) The tax commissioner may adopt rules to ascertain the 788  
part of a trust residing in this state. 789

(J) "Nonresident" means an individual or estate that is 790  
not a resident. An individual who is a resident for only part of 791  
a taxable year is a nonresident for the remainder of that 792  
taxable year. 793

(K) "Pass-through entity" has the same meaning as in 794  
section 5733.04 of the Revised Code. 795

(L) "Return" means the notifications and reports required 796  
to be filed pursuant to this chapter for the purpose of 797  
reporting the tax due and includes declarations of estimated tax 798  
when so required. 799

(M) "Taxable year" means the calendar year or the 800  
taxpayer's fiscal year ending during the calendar year, or 801  
fractional part thereof, upon which the adjusted gross income is 802  
calculated pursuant to this chapter. 803

(N) "Taxpayer" means any person subject to the tax imposed 804  
by section 5747.02 of the Revised Code or any pass-through 805  
entity that makes the election under division (D) of section 806  
5747.08 of the Revised Code. 807

(O) "Dependents" means one of the following: 808

(1) For taxable years beginning on or after January 1, 809  
2018, and before January 1, 2026, dependents as defined in the 810  
Internal Revenue Code; 811

(2) For all other taxable years, dependents as defined in 812  
the Internal Revenue Code and as claimed in the taxpayer's 813  
federal income tax return for the taxable year or which the 814

taxpayer would have been permitted to claim had the taxpayer 815  
filed a federal income tax return. 816

(P) "Principal county of employment" means, in the case of 817  
a nonresident, the county within the state in which a taxpayer 818  
performs services for an employer or, if those services are 819  
performed in more than one county, the county in which the major 820  
portion of the services are performed. 821

(Q) As used in sections 5747.50 to 5747.55 of the Revised 822  
Code: 823

(1) "Subdivision" means any county, municipal corporation, 824  
park district, or township. 825

(2) "Essential local government purposes" includes all 826  
functions that any subdivision is required by general law to 827  
exercise, including like functions that are exercised under a 828  
charter adopted pursuant to the Ohio Constitution. 829

(R) "Overpayment" means any amount already paid that 830  
exceeds the figure determined to be the correct amount of the 831  
tax. 832

(S) "Taxable income" or "Ohio taxable income" applies only 833  
to estates and trusts, and means federal taxable income, as 834  
defined and used in the Internal Revenue Code, adjusted as 835  
follows: 836

(1) Add interest or dividends, net of ordinary, necessary, 837  
and reasonable expenses not deducted in computing federal 838  
taxable income, on obligations or securities of any state or of 839  
any political subdivision or authority of any state, other than 840  
this state and its subdivisions and authorities, but only to the 841  
extent that such net amount is not otherwise includible in Ohio 842  
taxable income and is described in either division (S) (1) (a) or 843

|  |   |
|--|---|
| (b) of this section:   | 844   |
| (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;  | 845<br>846<br>847   |
| (b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.  | 848<br>849  |
| (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; | 850<br>851<br>852<br>853<br>854<br>855<br>856<br>857<br>858 |
| (3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;  | 859<br>860  |
| (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;               | 861<br>862<br>863<br>864<br>865<br>866<br>867<br>868<br>869 |
| (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  | 870<br>871<br>872   |

the taxable year, had the targeted jobs credit allowed under 873  
sections 38, 51, and 52 of the Internal Revenue Code not been in 874  
effect, but only to the extent such amount relates either to 875  
income included in federal taxable income for the taxable year 876  
or to income of the S portion of an electing small business 877  
trust for the taxable year; 878

(6) Deduct any interest or interest equivalent, net of 879  
related expenses deducted in computing federal taxable income, 880  
on public obligations and purchase obligations, but only to the 881  
extent that such net amount relates either to income included in 882  
federal taxable income for the taxable year or to income of the 883  
S portion of an electing small business trust for the taxable 884  
year; 885

(7) Add any loss or deduct any gain resulting from sale, 886  
exchange, or other disposition of public obligations to the 887  
extent that such loss has been deducted or such gain has been 888  
included in computing either federal taxable income or income of 889  
the S portion of an electing small business trust for the 890  
taxable year; 891

(8) Except in the case of the final return of an estate, 892  
add any amount deducted by the taxpayer on both its Ohio estate 893  
tax return pursuant to section 5731.14 of the Revised Code, and 894  
on its federal income tax return in determining federal taxable 895  
income; 896

(9) (a) Deduct any amount included in federal taxable 897  
income solely because the amount represents a reimbursement or 898  
refund of expenses that in a previous year the decedent had 899  
deducted as an itemized deduction pursuant to section 63 of the 900  
Internal Revenue Code and applicable treasury regulations. The 901  
deduction otherwise allowed under division (S) (9) (a) of this 902

section shall be reduced to the extent the reimbursement is 903  
attributable to an amount the taxpayer or decedent deducted 904  
under this section in any taxable year. 905

(b) Add any amount not otherwise included in Ohio taxable 906  
income for any taxable year to the extent that the amount is 907  
attributable to the recovery during the taxable year of any 908  
amount deducted or excluded in computing federal or Ohio taxable 909  
income in any taxable year, but only to the extent such amount 910  
has not been distributed to beneficiaries for the taxable year. 911

(10) Deduct any portion of the deduction described in 912  
section 1341(a)(2) of the Internal Revenue Code, for repaying 913  
previously reported income received under a claim of right, that 914  
meets both of the following requirements: 915

(a) It is allowable for repayment of an item that was 916  
included in the taxpayer's taxable income or the decedent's 917  
adjusted gross income for a prior taxable year and did not 918  
qualify for a credit under division (A) or (B) of section 919  
5747.05 of the Revised Code for that year. 920

(b) It does not otherwise reduce the taxpayer's taxable 921  
income or the decedent's adjusted gross income for the current 922  
or any other taxable year. 923

(11) Add any amount claimed as a credit under section 924  
5747.059 of the Revised Code to the extent that the amount 925  
satisfies either of the following: 926

(a) The amount was deducted or excluded from the 927  
computation of the taxpayer's federal taxable income as required 928  
to be reported for the taxpayer's taxable year under the 929  
Internal Revenue Code; 930

(b) The amount resulted in a reduction in the taxpayer's 931

federal taxable income as required to be reported for any of the 932  
taxpayer's taxable years under the Internal Revenue Code. 933

(12) Deduct any amount, net of related expenses deducted 934  
in computing federal taxable income, that a trust is required to 935  
report as farm income on its federal income tax return, but only 936  
if the assets of the trust include at least ten acres of land 937  
satisfying the definition of "land devoted exclusively to 938  
agricultural use" under section 5713.30 of the Revised Code, 939  
regardless of whether the land is valued for tax purposes as 940  
such land under sections 5713.30 to 5713.38 of the Revised Code. 941  
If the trust is a pass-through entity investor, section 5747.231 942  
of the Revised Code applies in ascertaining if the trust is 943  
eligible to claim the deduction provided by division (S) (12) of 944  
this section in connection with the pass-through entity's farm 945  
income. 946

Except for farm income attributable to the S portion of an 947  
electing small business trust, the deduction provided by 948  
division (S) (12) of this section is allowed only to the extent 949  
that the trust has not distributed such farm income. Division 950  
(S) (12) of this section applies only to taxable years of a trust 951  
beginning in 2002 or thereafter. 952

(13) Add the net amount of income described in section 953  
641(c) of the Internal Revenue Code to the extent that amount is 954  
not included in federal taxable income. 955

(14) Add or deduct the amount the taxpayer would be 956  
required to add or deduct under division (A) (20) or (21) of this 957  
section if the taxpayer's Ohio taxable income were computed in 958  
the same manner as an individual's Ohio adjusted gross income is 959  
computed under this section. In the case of a trust, division 960  
(S) (14) of this section applies only to any of the trust's 961

|  |   |
|--|---|
| taxable years beginning in 2002 or thereafter.   | 962   |
| (T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.  | 963<br>964<br>965                             |
| (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.   | 966<br>967<br>968<br>969                      |
| (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.   | 970<br>971<br>972                             |
| (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.   | 973<br>974<br>975<br>976                      |
| (X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.  | 977<br>978                                    |
| (Y) "Month" means a calendar month.  | 979   |
| (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.  | 980<br>981<br>982                             |
| (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 | 983<br>984<br>985<br>986<br>987<br>988<br>989 |

|   |      |
|---|------|
| state board of career colleges and schools under Chapter 3332.  | 990  |
| of the Revised Code.  | 991  |
| (2) "Qualified tuition and fees" means tuition and fees         | 992  |
| imposed by an eligible institution as a condition of enrollment | 993  |
| or attendance, not exceeding two thousand five hundred dollars  | 994  |
| in each of the individual's first two years of post-secondary   | 995  |
| education. If the individual is a part-time student, "qualified | 996  |
| tuition and fees" includes tuition and fees paid for the        | 997  |
| academic equivalent of the first two years of post-secondary    | 998  |
| education during a maximum of five taxable years, not exceeding | 999  |
| a total of five thousand dollars. "Qualified tuition and fees"  | 1000 |
| does not include:   | 1001 |
| (a) Expenses for any course or activity involving sports,       | 1002 |
| games, or hobbies unless the course or activity is part of the  | 1003 |
| individual's degree or diploma program;                         | 1004 |
| (b) The cost of books, room and board, student activity         | 1005 |
| fees, athletic fees, insurance expenses, or other expenses      | 1006 |
| unrelated to the individual's academic course of instruction;   | 1007 |
| (c) Tuition, fees, or other expenses paid or reimbursed         | 1008 |
| through an employer, scholarship, grant in aid, or other        | 1009 |
| educational benefit program.                                    | 1010 |
| (BB) (1) "Modified business income" means the business          | 1011 |
| income included in a trust's Ohio taxable income after such     | 1012 |
| taxable income is first reduced by the qualifying trust amount, | 1013 |
| if any.   | 1014 |
| (2) "Qualifying trust amount" of a trust means capital          | 1015 |
| gains and losses from the sale, exchange, or other disposition  | 1016 |
| of equity or ownership interests in, or debt obligations of, a  | 1017 |
| qualifying investee to the extent included in the trust's Ohio  | 1018 |

taxable income, but only if the following requirements are 1019  
satisfied: 1020

(a) The book value of the qualifying investee's physical 1021  
assets in this state and everywhere, as of the last day of the 1022  
qualifying investee's fiscal or calendar year ending immediately 1023  
prior to the date on which the trust recognizes the gain or 1024  
loss, is available to the trust. 1025

(b) The requirements of section 5747.011 of the Revised 1026  
Code are satisfied for the trust's taxable year in which the 1027  
trust recognizes the gain or loss. 1028

Any gain or loss that is not a qualifying trust amount is 1029  
modified business income, qualifying investment income, or 1030  
modified nonbusiness income, as the case may be. 1031

(3) "Modified nonbusiness income" means a trust's Ohio 1032  
taxable income other than modified business income, other than 1033  
the qualifying trust amount, and other than qualifying 1034  
investment income, as defined in section 5747.012 of the Revised 1035  
Code, to the extent such qualifying investment income is not 1036  
otherwise part of modified business income. 1037

(4) "Modified Ohio taxable income" applies only to trusts, 1038  
and means the sum of the amounts described in divisions (BB) (4) 1039  
(a) to (c) of this section: 1040

(a) The fraction, calculated under section 5747.013, and 1041  
applying section 5747.231 of the Revised Code, multiplied by the 1042  
sum of the following amounts: 1043

(i) The trust's modified business income; 1044

(ii) The trust's qualifying investment income, as defined 1045  
in section 5747.012 of the Revised Code, but only to the extent 1046

the qualifying investment income does not otherwise constitute 1047  
modified business income and does not otherwise constitute a 1048  
qualifying trust amount. 1049

(b) The qualifying trust amount multiplied by a fraction, 1050  
the numerator of which is the sum of the book value of the 1051  
qualifying investee's physical assets in this state on the last 1052  
day of the qualifying investee's fiscal or calendar year ending 1053  
immediately prior to the day on which the trust recognizes the 1054  
qualifying trust amount, and the denominator of which is the sum 1055  
of the book value of the qualifying investee's total physical 1056  
assets everywhere on the last day of the qualifying investee's 1057  
fiscal or calendar year ending immediately prior to the day on 1058  
which the trust recognizes the qualifying trust amount. If, for 1059  
a taxable year, the trust recognizes a qualifying trust amount 1060  
with respect to more than one qualifying investee, the amount 1061  
described in division (BB) (4) (b) of this section shall equal the 1062  
sum of the products so computed for each such qualifying 1063  
investee. 1064

(c) (i) With respect to a trust or portion of a trust that 1065  
is a resident as ascertained in accordance with division (I) (3) 1066  
(d) of this section, its modified nonbusiness income. 1067

(ii) With respect to a trust or portion of a trust that is 1068  
not a resident as ascertained in accordance with division (I) (3) 1069  
(d) of this section, the amount of its modified nonbusiness 1070  
income satisfying the descriptions in divisions (B) (2) to (5) of 1071  
section 5747.20 of the Revised Code, except as otherwise 1072  
provided in division (BB) (4) (c) (ii) of this section. With 1073  
respect to a trust or portion of a trust that is not a resident 1074  
as ascertained in accordance with division (I) (3) (d) of this 1075  
section, the trust's portion of modified nonbusiness income 1076

recognized from the sale, exchange, or other disposition of a 1077  
debt interest in or equity interest in a section 5747.212 1078  
entity, as defined in section 5747.212 of the Revised Code, 1079  
without regard to division (A) of that section, shall not be 1080  
allocated to this state in accordance with section 5747.20 of 1081  
the Revised Code but shall be apportioned to this state in 1082  
accordance with division (B) of section 5747.212 of the Revised 1083  
Code without regard to division (A) of that section. 1084

If the allocation and apportionment of a trust's income 1085  
under divisions (BB) (4) (a) and (c) of this section do not fairly 1086  
represent the modified Ohio taxable income of the trust in this 1087  
state, the alternative methods described in division (C) of 1088  
section 5747.21 of the Revised Code may be applied in the manner 1089  
and to the same extent provided in that section. 1090

(5) (a) Except as set forth in division (BB) (5) (b) of this 1091  
section, "qualifying investee" means a person in which a trust 1092  
has an equity or ownership interest, or a person or unit of 1093  
government the debt obligations of either of which are owned by 1094  
a trust. For the purposes of division (BB) (2) (a) of this section 1095  
and for the purpose of computing the fraction described in 1096  
division (BB) (4) (b) of this section, all of the following apply: 1097

(i) If the qualifying investee is a member of a qualifying 1098  
controlled group on the last day of the qualifying investee's 1099  
fiscal or calendar year ending immediately prior to the date on 1100  
which the trust recognizes the gain or loss, then "qualifying 1101  
investee" includes all persons in the qualifying controlled 1102  
group on such last day. 1103

(ii) If the qualifying investee, or if the qualifying 1104  
investee and any members of the qualifying controlled group of 1105  
which the qualifying investee is a member on the last day of the 1106

qualifying investee's fiscal or calendar year ending immediately 1107  
prior to the date on which the trust recognizes the gain or 1108  
loss, separately or cumulatively own, directly or indirectly, on 1109  
the last day of the qualifying investee's fiscal or calendar 1110  
year ending immediately prior to the date on which the trust 1111  
recognizes the qualifying trust amount, more than fifty per cent 1112  
of the equity of a pass-through entity, then the qualifying 1113  
investee and the other members are deemed to own the 1114  
proportionate share of the pass-through entity's physical assets 1115  
which the pass-through entity directly or indirectly owns on the 1116  
last day of the pass-through entity's calendar or fiscal year 1117  
ending within or with the last day of the qualifying investee's 1118  
fiscal or calendar year ending immediately prior to the date on 1119  
which the trust recognizes the qualifying trust amount. 1120

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1121  
section, "upper level pass-through entity" means a pass-through 1122  
entity directly or indirectly owning any equity of another pass- 1123  
through entity, and "lower level pass-through entity" means that 1124  
other pass-through entity. 1125

An upper level pass-through entity, whether or not it is 1126  
also a qualifying investee, is deemed to own, on the last day of 1127  
the upper level pass-through entity's calendar or fiscal year, 1128  
the proportionate share of the lower level pass-through entity's 1129  
physical assets that the lower level pass-through entity 1130  
directly or indirectly owns on the last day of the lower level 1131  
pass-through entity's calendar or fiscal year ending within or 1132  
with the last day of the upper level pass-through entity's 1133  
fiscal or calendar year. If the upper level pass-through entity 1134  
directly and indirectly owns less than fifty per cent of the 1135  
equity of the lower level pass-through entity on each day of the 1136  
upper level pass-through entity's calendar or fiscal year in 1137

which or with which ends the calendar or fiscal year of the 1138  
lower level pass-through entity and if, based upon clear and 1139  
convincing evidence, complete information about the location and 1140  
cost of the physical assets of the lower pass-through entity is 1141  
not available to the upper level pass-through entity, then 1142  
solely for purposes of ascertaining if a gain or loss 1143  
constitutes a qualifying trust amount, the upper level pass- 1144  
through entity shall be deemed as owning no equity of the lower 1145  
level pass-through entity for each day during the upper level 1146  
pass-through entity's calendar or fiscal year in which or with 1147  
which ends the lower level pass-through entity's calendar or 1148  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1149  
shall be construed to provide for any deduction or exclusion in 1150  
computing any trust's Ohio taxable income. 1151

(b) With respect to a trust that is not a resident for the 1152  
taxable year and with respect to a part of a trust that is not a 1153  
resident for the taxable year, "qualifying investee" for that 1154  
taxable year does not include a C corporation if both of the 1155  
following apply: 1156

(i) During the taxable year the trust or part of the trust 1157  
recognizes a gain or loss from the sale, exchange, or other 1158  
disposition of equity or ownership interests in, or debt 1159  
obligations of, the C corporation. 1160

(ii) Such gain or loss constitutes nonbusiness income. 1161

(6) "Available" means information is such that a person is 1162  
able to learn of the information by the due date plus 1163  
extensions, if any, for filing the return for the taxable year 1164  
in which the trust recognizes the gain or loss. 1165

(CC) "Qualifying controlled group" has the same meaning as 1166

in section 5733.04 of the Revised Code. 1167

(DD) "Related member" has the same meaning as in section 1168  
5733.042 of the Revised Code. 1169

(EE) (1) For the purposes of division (EE) of this section: 1170

(a) "Qualifying person" means any person other than a 1171  
qualifying corporation. 1172

(b) "Qualifying corporation" means any person classified 1173  
for federal income tax purposes as an association taxable as a 1174  
corporation, except either of the following: 1175

(i) A corporation that has made an election under 1176  
subchapter S, chapter one, subtitle A, of the Internal Revenue 1177  
Code for its taxable year ending within, or on the last day of, 1178  
the investor's taxable year; 1179

(ii) A subsidiary that is wholly owned by any corporation 1180  
that has made an election under subchapter S, chapter one, 1181  
subtitle A of the Internal Revenue Code for its taxable year 1182  
ending within, or on the last day of, the investor's taxable 1183  
year. 1184

(2) For the purposes of this chapter, unless expressly 1185  
stated otherwise, no qualifying person indirectly owns any asset 1186  
directly or indirectly owned by any qualifying corporation. 1187

(FF) For purposes of this chapter and Chapter 5751. of the 1188  
Revised Code: 1189

(1) "Trust" does not include a qualified pre-income tax 1190  
trust. 1191

(2) A "qualified pre-income tax trust" is any pre-income 1192  
tax trust that makes a qualifying pre-income tax trust election 1193

as described in division (FF) (3) of this section. 1194

(3) A "qualifying pre-income tax trust election" is an 1195  
election by a pre-income tax trust to subject to the tax imposed 1196  
by section 5751.02 of the Revised Code the pre-income tax trust 1197  
and all pass-through entities of which the trust owns or 1198  
controls, directly, indirectly, or constructively through 1199  
related interests, five per cent or more of the ownership or 1200  
equity interests. The trustee shall notify the tax commissioner 1201  
in writing of the election on or before April 15, 2006. The 1202  
election, if timely made, shall be effective on and after 1203  
January 1, 2006, and shall apply for all tax periods and tax 1204  
years until revoked by the trustee of the trust. 1205

(4) A "pre-income tax trust" is a trust that satisfies all 1206  
of the following requirements: 1207

(a) The document or instrument creating the trust was 1208  
executed by the grantor before January 1, 1972; 1209

(b) The trust became irrevocable upon the creation of the 1210  
trust; and 1211

(c) The grantor was domiciled in this state at the time 1212  
the trust was created. 1213

(GG) "Uniformed services" has the same meaning as in 10 1214  
U.S.C. 101. 1215

(HH) "Taxable business income" means the amount by which 1216  
an individual's eligible business income that is included in 1217  
federal adjusted gross income exceeds the amount of eligible 1218  
business income the individual is authorized to deduct under 1219  
division (A) (31) of this section for the taxable year. 1220

(II) "Employer" does not include a franchisor with respect 1221

to the franchisor's relationship with a franchisee or an 1222  
employee of a franchisee, unless the franchisor agrees to assume 1223  
that role in writing or a court of competent jurisdiction 1224  
determines that the franchisor exercises a type or degree of 1225  
control over the franchisee or the franchisee's employees that 1226  
is not customarily exercised by a franchisor for the purpose of 1227  
protecting the franchisor's trademark, brand, or both. For 1228  
purposes of this division, "franchisor" and "franchisee" have 1229  
the same meanings as in 16 C.F.R. 436.1. 1230

(JJ) "Modified adjusted gross income" means Ohio adjusted 1231  
gross income plus any amount deducted under division (A) (31) of 1232  
this section for the taxable year. 1233

**Sec. 5747.70.** (A) In computing Ohio adjusted gross income, 1234  
a deduction from federal adjusted gross income is allowed to a 1235  
~~contributor for the amount contributed during the taxable year~~ 1236  
~~taxpayer who contributes to a variable college savings program~~ 1237  
~~account and to a purchaser of or purchases~~ tuition units under 1238  
~~the Ohio college savings program created by Chapter 3334. of the~~ 1239  
~~Revised Code a qualified tuition program established in~~ 1240  
accordance with section 529 of the Internal Revenue Code. The 1241  
amount of the deduction shall equal the amount contributed or 1242  
purchased during the taxable year to the extent that the amounts 1243  
of such contributions and purchases were not deducted in 1244  
determining the contributor's or purchaser's federal adjusted 1245  
gross income for the taxable year. The combined amount of 1246  
contributions and purchases deducted in any taxable year by a 1247  
taxpayer or the taxpayer and the taxpayer's spouse, regardless 1248  
of whether the taxpayer and the taxpayer's spouse file separate 1249  
returns or a joint return, is limited to four thousand dollars 1250  
for each beneficiary for whom contributions or purchases are 1251  
made. If the combined annual contributions and purchases for a 1252

beneficiary exceed four thousand dollars, the excess may be 1253  
carried forward and deducted in future taxable years until the 1254  
contributions and purchases have been fully deducted. 1255

(B) In computing Ohio adjusted gross income, a deduction 1256  
from federal adjusted gross income is allowed for: 1257

(1) Income related to tuition units and contributions that 1258  
as of the end of the taxable year have not been refunded 1259  
pursuant to the termination of a qualified tuition program 1260  
payment contract or ~~variable college savings program~~ account 1261  
~~under section 3334.10 of the Revised Code,~~ to the extent that 1262  
such income is included in federal adjusted gross income. 1263

(2) The excess of the total purchase price of tuition 1264  
units refunded during the taxable year pursuant to the 1265  
termination of a qualified tuition program payment contract 1266  
~~under section 3334.10 of the Revised Code~~ over the amount of the 1267  
refund, to the extent the amount of the excess was not deducted 1268  
in determining federal adjusted gross income. Division (B) (2) of 1269  
this section applies only to units for which no deduction was 1270  
allowable under division (A) of this section. 1271

(C) In computing Ohio adjusted gross income, there shall 1272  
be added to federal adjusted gross income the amount of loss 1273  
related to tuition units and contributions that as of the end of 1274  
the taxable year have not been refunded pursuant to the 1275  
termination of a qualified tuition program payment contract or 1276  
~~variable college savings program~~ account ~~under section 3334.10~~ 1277  
~~of the Revised Code,~~ to the extent that such loss was deducted 1278  
in determining federal adjusted gross income. 1279

(D) For taxable years in which distributions or refunds 1280  
are made under a qualified tuition ~~payment or variable college~~ 1281

~~savings program contract program~~ for any reason other than 1282  
payment of higher education expenses, or the beneficiary's 1283  
death, disability, or receipt of a scholarship as described in 1284  
section 3334.10 of the Revised Code: 1285

(1) If the distribution or refund is paid to the purchaser 1286  
or contributor or beneficiary, any portion of the distribution 1287  
or refund not included in the recipient's federal adjusted gross 1288  
income shall be added to the recipient's federal adjusted gross 1289  
income in determining the recipient's Ohio adjusted gross 1290  
income, except that the amount added shall not exceed amounts 1291  
previously deducted under division (A) of this section less any 1292  
amounts added under division (D) (1) of this section in a prior 1293  
taxable year. 1294

(2) If amounts paid by a purchaser or contributor on or 1295  
after January 1, 2000, are distributed or refunded to someone 1296  
other than the purchaser or contributor or beneficiary, the 1297  
amount of the payment not included in the recipient's federal 1298  
adjusted gross income, less any amounts added under division (D) 1299  
of this section in a prior taxable year, shall be added to the 1300  
recipient's federal adjusted gross income in determining the 1301  
recipient's Ohio adjusted gross income. 1302

**Section 2.** That existing sections 3333.26, 5747.01, and 1303  
5747.70 of the Revised Code are hereby repealed. 1304

**Section 3.** The amendment by this act of section 5747.70 of 1305  
the Revised Code applies to taxable years beginning on or after 1306  
January 1, 2023. 1307

Nothing in this act shall limit the ability of a taxpayer 1308  
whose combined contributions to an Ohio variable college savings 1309  
program account and purchases of tuition units under the Ohio 1310

college savings program for a beneficiary exceeded four thousand 1311  
dollars in a taxable year beginning before January 1, 2023, from 1312  
carrying forward and deducting the excess in taxable years 1313  
beginning on or after January 1, 2023. 1314

**Section 4.** The provisions of this act concerning the 1315  
determination of residency for a waiver of post-secondary 1316  
tuition and fees for a child, spouse, or qualified former spouse 1317  
of a public service officer or United States armed service 1318  
member killed in the line of duty shall be known as the "Anthony 1319  
Dia Act." 1320

**Section 5.** Section 5747.01 of the Revised Code is 1321  
presented in this act as a composite of the section as amended 1322  
by H.B. 166 of the 133rd General Assembly and H.B. 24 and S.B. 1323  
22 both of the 132nd General Assembly. The General Assembly, 1324  
applying the principle stated in division (B) of section 1.52 of 1325  
the Revised Code that amendments are to be harmonized if 1326  
reasonably capable of simultaneous operation, finds that the 1327  
composite is the resulting version of the section in effect 1328  
prior to the effective date of the section as presented in this 1329  
act. 1330