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Representatives Hoops, Riedel

Cosponsors: Representatives Stoltzfus, Stewart, Schmidt, Seitz, Baldrige, Callender, Carruthers, Fraizer, Galonski, Ghanbari, Ginter, Grendell, Gross, Hall, Hillyer, Holmes, Johnson, Jones, Kick, Lampton, Lanese, LaRe, Manning, McClain, Miller, J., Miller, K., Oelslager, Pavliga, Plummer, Ray, Richardson, Roemer, Stein, Swearingen

Senators Schuring, Roegner, Cirino, Lang, McColley, Reineke, Romanchuk, Schaffer, Thomas, Yuko

A BILL

To amend sections 5747.01, 5753.01, and 5753.04 of
the Revised Code to exempt from income tax
certain gains from the sale of an ownership
interest in a business and to modify the tax
laws governing sports gaming.

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

Section 1. That sections 5747.01, 5753.01, and 5753.04 of
the Revised Code be amended to read as follows:

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

chapter to the Internal Revenue Code includes other laws of the 15
United States relating to federal income taxes. 16

As used in this chapter: 17

(A) "Adjusted gross income" or "Ohio adjusted gross 18
income" means federal adjusted gross income, as defined and used 19
in the Internal Revenue Code, adjusted as provided in this 20
section: 21

(1) Add interest or dividends on obligations or securities 22
of any state or of any political subdivision or authority of any 23
state, other than this state and its subdivisions and 24
authorities. 25

(2) Add interest or dividends on obligations of any 26
authority, commission, instrumentality, territory, or possession 27
of the United States to the extent that the interest or 28
dividends are exempt from federal income taxes but not from 29
state income taxes. 30

(3) Deduct interest or dividends on obligations of the 31
United States and its territories and possessions or of any 32
authority, commission, or instrumentality of the United States 33
to the extent that the interest or dividends are included in 34
federal adjusted gross income but exempt from state income taxes 35
under the laws of the United States. 36

(4) Deduct disability and survivor's benefits to the 37
extent included in federal adjusted gross income. 38

(5) Deduct the following, to the extent not otherwise 39
deducted or excluded in computing federal or Ohio adjusted gross 40
income: 41

(a) Benefits under Title II of the Social Security Act and 42

tier 1 railroad retirement;	43
(b) Railroad retirement benefits, other than tier 1	44
railroad retirement benefits, to the extent such amounts are	45
exempt from state taxation under federal law.	46
(6) Deduct the amount of wages and salaries, if any, not	47
otherwise allowable as a deduction but that would have been	48
allowable as a deduction in computing federal adjusted gross	49
income for the taxable year, had the work opportunity tax credit	50
allowed and determined under sections 38, 51, and 52 of the	51
Internal Revenue Code not been in effect.	52
(7) Deduct any interest or interest equivalent on public	53
obligations and purchase obligations to the extent that the	54
interest or interest equivalent is included in federal adjusted	55
gross income.	56
(8) Add any loss or deduct any gain resulting from the	57
sale, exchange, or other disposition of public obligations to	58
the extent that the loss has been deducted or the gain has been	59
included in computing federal adjusted gross income.	60
(9) Deduct or add amounts, as provided under section	61
5747.70 of the Revised Code, related to contributions to	62
variable college savings program accounts made or tuition units	63
purchased pursuant to Chapter 3334. of the Revised Code.	64
(10) (a) Deduct, to the extent not otherwise allowable as a	65
deduction or exclusion in computing federal or Ohio adjusted	66
gross income for the taxable year, the amount the taxpayer paid	67
during the taxable year for medical care insurance and qualified	68
long-term care insurance for the taxpayer, the taxpayer's	69
spouse, and dependents. No deduction for medical care insurance	70
under division (A) (10) (a) of this section shall be allowed	71

either to any taxpayer who is eligible to participate in any 72
subsidized health plan maintained by any employer of the 73
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 74
entitled to, or on application would be entitled to, benefits 75
under part A of Title XVIII of the "Social Security Act," 49 76
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 77
division (A)(10)(a) of this section, "subsidized health plan" 78
means a health plan for which the employer pays any portion of 79
the plan's cost. The deduction allowed under division (A)(10)(a) 80
of this section shall be the net of any related premium refunds, 81
related premium reimbursements, or related insurance premium 82
dividends received during the taxable year. 83

(b) Deduct, to the extent not otherwise deducted or 84
excluded in computing federal or Ohio adjusted gross income 85
during the taxable year, the amount the taxpayer paid during the 86
taxable year, not compensated for by any insurance or otherwise, 87
for medical care of the taxpayer, the taxpayer's spouse, and 88
dependents, to the extent the expenses exceed seven and one-half 89
per cent of the taxpayer's federal adjusted gross income. 90

(c) For purposes of division (A)(10) of this section, 91
"medical care" has the meaning given in section 213 of the 92
Internal Revenue Code, subject to the special rules, 93
limitations, and exclusions set forth therein, and "qualified 94
long-term care" has the same meaning given in section 7702B(c) 95
of the Internal Revenue Code. Solely for purposes of division 96
(A)(10)(a) of this section, "dependent" includes a person who 97
otherwise would be a "qualifying relative" and thus a 98
"dependent" under section 152 of the Internal Revenue Code but 99
for the fact that the person fails to meet the income and 100
support limitations under section 152(d)(1)(B) and (C) of the 101
Internal Revenue Code. 102

(11) (a) Deduct any amount included in federal adjusted 103
gross income solely because the amount represents a 104
reimbursement or refund of expenses that in any year the 105
taxpayer had deducted as an itemized deduction pursuant to 106
section 63 of the Internal Revenue Code and applicable United 107
States department of the treasury regulations. The deduction 108
otherwise allowed under division (A) (11) (a) of this section 109
shall be reduced to the extent the reimbursement is attributable 110
to an amount the taxpayer deducted under this section in any 111
taxable year. 112

(b) Add any amount not otherwise included in Ohio adjusted 113
gross income for any taxable year to the extent that the amount 114
is attributable to the recovery during the taxable year of any 115
amount deducted or excluded in computing federal or Ohio 116
adjusted gross income in any taxable year. 117

(12) Deduct any portion of the deduction described in 118
section 1341(a) (2) of the Internal Revenue Code, for repaying 119
previously reported income received under a claim of right, that 120
meets both of the following requirements: 121

(a) It is allowable for repayment of an item that was 122
included in the taxpayer's adjusted gross income for a prior 123
taxable year and did not qualify for a credit under division (A) 124
or (B) of section 5747.05 of the Revised Code for that year; 125

(b) It does not otherwise reduce the taxpayer's adjusted 126
gross income for the current or any other taxable year. 127

(13) Deduct an amount equal to the deposits made to, and 128
net investment earnings of, a medical savings account during the 129
taxable year, in accordance with section 3924.66 of the Revised 130
Code. The deduction allowed by division (A) (13) of this section 131

does not apply to medical savings account deposits and earnings 132
otherwise deducted or excluded for the current or any other 133
taxable year from the taxpayer's federal adjusted gross income. 134

(14) (a) Add an amount equal to the funds withdrawn from a 135
medical savings account during the taxable year, and the net 136
investment earnings on those funds, when the funds withdrawn 137
were used for any purpose other than to reimburse an account 138
holder for, or to pay, eligible medical expenses, in accordance 139
with section 3924.66 of the Revised Code; 140

(b) Add the amounts distributed from a medical savings 141
account under division (A) (2) of section 3924.68 of the Revised 142
Code during the taxable year. 143

(15) Add any amount claimed as a credit under section 144
5747.059 of the Revised Code to the extent that such amount 145
satisfies either of the following: 146

(a) The amount was deducted or excluded from the 147
computation of the taxpayer's federal adjusted gross income as 148
required to be reported for the taxpayer's taxable year under 149
the Internal Revenue Code; 150

(b) The amount resulted in a reduction of the taxpayer's 151
federal adjusted gross income as required to be reported for any 152
of the taxpayer's taxable years under the Internal Revenue Code. 153

(16) Deduct the amount contributed by the taxpayer to an 154
individual development account program established by a county 155
department of job and family services pursuant to sections 156
329.11 to 329.14 of the Revised Code for the purpose of matching 157
funds deposited by program participants. On request of the tax 158
commissioner, the taxpayer shall provide any information that, 159
in the tax commissioner's opinion, is necessary to establish the 160

amount deducted under division (A) (16) of this section. 161

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 162
(v) of this section, add five-sixths of the amount of 163
depreciation expense allowed by subsection (k) of section 168 of 164
the Internal Revenue Code, including the taxpayer's 165
proportionate or distributive share of the amount of 166
depreciation expense allowed by that subsection to a pass- 167
through entity in which the taxpayer has a direct or indirect 168
ownership interest. 169

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 170
of this section, add five-sixths of the amount of qualifying 171
section 179 depreciation expense, including the taxpayer's 172
proportionate or distributive share of the amount of qualifying 173
section 179 depreciation expense allowed to any pass-through 174
entity in which the taxpayer has a direct or indirect ownership 175
interest. 176

(iii) Subject to division (A) (17) (a) (v) of this section, 177
for taxable years beginning in 2012 or thereafter, if the 178
increase in income taxes withheld by the taxpayer is equal to or 179
greater than ten per cent of income taxes withheld by the 180
taxpayer during the taxpayer's immediately preceding taxable 181
year, "two-thirds" shall be substituted for "five-sixths" for 182
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 183

(iv) Subject to division (A) (17) (a) (v) of this section, 184
for taxable years beginning in 2012 or thereafter, a taxpayer is 185
not required to add an amount under division (A) (17) of this 186
section if the increase in income taxes withheld by the taxpayer 187
and by any pass-through entity in which the taxpayer has a 188
direct or indirect ownership interest is equal to or greater 189
than the sum of (I) the amount of qualifying section 179 190

depreciation expense and (II) the amount of depreciation expense 191
allowed to the taxpayer by subsection (k) of section 168 of the 192
Internal Revenue Code, and including the taxpayer's 193
proportionate or distributive shares of such amounts allowed to 194
any such pass-through entities. 195

(v) If a taxpayer directly or indirectly incurs a net 196
operating loss for the taxable year for federal income tax 197
purposes, to the extent such loss resulted from depreciation 198
expense allowed by subsection (k) of section 168 of the Internal 199
Revenue Code and by qualifying section 179 depreciation expense, 200
"the entire" shall be substituted for "five-sixths of the" for 201
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 202

The tax commissioner, under procedures established by the 203
commissioner, may waive the add-backs related to a pass-through 204
entity if the taxpayer owns, directly or indirectly, less than 205
five per cent of the pass-through entity. 206

(b) Nothing in division (A) (17) of this section shall be 207
construed to adjust or modify the adjusted basis of any asset. 208

(c) To the extent the add-back required under division (A) 209
(17) (a) of this section is attributable to property generating 210
nonbusiness income or loss allocated under section 5747.20 of 211
the Revised Code, the add-back shall be situated to the same 212
location as the nonbusiness income or loss generated by the 213
property for the purpose of determining the credit under 214
division (A) of section 5747.05 of the Revised Code. Otherwise, 215
the add-back shall be apportioned, subject to one or more of the 216
four alternative methods of apportionment enumerated in section 217
5747.21 of the Revised Code. 218

(d) For the purposes of division (A) (17) (a) (v) of this 219

section, net operating loss carryback and carryforward shall not 220
include the allowance of any net operating loss deduction 221
carryback or carryforward to the taxable year to the extent such 222
loss resulted from depreciation allowed by section 168(k) of the 223
Internal Revenue Code and by the qualifying section 179 224
depreciation expense amount. 225

(e) For the purposes of divisions (A) (17) and (18) of this 226
section: 227

(i) "Income taxes withheld" means the total amount 228
withheld and remitted under sections 5747.06 and 5747.07 of the 229
Revised Code by an employer during the employer's taxable year. 230

(ii) "Increase in income taxes withheld" means the amount 231
by which the amount of income taxes withheld by an employer 232
during the employer's current taxable year exceeds the amount of 233
income taxes withheld by that employer during the employer's 234
immediately preceding taxable year. 235

(iii) "Qualifying section 179 depreciation expense" means 236
the difference between (I) the amount of depreciation expense 237
directly or indirectly allowed to a taxpayer under section 179 238
of the Internal Revised Code, and (II) the amount of 239
depreciation expense directly or indirectly allowed to the 240
taxpayer under section 179 of the Internal Revenue Code as that 241
section existed on December 31, 2002. 242

(18) (a) If the taxpayer was required to add an amount 243
under division (A) (17) (a) of this section for a taxable year, 244
deduct one of the following: 245

(i) One-fifth of the amount so added for each of the five 246
succeeding taxable years if the amount so added was five-sixths 247
of qualifying section 179 depreciation expense or depreciation 248

expense allowed by subsection (k) of section 168 of the Internal Revenue Code;	249 250
(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;	251 252 253
(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.	254 255 256
(b) If the amount deducted under division (A) (18) (a) of this section is attributable to an add-back allocated under division (A) (17) (c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.	257 258 259 260 261 262 263 264
(c) No deduction is available under division (A) (18) (a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A) (18) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A) (17) (a) of this section has been deducted.	265 266 267 268 269 270 271 272 273 274 275 276 277

(19) Deduct, to the extent not otherwise deducted or 278
excluded in computing federal or Ohio adjusted gross income for 279
the taxable year, the amount the taxpayer received during the 280
taxable year as reimbursement for life insurance premiums under 281
section 5919.31 of the Revised Code. 282

(20) Deduct, to the extent not otherwise deducted or 283
excluded in computing federal or Ohio adjusted gross income for 284
the taxable year, the amount the taxpayer received during the 285
taxable year as a death benefit paid by the adjutant general 286
under section 5919.33 of the Revised Code. 287

(21) Deduct, to the extent included in federal adjusted 288
gross income and not otherwise allowable as a deduction or 289
exclusion in computing federal or Ohio adjusted gross income for 290
the taxable year, military pay and allowances received by the 291
taxpayer during the taxable year for active duty service in the 292
United States army, air force, navy, marine corps, or coast 293
guard or reserve components thereof or the national guard. The 294
deduction may not be claimed for military pay and allowances 295
received by the taxpayer while the taxpayer is stationed in this 296
state. 297

(22) Deduct, to the extent not otherwise allowable as a 298
deduction or exclusion in computing federal or Ohio adjusted 299
gross income for the taxable year and not otherwise compensated 300
for by any other source, the amount of qualified organ donation 301
expenses incurred by the taxpayer during the taxable year, not 302
to exceed ten thousand dollars. A taxpayer may deduct qualified 303
organ donation expenses only once for all taxable years 304
beginning with taxable years beginning in 2007. 305

For the purposes of division (A) (22) of this section: 306

(a) "Human organ" means all or any portion of a human 307
liver, pancreas, kidney, intestine, or lung, and any portion of 308
human bone marrow. 309

(b) "Qualified organ donation expenses" means travel 310
expenses, lodging expenses, and wages and salary forgone by a 311
taxpayer in connection with the taxpayer's donation, while 312
living, of one or more of the taxpayer's human organs to another 313
human being. 314

(23) Deduct, to the extent not otherwise deducted or 315
excluded in computing federal or Ohio adjusted gross income for 316
the taxable year, amounts received by the taxpayer as retired 317
personnel pay for service in the uniformed services or reserve 318
components thereof, or the national guard, or received by the 319
surviving spouse or former spouse of such a taxpayer under the 320
survivor benefit plan on account of such a taxpayer's death. If 321
the taxpayer receives income on account of retirement paid under 322
the federal civil service retirement system or federal employees 323
retirement system, or under any successor retirement program 324
enacted by the congress of the United States that is established 325
and maintained for retired employees of the United States 326
government, and such retirement income is based, in whole or in 327
part, on credit for the taxpayer's uniformed service, the 328
deduction allowed under this division shall include only that 329
portion of such retirement income that is attributable to the 330
taxpayer's uniformed service, to the extent that portion of such 331
retirement income is otherwise included in federal adjusted 332
gross income and is not otherwise deducted under this section. 333
Any amount deducted under division (A) (23) of this section is 334
not included in a taxpayer's adjusted gross income for the 335
purposes of section 5747.055 of the Revised Code. No amount may 336
be deducted under division (A) (23) of this section on the basis 337

of which a credit was claimed under section 5747.055 of the Revised Code.

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

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

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

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

(28) Deduct from the portion of an individual's federal	368
adjusted gross income that is business income, to the extent not	369
otherwise deducted or excluded in computing federal adjusted	370
gross income for the taxable year, one hundred twenty-five	371
thousand dollars for each spouse if spouses file separate	372
returns under section 5747.08 of the Revised Code or two hundred	373
fifty thousand dollars for all other individuals.	374
(29) Deduct, as provided under section 5747.78 of the	375
Revised Code, contributions to ABLE savings accounts made in	376
accordance with sections 113.50 to 113.56 of the Revised Code.	377
(30) (a) Deduct, to the extent not otherwise deducted or	378
excluded in computing federal or Ohio adjusted gross income	379
during the taxable year, all of the following:	380
(i) Compensation paid to a qualifying employee described	381
in division (A) (14) (a) of section 5703.94 of the Revised Code to	382
the extent such compensation is for disaster work conducted in	383
this state during a disaster response period pursuant to a	384
qualifying solicitation received by the employee's employer;	385
(ii) Compensation paid to a qualifying employee described	386
in division (A) (14) (b) of section 5703.94 of the Revised Code to	387
the extent such compensation is for disaster work conducted in	388
this state by the employee during the disaster response period	389
on critical infrastructure owned or used by the employee's	390
employer;	391
(iii) Income received by an out-of-state disaster business	392
for disaster work conducted in this state during a disaster	393
response period, or, if the out-of-state disaster business is a	394
pass-through entity, a taxpayer's distributive share of the	395
pass-through entity's income from the business conducting	396

disaster work in this state during a disaster response period, 397
if, in either case, the disaster work is conducted pursuant to a 398
qualifying solicitation received by the business. 399

(b) All terms used in division (A) (30) of this section 400
have the same meanings as in section 5703.94 of the Revised 401
Code. 402

(31) For a taxpayer who is a qualifying Ohio educator, 403
deduct, to the extent not otherwise deducted or excluded in 404
computing federal or Ohio adjusted gross income for the taxable 405
year, the lesser of two hundred fifty dollars or the amount of 406
expenses described in subsections (a) (2) (D) (i) and (ii) of 407
section 62 of the Internal Revenue Code paid or incurred by the 408
taxpayer during the taxpayer's taxable year in excess of the 409
amount the taxpayer is authorized to deduct for that taxable 410
year under subsection (a) (2) (D) of that section. 411

(32) Deduct, to the extent not otherwise deducted or 412
excluded in computing federal or Ohio adjusted gross income for 413
the taxable year, amounts received by the taxpayer as a 414
disability severance payment, computed under 10 U.S.C. 1212, 415
following discharge or release under honorable conditions from 416
the armed forces, as defined by 10 U.S.C. 101. 417

(33) Deduct, to the extent not otherwise deducted or 418
excluded in computing federal adjusted gross income or Ohio 419
adjusted gross income, amounts not subject to tax due to an 420
agreement entered into under division (A) (2) of section 5747.05 421
of the Revised Code. 422

(34) Deduct amounts as provided under section 5747.79 of 423
the Revised Code related to the taxpayer's qualifying capital 424
gains and deductible payroll. 425

To the extent a qualifying capital gain described under 426
division (A) (34) of this section is business income, the 427
taxpayer shall deduct those gains under this division before 428
deducting any such gains under division (A) (28) of this section. 429

(35) (a) For taxable years beginning in or after 2026, 430
deduct, to the extent not otherwise deducted or excluded in 431
computing federal or Ohio adjusted gross income for the taxable 432
year: 433

(i) One hundred per cent of the capital gain received by 434
the taxpayer in the taxable year from a qualifying interest in 435
an Ohio venture capital operating company attributable to the 436
company's investments in Ohio businesses during the period for 437
which the company was an Ohio venture operating company; and 438

(ii) Fifty per cent of the capital gain received by the 439
taxpayer in the taxable year from a qualifying interest in an 440
Ohio venture capital operating company attributable to the 441
company's investments in all other businesses during the period 442
for which the company was an Ohio venture operating company. 443

(b) Add amounts previously deducted by the taxpayer under 444
division (A) (35) (a) of this section if the director of 445
development certifies to the tax commissioner that the 446
requirements for the deduction were not met. 447

(c) All terms used in division (A) (35) of this section 448
have the same meanings as in section 122.851 of the Revised 449
Code. 450

(d) To the extent a capital gain described in division (A) 451
(35) (a) of this section is business income, the taxpayer shall 452
apply that division before applying division (A) (28) of this 453
section. 454

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

As used in this division, the "sale of an equity or ownership interest in a business" means sales to which either or both of the following apply:

(1) The sale is treated for federal income tax purposes as the sale of assets.

(2) The seller materially participated, as described in 26 C.F.R. 1.469-5T, in the activities of the business during the taxable year in which the sale occurs or during any of the five preceding taxable years.

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

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

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

administrator, receiver, conservator, or any other person acting 484
in any fiduciary capacity for any individual, trust, or estate. 485

(F) "Fiscal year" means an accounting period of twelve 486
months ending on the last day of any month other than December. 487

(G) "Individual" means any natural person. 488

(H) "Internal Revenue Code" means the "Internal Revenue 489
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 490

(I) "Resident" means any of the following: 491

(1) An individual who is domiciled in this state, subject 492
to section 5747.24 of the Revised Code; 493

(2) The estate of a decedent who at the time of death was 494
domiciled in this state. The domicile tests of section 5747.24 495
of the Revised Code are not controlling for purposes of division 496
(I) (2) of this section. 497

(3) A trust that, in whole or part, resides in this state. 498
If only part of a trust resides in this state, the trust is a 499
resident only with respect to that part. 500

For the purposes of division (I) (3) of this section: 501

(a) A trust resides in this state for the trust's current 502
taxable year to the extent, as described in division (I) (3) (d) 503
of this section, that the trust consists directly or indirectly, 504
in whole or in part, of assets, net of any related liabilities, 505
that were transferred, or caused to be transferred, directly or 506
indirectly, to the trust by any of the following: 507

(i) A person, a court, or a governmental entity or 508
instrumentality on account of the death of a decedent, but only 509
if the trust is described in division (I) (3) (e) (i) or (ii) of 510

this section;	511
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;	512 513 514 515 516 517
(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I) (3) (a) (iii) of this section.	518 519 520 521 522 523 524 525 526 527 528
(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.	529 530 531 532
(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e) (2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would	533 534 535 536 537 538 539 540

qualify for the charitable deduction under section 170 of the Internal Revenue Code.

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

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

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

(iii) Whether a transfer to the trust is by or from any of

the sources enumerated in division (I) (3) (a) of this section 571
shall be ascertained without regard to the domicile of the 572
trust's beneficiaries. 573

(e) For the purposes of division (I) (3) (a) (i) of this 574
section: 575

(i) A trust is described in division (I) (3) (e) (i) of this 576
section if the trust is a testamentary trust and the testator of 577
that testamentary trust was domiciled in this state at the time 578
of the testator's death for purposes of the taxes levied under 579
Chapter 5731. of the Revised Code. 580

(ii) A trust is described in division (I) (3) (e) (ii) of 581
this section if the transfer is a qualifying transfer described 582
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 583
trust is an irrevocable inter vivos trust, and at least one of 584
the trust's qualifying beneficiaries is domiciled in this state 585
for purposes of this chapter during all or some portion of the 586
trust's current taxable year. 587

(f) For the purposes of division (I) (3) (e) (ii) of this 588
section, a "qualifying transfer" is a transfer of assets, net of 589
any related liabilities, directly or indirectly to a trust, if 590
the transfer is described in any of the following: 591

(i) The transfer is made to a trust, created by the 592
decedent before the decedent's death and while the decedent was 593
domiciled in this state for the purposes of this chapter, and, 594
prior to the death of the decedent, the trust became irrevocable 595
while the decedent was domiciled in this state for the purposes 596
of this chapter. 597

(ii) The transfer is made to a trust to which the 598
decedent, prior to the decedent's death, had directly or 599

indirectly transferred assets, net of any related liabilities, 600
while the decedent was domiciled in this state for the purposes 601
of this chapter, and prior to the death of the decedent the 602
trust became irrevocable while the decedent was domiciled in 603
this state for the purposes of this chapter. 604

(iii) The transfer is made on account of a contractual 605
relationship existing directly or indirectly between the 606
transferor and either the decedent or the estate of the decedent 607
at any time prior to the date of the decedent's death, and the 608
decedent was domiciled in this state at the time of death for 609
purposes of the taxes levied under Chapter 5731. of the Revised 610
Code. 611

(iv) The transfer is made to a trust on account of a 612
contractual relationship existing directly or indirectly between 613
the transferor and another person who at the time of the 614
decedent's death was domiciled in this state for purposes of 615
this chapter. 616

(v) The transfer is made to a trust on account of the will 617
of a testator who was domiciled in this state at the time of the 618
testator's death for purposes of the taxes levied under Chapter 619
5731. of the Revised Code. 620

(vi) The transfer is made to a trust created by or caused 621
to be created by a court, and the trust was directly or 622
indirectly created in connection with or as a result of the 623
death of an individual who, for purposes of the taxes levied 624
under Chapter 5731. of the Revised Code, was domiciled in this 625
state at the time of the individual's death. 626

(g) The tax commissioner may adopt rules to ascertain the 627
part of a trust residing in this state. 628

(J) "Nonresident" means an individual or estate that is 629
not a resident. An individual who is a resident for only part of 630
a taxable year is a nonresident for the remainder of that 631
taxable year. 632

(K) "Pass-through entity" has the same meaning as in 633
section 5733.04 of the Revised Code. 634

(L) "Return" means the notifications and reports required 635
to be filed pursuant to this chapter for the purpose of 636
reporting the tax due and includes declarations of estimated tax 637
when so required. 638

(M) "Taxable year" means the calendar year or the 639
taxpayer's fiscal year ending during the calendar year, or 640
fractional part thereof, upon which the adjusted gross income is 641
calculated pursuant to this chapter. 642

(N) "Taxpayer" means any person subject to the tax imposed 643
by section 5747.02 of the Revised Code or any pass-through 644
entity that makes the election under division (D) of section 645
5747.08 of the Revised Code. 646

(O) "Dependents" means one of the following: 647

(1) For taxable years beginning on or after January 1, 648
2018, and before January 1, 2026, dependents as defined in the 649
Internal Revenue Code; 650

(2) For all other taxable years, dependents as defined in 651
the Internal Revenue Code and as claimed in the taxpayer's 652
federal income tax return for the taxable year or which the 653
taxpayer would have been permitted to claim had the taxpayer 654
filed a federal income tax return. 655

(P) "Principal county of employment" means, in the case of 656

a nonresident, the county within the state in which a taxpayer 657
performs services for an employer or, if those services are 658
performed in more than one county, the county in which the major 659
portion of the services are performed. 660

(Q) As used in sections 5747.50 to 5747.55 of the Revised 661
Code: 662

(1) "Subdivision" means any county, municipal corporation, 663
park district, or township. 664

(2) "Essential local government purposes" includes all 665
functions that any subdivision is required by general law to 666
exercise, including like functions that are exercised under a 667
charter adopted pursuant to the Ohio Constitution. 668

(R) "Overpayment" means any amount already paid that 669
exceeds the figure determined to be the correct amount of the 670
tax. 671

(S) "Taxable income" or "Ohio taxable income" applies only 672
to estates and trusts, and means federal taxable income, as 673
defined and used in the Internal Revenue Code, adjusted as 674
follows: 675

(1) Add interest or dividends, net of ordinary, necessary, 676
and reasonable expenses not deducted in computing federal 677
taxable income, on obligations or securities of any state or of 678
any political subdivision or authority of any state, other than 679
this state and its subdivisions and authorities, but only to the 680
extent that such net amount is not otherwise includible in Ohio 681
taxable income and is described in either division (S) (1) (a) or 682
(b) of this section: 683

(a) The net amount is not attributable to the S portion of 684
an electing small business trust and has not been distributed to 685

beneficiaries for the taxable year;	686
(b) The net amount is attributable to the S portion of an	687
electing small business trust for the taxable year.	688
(2) Add interest or dividends, net of ordinary, necessary,	689
and reasonable expenses not deducted in computing federal	690
taxable income, on obligations of any authority, commission,	691
instrumentality, territory, or possession of the United States	692
to the extent that the interest or dividends are exempt from	693
federal income taxes but not from state income taxes, but only	694
to the extent that such net amount is not otherwise includible	695
in Ohio taxable income and is described in either division (S)	696
(1) (a) or (b) of this section;	697
(3) Add the amount of personal exemption allowed to the	698
estate pursuant to section 642(b) of the Internal Revenue Code;	699
(4) Deduct interest or dividends, net of related expenses	700
deducted in computing federal taxable income, on obligations of	701
the United States and its territories and possessions or of any	702
authority, commission, or instrumentality of the United States	703
to the extent that the interest or dividends are exempt from	704
state taxes under the laws of the United States, but only to the	705
extent that such amount is included in federal taxable income	706
and is described in either division (S) (1) (a) or (b) of this	707
section;	708
(5) Deduct the amount of wages and salaries, if any, not	709
otherwise allowable as a deduction but that would have been	710
allowable as a deduction in computing federal taxable income for	711
the taxable year, had the work opportunity tax credit allowed	712
under sections 38, 51, and 52 of the Internal Revenue Code not	713
been in effect, but only to the extent such amount relates	714

either to income included in federal taxable income for the 715
taxable year or to income of the S portion of an electing small 716
business trust for the taxable year; 717

(6) Deduct any interest or interest equivalent, net of 718
related expenses deducted in computing federal taxable income, 719
on public obligations and purchase obligations, but only to the 720
extent that such net amount relates either to income included in 721
federal taxable income for the taxable year or to income of the 722
S portion of an electing small business trust for the taxable 723
year; 724

(7) Add any loss or deduct any gain resulting from sale, 725
exchange, or other disposition of public obligations to the 726
extent that such loss has been deducted or such gain has been 727
included in computing either federal taxable income or income of 728
the S portion of an electing small business trust for the 729
taxable year; 730

(8) Except in the case of the final return of an estate, 731
add any amount deducted by the taxpayer on both its Ohio estate 732
tax return pursuant to section 5731.14 of the Revised Code, and 733
on its federal income tax return in determining federal taxable 734
income; 735

(9) (a) Deduct any amount included in federal taxable 736
income solely because the amount represents a reimbursement or 737
refund of expenses that in a previous year the decedent had 738
deducted as an itemized deduction pursuant to section 63 of the 739
Internal Revenue Code and applicable treasury regulations. The 740
deduction otherwise allowed under division (S) (9) (a) of this 741
section shall be reduced to the extent the reimbursement is 742
attributable to an amount the taxpayer or decedent deducted 743
under this section in any taxable year. 744

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

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

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

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

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

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

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

(12) Deduct any amount, net of related expenses deducted

in computing federal taxable income, that a trust is required to 774
report as farm income on its federal income tax return, but only 775
if the assets of the trust include at least ten acres of land 776
satisfying the definition of "land devoted exclusively to 777
agricultural use" under section 5713.30 of the Revised Code, 778
regardless of whether the land is valued for tax purposes as 779
such land under sections 5713.30 to 5713.38 of the Revised Code. 780
If the trust is a pass-through entity investor, section 5747.231 781
of the Revised Code applies in ascertaining if the trust is 782
eligible to claim the deduction provided by division (S) (12) of 783
this section in connection with the pass-through entity's farm 784
income. 785

Except for farm income attributable to the S portion of an 786
electing small business trust, the deduction provided by 787
division (S) (12) of this section is allowed only to the extent 788
that the trust has not distributed such farm income. 789

(13) Add the net amount of income described in section 790
641(c) of the Internal Revenue Code to the extent that amount is 791
not included in federal taxable income. 792

(14) Add or deduct the amount the taxpayer would be 793
required to add or deduct under division (A) (17) or (18) of this 794
section if the taxpayer's Ohio taxable income were computed in 795
the same manner as an individual's Ohio adjusted gross income is 796
computed under this section. 797

(T) "School district income" and "school district income 798
tax" have the same meanings as in section 5748.01 of the Revised 799
Code. 800

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 801
(7) of this section, "public obligations," "purchase 802

obligations," and "interest or interest equivalent" have the 803
same meanings as in section 5709.76 of the Revised Code. 804

(V) "Limited liability company" means any limited 805
liability company formed under Chapter 1705. or 1706. of the 806
Revised Code or under the laws of any other state. 807

(W) "Pass-through entity investor" means any person who, 808
during any portion of a taxable year of a pass-through entity, 809
is a partner, member, shareholder, or equity investor in that 810
pass-through entity. 811

(X) "Banking day" has the same meaning as in section 812
1304.01 of the Revised Code. 813

(Y) "Month" means a calendar month. 814

(Z) "Quarter" means the first three months, the second 815
three months, the third three months, or the last three months 816
of the taxpayer's taxable year. 817

(AA) (1) "Modified business income" means the business 818
income included in a trust's Ohio taxable income after such 819
taxable income is first reduced by the qualifying trust amount, 820
if any. 821

(2) "Qualifying trust amount" of a trust means capital 822
gains and losses from the sale, exchange, or other disposition 823
of equity or ownership interests in, or debt obligations of, a 824
qualifying investee to the extent included in the trust's Ohio 825
taxable income, but only if the following requirements are 826
satisfied: 827

(a) The book value of the qualifying investee's physical 828
assets in this state and everywhere, as of the last day of the 829
qualifying investee's fiscal or calendar year ending immediately 830

prior to the date on which the trust recognizes the gain or 831
loss, is available to the trust. 832

(b) The requirements of section 5747.011 of the Revised 833
Code are satisfied for the trust's taxable year in which the 834
trust recognizes the gain or loss. 835

Any gain or loss that is not a qualifying trust amount is 836
modified business income, qualifying investment income, or 837
modified nonbusiness income, as the case may be. 838

(3) "Modified nonbusiness income" means a trust's Ohio 839
taxable income other than modified business income, other than 840
the qualifying trust amount, and other than qualifying 841
investment income, as defined in section 5747.012 of the Revised 842
Code, to the extent such qualifying investment income is not 843
otherwise part of modified business income. 844

(4) "Modified Ohio taxable income" applies only to trusts, 845
and means the sum of the amounts described in divisions (AA) (4) 846
(a) to (c) of this section: 847

(a) The fraction, calculated under section 5747.013, and 848
applying section 5747.231 of the Revised Code, multiplied by the 849
sum of the following amounts: 850

(i) The trust's modified business income; 851

(ii) The trust's qualifying investment income, as defined 852
in section 5747.012 of the Revised Code, but only to the extent 853
the qualifying investment income does not otherwise constitute 854
modified business income and does not otherwise constitute a 855
qualifying trust amount. 856

(b) The qualifying trust amount multiplied by a fraction, 857
the numerator of which is the sum of the book value of the 858

qualifying investee's physical assets in this state on the last 859
day of the qualifying investee's fiscal or calendar year ending 860
immediately prior to the day on which the trust recognizes the 861
qualifying trust amount, and the denominator of which is the sum 862
of the book value of the qualifying investee's total physical 863
assets everywhere on the last day of the qualifying investee's 864
fiscal or calendar year ending immediately prior to the day on 865
which the trust recognizes the qualifying trust amount. If, for 866
a taxable year, the trust recognizes a qualifying trust amount 867
with respect to more than one qualifying investee, the amount 868
described in division (AA) (4) (b) of this section shall equal the 869
sum of the products so computed for each such qualifying 870
investee. 871

(c) (i) With respect to a trust or portion of a trust that 872
is a resident as ascertained in accordance with division (I) (3) 873
(d) of this section, its modified nonbusiness income. 874

(ii) With respect to a trust or portion of a trust that is 875
not a resident as ascertained in accordance with division (I) (3) 876
(d) of this section, the amount of its modified nonbusiness 877
income satisfying the descriptions in divisions (B) (2) to (5) of 878
section 5747.20 of the Revised Code, except as otherwise 879
provided in division (AA) (4) (c) (ii) of this section. With 880
respect to a trust or portion of a trust that is not a resident 881
as ascertained in accordance with division (I) (3) (d) of this 882
section, the trust's portion of modified nonbusiness income 883
recognized from the sale, exchange, or other disposition of a 884
debt interest in or equity interest in a section 5747.212 885
entity, as defined in section 5747.212 of the Revised Code, 886
without regard to division (A) of that section, shall not be 887
allocated to this state in accordance with section 5747.20 of 888
the Revised Code but shall be apportioned to this state in 889

accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

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

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

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

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent

of the equity of a pass-through entity, then the qualifying 920
investee and the other members are deemed to own the 921
proportionate share of the pass-through entity's physical assets 922
which the pass-through entity directly or indirectly owns on the 923
last day of the pass-through entity's calendar or fiscal year 924
ending within or with the last day of the qualifying investee's 925
fiscal or calendar year ending immediately prior to the date on 926
which the trust recognizes the qualifying trust amount. 927

(iii) For the purposes of division (AA) (5) (a) (iii) of this 928
section, "upper level pass-through entity" means a pass-through 929
entity directly or indirectly owning any equity of another pass- 930
through entity, and "lower level pass-through entity" means that 931
other pass-through entity. 932

An upper level pass-through entity, whether or not it is 933
also a qualifying investee, is deemed to own, on the last day of 934
the upper level pass-through entity's calendar or fiscal year, 935
the proportionate share of the lower level pass-through entity's 936
physical assets that the lower level pass-through entity 937
directly or indirectly owns on the last day of the lower level 938
pass-through entity's calendar or fiscal year ending within or 939
with the last day of the upper level pass-through entity's 940
fiscal or calendar year. If the upper level pass-through entity 941
directly and indirectly owns less than fifty per cent of the 942
equity of the lower level pass-through entity on each day of the 943
upper level pass-through entity's calendar or fiscal year in 944
which or with which ends the calendar or fiscal year of the 945
lower level pass-through entity and if, based upon clear and 946
convincing evidence, complete information about the location and 947
cost of the physical assets of the lower pass-through entity is 948
not available to the upper level pass-through entity, then 949
solely for purposes of ascertaining if a gain or loss 950

constitutes a qualifying trust amount, the upper level pass- 951
through entity shall be deemed as owning no equity of the lower 952
level pass-through entity for each day during the upper level 953
pass-through entity's calendar or fiscal year in which or with 954
which ends the lower level pass-through entity's calendar or 955
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 956
shall be construed to provide for any deduction or exclusion in 957
computing any trust's Ohio taxable income. 958

(b) With respect to a trust that is not a resident for the 959
taxable year and with respect to a part of a trust that is not a 960
resident for the taxable year, "qualifying investee" for that 961
taxable year does not include a C corporation if both of the 962
following apply: 963

(i) During the taxable year the trust or part of the trust 964
recognizes a gain or loss from the sale, exchange, or other 965
disposition of equity or ownership interests in, or debt 966
obligations of, the C corporation. 967

(ii) Such gain or loss constitutes nonbusiness income. 968

(6) "Available" means information is such that a person is 969
able to learn of the information by the due date plus 970
extensions, if any, for filing the return for the taxable year 971
in which the trust recognizes the gain or loss. 972

(BB) "Qualifying controlled group" has the same meaning as 973
in section 5733.04 of the Revised Code. 974

(CC) "Related member" has the same meaning as in section 975
5733.042 of the Revised Code. 976

(DD) (1) For the purposes of division (DD) of this section: 977

(a) "Qualifying person" means any person other than a 978

qualifying corporation.	979
(b) "Qualifying corporation" means any person classified	980
for federal income tax purposes as an association taxable as a	981
corporation, except either of the following:	982
(i) A corporation that has made an election under	983
subchapter S, chapter one, subtitle A, of the Internal Revenue	984
Code for its taxable year ending within, or on the last day of,	985
the investor's taxable year;	986
(ii) A subsidiary that is wholly owned by any corporation	987
that has made an election under subchapter S, chapter one,	988
subtitle A of the Internal Revenue Code for its taxable year	989
ending within, or on the last day of, the investor's taxable	990
year.	991
(2) For the purposes of this chapter, unless expressly	992
stated otherwise, no qualifying person indirectly owns any asset	993
directly or indirectly owned by any qualifying corporation.	994
(EE) For purposes of this chapter and Chapter 5751. of the	995
Revised Code:	996
(1) "Trust" does not include a qualified pre-income tax	997
trust.	998
(2) A "qualified pre-income tax trust" is any pre-income	999
tax trust that makes a qualifying pre-income tax trust election	1000
as described in division (EE) (3) of this section.	1001
(3) A "qualifying pre-income tax trust election" is an	1002
election by a pre-income tax trust to subject to the tax imposed	1003
by section 5751.02 of the Revised Code the pre-income tax trust	1004
and all pass-through entities of which the trust owns or	1005
controls, directly, indirectly, or constructively through	1006

related interests, five per cent or more of the ownership or 1007
equity interests. The trustee shall notify the tax commissioner 1008
in writing of the election on or before April 15, 2006. The 1009
election, if timely made, shall be effective on and after 1010
January 1, 2006, and shall apply for all tax periods and tax 1011
years until revoked by the trustee of the trust. 1012

(4) A "pre-income tax trust" is a trust that satisfies all 1013
of the following requirements: 1014

(a) The document or instrument creating the trust was 1015
executed by the grantor before January 1, 1972; 1016

(b) The trust became irrevocable upon the creation of the 1017
trust; and 1018

(c) The grantor was domiciled in this state at the time 1019
the trust was created. 1020

(FF) "Uniformed services" has the same meaning as in 10
U.S.C. 101. 1021
1022

(GG) "Taxable business income" means the amount by which 1023
an individual's business income that is included in federal 1024
adjusted gross income exceeds the amount of business income the 1025
individual is authorized to deduct under division (A) (28) of 1026
this section for the taxable year. 1027

(HH) "Employer" does not include a franchisor with respect 1028
to the franchisor's relationship with a franchisee or an 1029
employee of a franchisee, unless the franchisor agrees to assume 1030
that role in writing or a court of competent jurisdiction 1031
determines that the franchisor exercises a type or degree of 1032
control over the franchisee or the franchisee's employees that 1033
is not customarily exercised by a franchisor for the purpose of 1034
protecting the franchisor's trademark, brand, or both. For 1035

purposes of this division, "franchisor" and "franchisee" have 1036
the same meanings as in 16 C.F.R. 436.1. 1037

(II) "Modified adjusted gross income" means Ohio adjusted 1038
gross income plus any amount deducted under divisions (A) (28) 1039
and (34) of this section for the taxable year. 1040

(JJ) "Qualifying Ohio educator" means an individual who, 1041
for a taxable year, qualifies as an eligible educator, as that 1042
term is defined in section 62 of the Internal Revenue Code, and 1043
who holds a certificate, license, or permit described in Chapter 1044
3319. or section 3301.071 of the Revised Code. 1045

Sec. 5753.01. As used in Chapter 5753. of the Revised Code 1046
and for no other purpose under Title LVII of the Revised Code: 1047

(A) "Casino facility" has the same meaning as in section 1048
3772.01 of the Revised Code. 1049

(B) "Casino gaming" has the same meaning as in section 1050
3772.01 of the Revised Code. 1051

(C) "Casino operator" has the same meaning as in section 1052
3772.01 of the Revised Code. 1053

(D) "Gross casino revenue" means the total amount of money 1054
exchanged for the purchase of chips, tokens, tickets, electronic 1055
cards, or similar objects by casino patrons, less winnings paid 1056
to wagerers. "Gross casino revenue" does not include either of 1057
the following: 1058

(1) The issuance to casino patrons or wagering by casino 1059
patrons of any promotional gaming credit as defined in section 1060
3772.01 of the Revised Code. When issuance of the promotional 1061
gaming credit requires money exchanged as a match from the 1062
patron, the excludible portion of the promotional gaming credit 1063

does not include the portion of the wager purchased by the patron. 1064
1065

(2) Sports gaming receipts. 1066

(E) "Person" has the same meaning as in section 3772.01 of the Revised Code. 1067
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(F) "Slot machine" has the same meaning as in section 3772.01 of the Revised Code. 1069
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(G) "Sports gaming facility" and "sports gaming proprietor" have the same meanings as in section 3775.01 of the Revised Code. 1071
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(H) "Sports gaming receipts" means the total gross receipts received by a sports gaming proprietor from the operation of sports gaming in this state, less the total of the following: 1074
1075
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1077

(1) All cash and cash equivalents paid as winnings to sports gaming patrons; 1078
1079

(2) The dollar amount of all voided wagers. 1080

(3) Receipts received from the operation of lottery sports gaming on behalf of the state under sections 3770.23 to 3770.25 of the Revised Code. 1081
1082
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(4) (a) On and after January 1, 2027, but before January 1, 2032, ten per cent of the promotional gaming credits wagered by patrons; 1084
1085
1086

(b) On and after January 1, 2032, twenty per cent of the promotional gaming credits wagered by patrons. 1087
1088

As used in division (H) of this section, "promotional gaming credit" has the same meaning as in section 3775.01 of the 1089
1090

Revised Code. When issuance of a promotional gaming credit 1091
requires money exchanged as a match from the patron, the 1092
deductible portion of the promotional gaming credit does not 1093
include the portion of the wager purchased by the patron. 1094

(I) "Table game" has the same meaning as in section 1095
3772.01 of the Revised Code. 1096

(J) "Taxpayer" means a casino operator subject to the tax 1097
levied under section 5753.02 of the Revised Code or a sports 1098
gaming proprietor subject to the tax levied under section 1099
5753.021 of the Revised Code. 1100

(K) "Tax period" means one twenty-four-hour period with 1101
regard to which a ~~taxpayer casino operator~~ is required to pay 1102
the tax levied by section 5753.02 ~~or 5753.021~~ of the Revised 1103
Code and one calendar month with regard to which a sports gaming 1104
proprietor is required to pay the tax levied by section 5753.021 1105
of the Revised Code. 1106

Sec. 5753.04. (A) ~~Daily each day banks are open for~~ 1107
~~business, not later than noon, each~~ Each taxpayer shall file a 1108
~~return~~ returns electronically with the tax commissioner. Casino 1109
operators shall file returns daily each day banks are open for 1110
business, not later than noon, and sports gaming proprietors 1111
shall file returns on or before the fifteenth day of each month, 1112
not later than noon. The return shall be in the form required by 1113
the tax commissioner, and shall reflect the relevant tax period. 1114
The return shall include, but is not limited to, the amount of 1115
the taxpayer's gross casino revenue or sports gaming receipts 1116
for the tax period and the amount of tax due under section 1117
5753.02 or 5753.021 of the Revised Code for the tax period. The 1118
taxpayer shall remit electronically with the return the tax due. 1119

(B) If a casino operator or sports gaming proprietor 1120
ceases to be a taxpayer at any time, the operator or proprietor 1121
shall indicate the last date for which the operator or 1122
proprietor was liable for the tax. The return shall include a 1123
space for this purpose. 1124

(C) Except as otherwise provided in division (A) of 1125
section 3775.14 of the Revised Code, the information in a return 1126
a sports gaming proprietor files with the tax commissioner under 1127
this section concerning sports gaming receipts is subject to 1128
disclosure as a public record under section 149.43 of the 1129
Revised Code. 1130

Section 2. That existing sections 5747.01, 5753.01, and 1131
5753.04 of the Revised Code are hereby repealed. 1132

Section 3. The amendment by this act of section 5747.01 of 1133
the Revised Code is a remedial measure intended to clarify 1134
existing law and applies to any petition for reassessment or any 1135
appeal thereof and to any application for refund or any appeal 1136
thereof pending on or after the effective date of this section 1137
and to any transaction that is subject to an audit by the 1138
Department of Taxation on or after that effective date. 1139

Section 4. The amendment by this act of sections 5753.01 1140
and 5753.04 of the Revised Code applies on and after the first 1141
day of the first month after the effective date of this section. 1142