

**As Passed by the House**

**134th General Assembly**

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**2021-2022**

**Am. S. B. No. 246**

**Senators Rulli, Lang**

**Cosponsors: Senators Schaffer, Roegner, Antani, Blessing, Brenner, Cirino, Dolan, Gavarone, Hackett, Hoagland, Hottinger, Huffman, S., Manning, McColley, Peterson, Reineke, Thomas, Wilson, Yuko Representatives Troy, Baldrige, Click, Fraizer, Grendell, Gross, Hall, Holmes, Hoops, Koehler, Lampton, Lanese, LaRe, McClain, Merrin, Plummer, Riedel, Roemer, Schmidt, Stevens, White, Young, T., Speaker Cupp**

**A BILL**

To amend sections 5733.04, 5733.41, 5747.01, 1  
5747.03, 5747.08, 5747.11, 5747.13, 5747.132, 2  
5747.14, 5747.15, 5747.41, 5747.42, 5747.43, 3  
5747.44, 5747.45, 5747.451, 5747.453, and 4  
5747.98 and to enact sections 5747.38 and 5  
5747.39 of the Revised Code to levy a tax on a 6  
pass-through entity's income apportioned to Ohio 7  
and to authorize a refundable income tax credit 8  
for an owner for such tax paid. 9

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

**Section 1.** That sections 5733.04, 5733.41, 5747.01, 10  
5747.03, 5747.08, 5747.11, 5747.13, 5747.132, 5747.14, 5747.15, 11  
5747.41, 5747.42, 5747.43, 5747.44, 5747.45, 5747.451, 5747.453, 12  
and 5747.98 be amended and sections 5747.38 and 5747.39 of the 13  
Revised Code be enacted to read as follows: 14

**Sec. 5733.04.** As used in this chapter: 15

(A) "Issued and outstanding shares of stock" applies to 16  
nonprofit corporations, as provided in section 5733.01 of the 17  
Revised Code, and includes, but is not limited to, membership 18  
certificates and other instruments evidencing ownership of an 19  
interest in such nonprofit corporations, and with respect to a 20  
financial institution that does not have capital stock, "issued 21  
and outstanding shares of stock" includes, but is not limited 22  
to, ownership interests of depositors in the capital employed in 23  
such an institution. 24

(B) "Taxpayer" means a corporation subject to the tax 25  
imposed by section 5733.06 of the Revised Code. 26

(C) "Resident" means a corporation organized under the 27  
laws of this state. 28

(D) "Commercial domicile" means the principal place from 29  
which the trade or business of the taxpayer is directed or 30  
managed. 31

(E) "Taxable year" means the period prescribed by division 32  
(A) of section 5733.031 of the Revised Code upon the net income 33  
of which the value of the taxpayer's issued and outstanding 34  
shares of stock is determined under division (B) of section 35  
5733.05 of the Revised Code or the period prescribed by division 36  
(A) of section 5733.031 of the Revised Code that immediately 37  
precedes the date as of which the total value of the corporation 38  
is determined under division (A) or (C) of section 5733.05 of 39  
the Revised Code. 40

(F) "Tax year" means the calendar year in and for which 41  
the tax imposed by section 5733.06 of the Revised Code is 42  
required to be paid. 43

(G) "Internal Revenue Code" means the "Internal Revenue 44

Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 45

(H) "Federal income tax" means the income tax imposed by 46  
the Internal Revenue Code. 47

(I) Except as provided in section 5733.058 of the Revised 48  
Code, "net income" means the taxpayer's taxable income before 49  
operating loss deduction and special deductions, as required to 50  
be reported for the taxpayer's taxable year under the Internal 51  
Revenue Code, subject to the following adjustments: 52

(1) (a) Deduct any net operating loss incurred in any 53  
taxable years ending in 1971 or thereafter, but exclusive of any 54  
net operating loss incurred in taxable years ending prior to 55  
January 1, 1971. This deduction shall not be allowed in any tax 56  
year commencing before December 31, 1973, but shall be carried 57  
over and allowed in tax years commencing after December 31, 58  
1973, until fully utilized in the next succeeding taxable year 59  
or years in which the taxpayer has net income, but in no case 60  
for more than the designated carryover period as described in 61  
division (I) (1) (b) of this section. The amount of such net 62  
operating loss, as determined under the allocation and 63  
apportionment provisions of section 5733.051 and division (B) of 64  
section 5733.05 of the Revised Code for the year in which the 65  
net operating loss occurs, shall be deducted from net income, as 66  
determined under the allocation and apportionment provisions of 67  
section 5733.051 and division (B) of section 5733.05 of the 68  
Revised Code, to the extent necessary to reduce net income to 69  
zero with the remaining unused portion of the deduction, if any, 70  
carried forward to the remaining years of the designated 71  
carryover period as described in division (I) (1) (b) of this 72  
section, or until fully utilized, whichever occurs first. 73

(b) For losses incurred in taxable years ending on or 74

before December 31, 1981, the designated carryover period shall 75  
be the five consecutive taxable years after the taxable year in 76  
which the net operating loss occurred. For losses incurred in 77  
taxable years ending on or after January 1, 1982, and beginning 78  
before August 6, 1997, the designated carryover period shall be 79  
the fifteen consecutive taxable years after the taxable year in 80  
which the net operating loss occurs. For losses incurred in 81  
taxable years beginning on or after August 6, 1997, the 82  
designated carryover period shall be the twenty consecutive 83  
taxable years after the taxable year in which the net operating 84  
loss occurs. 85

(c) The tax commissioner may require a taxpayer to furnish 86  
any information necessary to support a claim for deduction under 87  
division (I)(1)(a) of this section and no deduction shall be 88  
allowed unless the information is furnished. 89

(2) Deduct any amount included in net income by 90  
application of section 78 or 951 of the Internal Revenue Code, 91  
amounts received for royalties, technical or other services 92  
derived from sources outside the United States, and dividends 93  
received from a subsidiary, associate, or affiliated corporation 94  
that neither transacts any substantial portion of its business 95  
nor regularly maintains any substantial portion of its assets 96  
within the United States. For purposes of determining net 97  
foreign source income deductible under division (I)(2) of this 98  
section, the amount of gross income from all such sources other 99  
than dividend income and income derived by application of 100  
section 78 or 951 of the Internal Revenue Code shall be reduced 101  
by: 102

(a) The amount of any reimbursed expenses for personal 103  
services performed by employees of the taxpayer for the 104

subsidiary, associate, or affiliated corporation;	105
(b) Ten per cent of the amount of royalty income and	106
technical assistance fees;	107
(c) Fifteen per cent of the amount of all other income.	108
The amounts described in divisions (I) (2) (a) to (c) of	109
this section are deemed to be the expenses attributable to the	110
production of deductible foreign source income unless the	111
taxpayer shows, by clear and convincing evidence, less actual	112
expenses, or the tax commissioner shows, by clear and convincing	113
evidence, more actual expenses.	114
(3) Add any loss or deduct any gain resulting from the	115
sale, exchange, or other disposition of a capital asset, or an	116
asset described in section 1231 of the Internal Revenue Code, to	117
the extent that such loss or gain occurred prior to the first	118
taxable year on which the tax provided for in section 5733.06 of	119
the Revised Code is computed on the corporation's net income.	120
For purposes of division (I) (3) of this section, the amount of	121
the prior loss or gain shall be measured by the difference	122
between the original cost or other basis of the asset and the	123
fair market value as of the beginning of the first taxable year	124
on which the tax provided for in section 5733.06 of the Revised	125
Code is computed on the corporation's net income. At the option	126
of the taxpayer, the amount of the prior loss or gain may be a	127
percentage of the gain or loss, which percentage shall be	128
determined by multiplying the gain or loss by a fraction, the	129
numerator of which is the number of months from the acquisition	130
of the asset to the beginning of the first taxable year on which	131
the fee provided in section 5733.06 of the Revised Code is	132
computed on the corporation's net income, and the denominator of	133
which is the number of months from the acquisition of the asset	134

to the sale, exchange, or other disposition of the asset. The 135  
adjustments described in this division do not apply to any gain 136  
or loss where the gain or loss is recognized by a qualifying 137  
taxpayer, as defined in section 5733.0510 of the Revised Code, 138  
with respect to a qualifying taxable event, as defined in that 139  
section. 140

(4) Deduct the dividend received deduction provided by 141  
section 243 of the Internal Revenue Code. 142

(5) Deduct any interest or interest equivalent on public 143  
obligations and purchase obligations to the extent included in 144  
federal taxable income. As used in divisions (I) (5) and (6) of 145  
this section, "public obligations," "purchase obligations," and 146  
"interest or interest equivalent" have the same meanings as in 147  
section 5709.76 of the Revised Code. 148

(6) Add any loss or deduct any gain resulting from the 149  
sale, exchange, or other disposition of public obligations to 150  
the extent included in federal taxable income. 151

(7) To the extent not otherwise allowed, deduct any 152  
dividends or distributions received by a taxpayer from a public 153  
utility, excluding an electric company and a combined company, 154  
and, for tax years 2005 and thereafter, a telephone company, if 155  
the taxpayer owns at least eighty per cent of the issued and 156  
outstanding common stock of the public utility. As used in 157  
division (I) (7) of this section, "public utility" means a public 158  
utility as defined in Chapter 5727. of the Revised Code, whether 159  
or not the public utility is doing business in the state. 160

(8) To the extent not otherwise allowed, deduct any 161  
dividends received by a taxpayer from an insurance company, if 162  
the taxpayer owns at least eighty per cent of the issued and 163

outstanding common stock of the insurance company. As used in 164  
division (I) (8) of this section, "insurance company" means an 165  
insurance company that is taxable under Chapter 5725. or 5729. 166  
of the Revised Code. 167

(9) Deduct expenditures for modifying existing buildings 168  
or structures to meet American national standards institute 169  
standard A-117.1-1961 (R-1971), as amended; provided, that no 170  
deduction shall be allowed to the extent that such deduction is 171  
not permitted under federal law or under rules of the tax 172  
commissioner. Those deductions as are allowed may be taken over 173  
a period of five years. The tax commissioner shall adopt rules 174  
under Chapter 119. of the Revised Code establishing reasonable 175  
limitations on the extent that expenditures for modifying 176  
existing buildings or structures are attributable to the purpose 177  
of making the buildings or structures accessible to and usable 178  
by physically handicapped persons. 179

(10) Deduct the amount of wages and salaries, if any, not 180  
otherwise allowable as a deduction but that would have been 181  
allowable as a deduction in computing federal taxable income 182  
before operating loss deduction and special deductions for the 183  
taxable year, had the targeted jobs credit allowed and 184  
determined under sections 38, 51, and 52 of the Internal Revenue 185  
Code not been in effect. 186

(11) Deduct net interest income on obligations of the 187  
United States and its territories and possessions or of any 188  
authority, commission, or instrumentality of the United States 189  
to the extent the laws of the United States prohibit inclusion 190  
of the net interest for purposes of determining the value of the 191  
taxpayer's issued and outstanding shares of stock under division 192  
(B) of section 5733.05 of the Revised Code. As used in division 193

(I) (11) of this section, "net interest" means interest net of 194  
any expenses taken on the federal income tax return that would 195  
not have been allowed under section 265 of the Internal Revenue 196  
Code if the interest were exempt from federal income tax. 197

(12) (a) Except as set forth in division (I) (12) (d) of this 198  
section, to the extent not included in computing the taxpayer's 199  
federal taxable income before operating loss deduction and 200  
special deductions, add gains and deduct losses from direct or 201  
indirect sales, exchanges, or other dispositions, made by a 202  
related entity who is not a taxpayer, of the taxpayer's 203  
indirect, beneficial, or constructive investment in the stock or 204  
debt of another entity, unless the gain or loss has been 205  
included in computing the federal taxable income before 206  
operating loss deduction and special deductions of another 207  
taxpayer with a more closely related investment in the stock or 208  
debt of the other entity. The amount of gain added or loss 209  
deducted shall not exceed the product obtained by multiplying 210  
such gain or loss by the taxpayer's proportionate share, 211  
directly, indirectly, beneficially, or constructively, of the 212  
outstanding stock of the related entity immediately prior to the 213  
direct or indirect sale, exchange, or other disposition. 214

(b) Except as set forth in division (I) (12) (e) of this 215  
section, to the extent not included in computing the taxpayer's 216  
federal taxable income before operating loss deduction and 217  
special deductions, add gains and deduct losses from direct or 218  
indirect sales, exchanges, or other dispositions made by a 219  
related entity who is not a taxpayer, of intangible property 220  
other than stock, securities, and debt, if such property was 221  
owned, or used in whole or in part, at any time prior to or at 222  
the time of the sale, exchange, or disposition by either the 223  
taxpayer or by a related entity that was a taxpayer at any time 224



during the related entity's ownership or use of such property, 225  
unless the gain or loss has been included in computing the 226  
federal taxable income before operating loss deduction and 227  
special deductions of another taxpayer with a more closely 228  
related ownership or use of such intangible property. The amount 229  
of gain added or loss deducted shall not exceed the product 230  
obtained by multiplying such gain or loss by the taxpayer's 231  
proportionate share, directly, indirectly, beneficially, or 232  
constructively, of the outstanding stock of the related entity 233  
immediately prior to the direct or indirect sale, exchange, or 234  
other disposition. 235

(c) As used in division (I) (12) of this section, "related 236  
entity" means those entities described in divisions (I) (12) (c) 237  
(i) to (iii) of this section: 238

(i) An individual stockholder, or a member of the 239  
stockholder's family enumerated in section 318 of the Internal 240  
Revenue Code, if the stockholder and the members of the 241  
stockholder's family own, directly, indirectly, beneficially, or 242  
constructively, in the aggregate, at least fifty per cent of the 243  
value of the taxpayer's outstanding stock; 244

(ii) A stockholder, or a stockholder's partnership, 245  
estate, trust, or corporation, if the stockholder and the 246  
stockholder's partnerships, estates, trusts, and corporations 247  
own directly, indirectly, beneficially, or constructively, in 248  
the aggregate, at least fifty per cent of the value of the 249  
taxpayer's outstanding stock; 250

(iii) A corporation, or a party related to the corporation 251  
in a manner that would require an attribution of stock from the 252  
corporation to the party or from the party to the corporation 253  
under division (I) (12) (c) (iv) of this section, if the taxpayer 254

owns, directly, indirectly, beneficially, or constructively, at 255  
least fifty per cent of the value of the corporation's 256  
outstanding stock. 257

(iv) The attribution rules of section 318 of the Internal 258  
Revenue Code apply for purposes of determining whether the 259  
ownership requirements in divisions (I) (12) (c) (i) to (iii) of 260  
this section have been met. 261

(d) For purposes of the adjustments required by division 262  
(I) (12) (a) of this section, the term "investment in the stock or 263  
debt of another entity" means only those investments where the 264  
taxpayer and the taxpayer's related entities directly, 265  
indirectly, beneficially, or constructively own, in the 266  
aggregate, at any time during the twenty-four month period 267  
commencing one year prior to the direct or indirect sale, 268  
exchange, or other disposition of such investment at least fifty 269  
per cent or more of the value of either the outstanding stock or 270  
such debt of such other entity. 271

(e) For purposes of the adjustments required by division 272  
(I) (12) (b) of this section, the term "related entity" excludes 273  
all of the following: 274

(i) Foreign corporations as defined in section 7701 of the 275  
Internal Revenue Code; 276

(ii) Foreign partnerships as defined in section 7701 of 277  
the Internal Revenue Code; 278

(iii) Corporations, partnerships, estates, and trusts 279  
created or organized in or under the laws of the Commonwealth of 280  
Puerto Rico or any possession of the United States; 281

(iv) Foreign estates and foreign trusts as defined in 282  
section 7701 of the Internal Revenue Code. 283

The exclusions described in divisions (I) (12) (e) (i) to 284  
(iv) of this section do not apply if the corporation, 285  
partnership, estate, or trust is described in any one of 286  
divisions (C) (1) to (5) of section 5733.042 of the Revised Code. 287

(f) Nothing in division (I) (12) of this section shall 288  
require or permit a taxpayer to add any gains or deduct any 289  
losses described in divisions (I) (12) (f) (i) and (ii) of this 290  
section: 291

(i) Gains or losses recognized for federal income tax 292  
purposes by an individual, estate, or trust without regard to 293  
the attribution rules described in division (I) (12) (c) of this 294  
section; 295

(ii) A related entity's gains or losses described in 296  
division (I) (12) (b) of this section if the taxpayer's ownership 297  
of or use of such intangible property was limited to a period 298  
not exceeding nine months and was attributable to a transaction 299  
or a series of transactions executed in accordance with the 300  
election or elections made by the taxpayer or a related entity 301  
pursuant to section 338 of the Internal Revenue Code. 302

(13) Any adjustment required by section 5733.042 of the 303  
Revised Code. 304

(14) Add any amount claimed as a credit under section 305  
5733.0611 of the Revised Code to the extent that such amount 306  
satisfies either of the following: 307

(a) It was deducted or excluded from the computation of 308  
the corporation's taxable income before operating loss deduction 309  
and special deductions as required to be reported for the 310  
corporation's taxable year under the Internal Revenue Code; 311

(b) It resulted in a reduction of the corporation's 312

taxable income before operating loss deduction and special 313  
deductions as required to be reported for any of the 314  
corporation's taxable years under the Internal Revenue Code. 315

(15) Deduct the amount contributed by the taxpayer to an 316  
individual development account program established by a county 317  
department of job and family services pursuant to sections 318  
329.11 to 329.14 of the Revised Code for the purpose of matching 319  
funds deposited by program participants. On request of the tax 320  
commissioner, the taxpayer shall provide any information that, 321  
in the tax commissioner's opinion, is necessary to establish the 322  
amount deducted under division (I) (15) of this section. 323

(16) Any adjustment required by section 5733.0510 or 324  
5733.0511 of the Revised Code. 325

(17) (a) (i) Add five-sixths of the amount of depreciation 326  
expense allowed under subsection (k) of section 168 of the 327  
Internal Revenue Code, including a person's proportionate or 328  
distributive share of the amount of depreciation expense allowed 329  
by that subsection to any pass-through entity in which the 330  
person has direct or indirect ownership. 331

(ii) Add five-sixths of the amount of qualifying section 332  
179 depreciation expense, including a person's proportionate or 333  
distributive share of the amount of qualifying section 179 334  
depreciation expense allowed to any pass-through entity in which 335  
the person has a direct or indirect ownership. For the purposes 336  
of this division, "qualifying section 179 depreciation expense" 337  
means the difference between (I) the amount of depreciation 338  
expense directly or indirectly allowed to the taxpayer under 339  
section 179 of the Internal Revenue Code, and (II) the amount of 340  
depreciation expense directly or indirectly allowed to the 341  
taxpayer under section 179 of the Internal Revenue Code as that 342

section existed on December 31, 2002. 343

The tax commissioner, under procedures established by the 344  
commissioner, may waive the add-backs related to a pass-through 345  
entity if the person owns, directly or indirectly, less than 346  
five per cent of the pass-through entity. 347

(b) Nothing in division (I) (17) of this section shall be 348  
construed to adjust or modify the adjusted basis of any asset. 349

(c) To the extent the add-back is attributable to property 350  
generating income or loss allocable under section 5733.051 of 351  
the Revised Code, the add-back shall be allocated to the same 352  
location as the income or loss generated by that property. 353  
Otherwise, the add-back shall be apportioned, subject to 354  
division (B) (2) (d) of section 5733.05 of the Revised Code. 355

(18) (a) If a person is required to make the add-back under 356  
division (I) (17) (a) of this section for a tax year, the person 357  
shall deduct one-fifth of the amount added back for each of the 358  
succeeding five tax years. 359

(b) If the amount deducted under division (I) (18) (a) of 360  
this section is attributable to an add-back allocated under 361  
division (I) (17) (c) of this section, the amount deducted shall 362  
be allocated to the same location. Otherwise, the amount shall 363  
be apportioned using the apportionment factors for the taxable 364  
year in which the deduction is taken, subject to division (B) (2) 365  
(d) of section 5733.05 of the Revised Code. 366

(J) Except as otherwise expressly provided or clearly 367  
appearing from the context, any term used in this chapter has 368  
the same meaning as when used in a comparable context in the 369  
laws of the United States relating to federal income taxes. Any 370  
reference in this chapter to the Internal Revenue Code includes 371

other laws of the United States relating to federal income taxes.	372 373
(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.	374 375 376 377
(L) (1) A "qualifying holding company" is any corporation satisfying all of the following requirements:	378 379
(a) Subject to divisions (L) (2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;	380 381 382 383 384 385 386
(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:	387 388
(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L) (2) (c) of this section;	389 390 391 392 393
(ii) The collection and distribution of income from such property.	394 395
(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;	396 397 398
(d) The corporation's related members make a good faith	399

and reasonable effort to make timely and fully the adjustments 400  
required by division (D) of section 5733.05 of the Revised Code 401  
and to pay timely and fully all uncontested taxes, interest, 402  
penalties, and other fees and charges imposed under this 403  
chapter; 404

(e) Subject to division (L)(4) of this section, the 405  
corporation elects to be treated as a qualifying holding company 406  
for the tax year. 407

A corporation otherwise satisfying divisions (L)(1)(a) to 408  
(e) of this section that does not elect to be a qualifying 409  
holding company is not a qualifying holding company for the 410  
purposes of this chapter. 411

(2)(a)(i) For purposes of making the ninety per cent 412  
computation under division (L)(1)(a) of this section, the net 413  
book value of the corporation's assets shall not include the net 414  
book value of aircraft or real property described in division 415  
(L)(1)(b)(i) of this section. 416

(ii) For purposes of making the fifty per cent computation 417  
under division (L)(1)(a) of this section, the net book value of 418  
assets shall include the net book value of aircraft or real 419  
property described in division (L)(1)(b)(i) of this section. 420

(b)(i) As used in division (L) of this section, 421  
"intangible asset" includes, but is not limited to, the 422  
corporation's direct interest in each pass-through entity only 423  
if at all times during the corporation's taxable year ending 424  
prior to the first day of the tax year the corporation's and the 425  
corporation's related members' combined direct and indirect 426  
interests in the capital or profits of such pass-through entity 427  
do not exceed fifty per cent. If the corporation's interest in 428

the pass-through entity is an intangible asset for that taxable 429  
year, then the distributive share of any income from the pass- 430  
through entity shall be income from an intangible asset for that 431  
taxable year. 432

(ii) If a corporation's and the corporation's related 433  
members' combined direct and indirect interests in the capital 434  
or profits of a pass-through entity exceed fifty per cent at any 435  
time during the corporation's taxable year ending prior to the 436  
first day of the tax year, "intangible asset" does not include 437  
the corporation's direct interest in the pass-through entity, 438  
and the corporation shall include in its assets its 439  
proportionate share of the assets of any such pass-through 440  
entity and shall include in its gross income its distributive 441  
share of the gross income of such pass-through entity in the 442  
same form as was earned by the pass-through entity. 443

(iii) A pass-through entity's direct or indirect 444  
proportionate share of any other pass-through entity's assets 445  
shall be included for the purpose of computing the corporation's 446  
proportionate share of the pass-through entity's assets under 447  
division (L) (2) (b) (ii) of this section, and such pass-through 448  
entity's distributive share of any other pass-through entity's 449  
gross income shall be included for purposes of computing the 450  
corporation's distributive share of the pass-through entity's 451  
gross income under division (L) (2) (b) (ii) of this section. 452

(c) For the purposes of divisions (L) (1) (b) (i), (1) (b) 453  
(ii), (2) (a) (i), and (2) (a) (ii) of this section, real property 454  
is described in division (L) (2) (c) of this section only if all 455  
of the following conditions are present at all times during the 456  
taxable year ending prior to the first day of the tax year: 457

(i) The real property serves as the headquarters of the 458



corporation's trade or business, or is the place from which the 459  
corporation's trade or business is principally managed or 460  
directed; 461

(ii) Not more than ten per cent of the value of the real 462  
property and not more than ten per cent of the square footage of 463  
the building or buildings that are part of the real property is 464  
used, made available, or occupied for the purpose of providing, 465  
acquiring, transferring, selling, or disposing of tangible 466  
property or services in the normal course of business to persons 467  
other than related members, the corporation's employees and 468  
their families, and such related members' employees and their 469  
families. 470

(d) As used in division (L) of this section, "related 471  
member" has the same meaning as in division (A)(6) of section 472  
5733.042 of the Revised Code without regard to division (B) of 473  
that section. 474

(3) The percentages described in division (L)(1)(a) of 475  
this section shall be equal to the quarterly average of those 476  
percentages as calculated during the corporation's taxable year 477  
ending prior to the first day of the tax year. 478

(4) With respect to the election described in division (L) 479  
(1)(e) of this section: 480

(a) The election need not accompany a timely filed report; 481

(b) The election need not accompany the report; rather, 482  
the election may accompany a subsequently filed but timely 483  
application for refund and timely amended report, or a 484  
subsequently filed but timely petition for reassessment; 485

(c) The election is not irrevocable; 486

(d) The election applies only to the tax year specified by 487  
the corporation; 488

(e) The corporation's related members comply with division 489  
(L) (1) (d) of this section. 490

Nothing in division (L) (4) of this section shall be 491  
construed to extend any statute of limitations set forth in this 492  
chapter. 493

(M) "Qualifying controlled group" means two or more 494  
corporations that satisfy the ownership and control requirements 495  
of division (A) of section 5733.052 of the Revised Code. 496

(N) "Limited liability company" means any limited 497  
liability company formed under Chapter 1705. or 1706. of the 498  
Revised Code or under the laws of any other state. 499

(O) "Pass-through entity" means ~~a corporation~~ any entity 500  
that is eligible to make and that has made an election under 501  
subchapter S of Chapter 1 of Subtitle A of the Internal Revenue 502  
Code for its taxable year under that code, or a partnership, 503  
limited liability company, or any other person, other than an 504  
individual, trust, or estate, if the partnership, limited 505  
liability company, or other person is not classified for federal 506  
income tax purposes as an association taxed as a corporation. 507

(P) "Electric company," "combined company," and "telephone 508  
company" have the same meanings as in section 5727.01 of the 509  
Revised Code. 510

(Q) "Business income" means income arising from 511  
transactions, activities, and sources in the regular course of a 512  
trade or business and includes income from real property, 513  
tangible personal property, and intangible personal property if 514  
the acquisition, rental, management, and disposition of the 515

property constitute integral parts of the regular course of a 516  
trade or business operation. "Business income" includes income, 517  
including gain or loss, from a partial or complete liquidation 518  
of a business, including, but not limited to, gain or loss from 519  
the sale or other disposition of goodwill. 520

(R) "Nonbusiness income" means all income other than 521  
business income. 522

**Sec. 5733.41.** The purpose of the tax imposed by this 523  
section is to complement and to reinforce the tax imposed under 524  
section 5733.06 of the Revised Code. 525

For the same purposes for which the tax is levied under 526  
section 5733.06 of the Revised Code, there is hereby levied a 527  
tax on every qualifying pass-through entity having at least one 528  
qualifying investor that is not an individual. The tax imposed 529  
by this section is imposed on the sum of the adjusted qualifying 530  
amounts of the qualifying pass-through entity's qualifying 531  
investors, that are neither individuals nor subject to division 532  
(G) (2) of section 5733.01 of the Revised Code, at a rate equal 533  
to the tax rate imposed on taxable business income under 534  
division (A) (4) (a) of section 5747.02 of the Revised Code. 535

The tax imposed by this section applies only if the 536  
qualifying entity has nexus with this state under the 537  
Constitution of the United States for any portion of the 538  
qualifying entity's qualifying taxable year, and the sum of the 539  
qualifying entity's adjusted qualifying amounts exceeds one 540  
thousand dollars for the qualifying entity's qualifying taxable 541  
year. This section does not apply to a pass-through entity if 542  
all of the partners, shareholders, members, or investors of the 543  
pass-through entity are taxpayers for the purposes of section 544  
5733.04 of the Revised Code without regard to section 5733.09 of 545

the Revised Code for the entire qualifying taxable year of the 546  
pass-through entity. 547

If, prior to the due date of the return, a qualifying 548  
pass-through entity receives from an investor a written 549  
representation, under penalties of perjury, that the investor is 550  
described in division (I) (1), (2), (6), (7), (8), or (9) of 551  
section 5733.40 of the Revised Code for the qualifying pass- 552  
through entity's entire qualifying taxable year, the qualifying 553  
pass-through entity is not required to withhold or pay the taxes 554  
or estimated taxes imposed under this section or sections 555  
5747.41 to 5747.453 of the Revised Code with respect to that 556  
investor for that qualifying taxable year, and is not subject to 557  
any interest or interest penalties for failure to withhold or 558  
pay those taxes or estimated taxes with respect to that investor 559  
for that qualifying taxable year. 560

If, prior to the due date of the return, a qualifying 561  
trust receives from a beneficiary of that trust a written 562  
representation, under penalties of perjury, that the beneficiary 563  
is a resident taxpayer for the purposes of Chapter 5747. of the 564  
Revised Code for the qualifying trust's entire qualifying 565  
taxable year, the qualifying trust is not required to withhold 566  
or pay the taxes or estimated taxes imposed under this section 567  
or sections 5747.41 to 5747.453 of the Revised Code with respect 568  
to that beneficiary for that qualifying taxable year, and is not 569  
subject to any interest or interest penalties for failure to 570  
withhold or pay those taxes or estimated taxes with respect to 571  
that beneficiary for that qualifying taxable year. 572

The tax commissioner may adopt rules for the purpose of 573  
the tax levied by this section or section 5747.41 of the Revised 574  
Code, including a rule defining "qualifying investor" or 575

"qualifying beneficiary," and a rule requiring or permitting a 576  
qualifying entity to combine its income with related members and 577  
to pay the tax and estimated tax on a combined basis. 578

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 579  
Revised Code apply to a qualifying entity subject to the tax 580  
imposed under this section. 581

The levy of the tax under this section does not prevent a 582  
municipal corporation or a joint economic development district 583  
created under section 715.70, 715.71, or 715.72 of the Revised 584  
Code from levying a tax on income. 585

The tax imposed under this section does not apply to a 586  
qualifying pass-through entity that makes an election under 587  
division (C) of section 5747.38 of the Revised Code to be 588  
subject to the tax levied under that section for the entity's 589  
qualifying taxable year. 590

**Sec. 5747.01.** Except as otherwise expressly provided or 591  
clearly appearing from the context, any term used in this 592  
chapter that is not otherwise defined in this section has the 593  
same meaning as when used in a comparable context in the laws of 594  
the United States relating to federal income taxes or if not 595  
used in a comparable context in those laws, has the same meaning 596  
as in section 5733.40 of the Revised Code. Any reference in this 597  
chapter to the Internal Revenue Code includes other laws of the 598  
United States relating to federal income taxes. 599

As used in this chapter: 600

(A) "Adjusted gross income" or "Ohio adjusted gross 601  
income" means federal adjusted gross income, as defined and used 602  
in the Internal Revenue Code, adjusted as provided in this 603  
section: 604

(1) Add interest or dividends on obligations or securities 605  
of any state or of any political subdivision or authority of any 606  
state, other than this state and its subdivisions and 607  
authorities. 608

(2) Add interest or dividends on obligations of any 609  
authority, commission, instrumentality, territory, or possession 610  
of the United States to the extent that the interest or 611  
dividends are exempt from federal income taxes but not from 612  
state income taxes. 613

(3) Deduct interest or dividends on obligations of the 614  
United States and its territories and possessions or of any 615  
authority, commission, or instrumentality of the United States 616  
to the extent that the interest or dividends are included in 617  
federal adjusted gross income but exempt from state income taxes 618  
under the laws of the United States. 619

(4) Deduct disability and survivor's benefits to the 620  
extent included in federal adjusted gross income. 621

(5) Deduct the following, to the extent not otherwise 622  
deducted or excluded in computing federal or Ohio adjusted gross 623  
income: 624

(a) Benefits under Title II of the Social Security Act and 625  
tier 1 railroad retirement; 626

(b) Railroad retirement benefits, other than tier 1 627  
railroad retirement benefits, to the extent such amounts are 628  
exempt from state taxation under federal law. 629

(6) Deduct the amount of wages and salaries, if any, not 630  
otherwise allowable as a deduction but that would have been 631  
allowable as a deduction in computing federal adjusted gross 632  
income for the taxable year, had the work opportunity tax credit 633

allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

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

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

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

(10) (a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A) (10) (a) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A) (10) (a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A) (10) (a)

of this section shall be the net of any related premium refunds, 664  
related premium reimbursements, or related insurance premium 665  
dividends received during the taxable year. 666

(b) Deduct, to the extent not otherwise deducted or 667  
excluded in computing federal or Ohio adjusted gross income 668  
during the taxable year, the amount the taxpayer paid during the 669  
taxable year, not compensated for by any insurance or otherwise, 670  
for medical care of the taxpayer, the taxpayer's spouse, and 671  
dependents, to the extent the expenses exceed seven and one-half 672  
per cent of the taxpayer's federal adjusted gross income. 673

(c) For purposes of division (A)(10) of this section, 674  
"medical care" has the meaning given in section 213 of the 675  
Internal Revenue Code, subject to the special rules, 676  
limitations, and exclusions set forth therein, and "qualified 677  
long-term care" has the same meaning given in section 7702B(c) 678  
of the Internal Revenue Code. Solely for purposes of division 679  
(A)(10)(a) of this section, "dependent" includes a person who 680  
otherwise would be a "qualifying relative" and thus a 681  
"dependent" under section 152 of the Internal Revenue Code but 682  
for the fact that the person fails to meet the income and 683  
support limitations under section 152(d)(1)(B) and (C) of the 684  
Internal Revenue Code. 685

(11)(a) Deduct any amount included in federal adjusted 686  
gross income solely because the amount represents a 687  
reimbursement or refund of expenses that in any year the 688  
taxpayer had deducted as an itemized deduction pursuant to 689  
section 63 of the Internal Revenue Code and applicable United 690  
States department of the treasury regulations. The deduction 691  
otherwise allowed under division (A)(11)(a) of this section 692  
shall be reduced to the extent the reimbursement is attributable 693



to an amount the taxpayer deducted under this section in any 694  
taxable year. 695

(b) Add any amount not otherwise included in Ohio adjusted 696  
gross income for any taxable year to the extent that the amount 697  
is attributable to the recovery during the taxable year of any 698  
amount deducted or excluded in computing federal or Ohio 699  
adjusted gross income in any taxable year. 700

(12) Deduct any portion of the deduction described in 701  
section 1341(a)(2) of the Internal Revenue Code, for repaying 702  
previously reported income received under a claim of right, that 703  
meets both of the following requirements: 704

(a) It is allowable for repayment of an item that was 705  
included in the taxpayer's adjusted gross income for a prior 706  
taxable year and did not qualify for a credit under division (A) 707  
or (B) of section 5747.05 of the Revised Code for that year; 708

(b) It does not otherwise reduce the taxpayer's adjusted 709  
gross income for the current or any other taxable year. 710

(13) Deduct an amount equal to the deposits made to, and 711  
net investment earnings of, a medical savings account during the 712  
taxable year, in accordance with section 3924.66 of the Revised 713  
Code. The deduction allowed by division (A)(13) of this section 714  
does not apply to medical savings account deposits and earnings 715  
otherwise deducted or excluded for the current or any other 716  
taxable year from the taxpayer's federal adjusted gross income. 717

(14)(a) Add an amount equal to the funds withdrawn from a 718  
medical savings account during the taxable year, and the net 719  
investment earnings on those funds, when the funds withdrawn 720  
were used for any purpose other than to reimburse an account 721  
holder for, or to pay, eligible medical expenses, in accordance 722

with section 3924.66 of the Revised Code;	723
(b) Add the amounts distributed from a medical savings account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year.	724 725 726
(15) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:	727 728 729
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	730 731 732 733
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	734 735 736
(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) (16) of this section.	737 738 739 740 741 742 743 744
(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect	745 746 747 748 749 750 751

ownership interest. 752

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 753  
of this section, add five-sixths of the amount of qualifying 754  
section 179 depreciation expense, including the taxpayer's 755  
proportionate or distributive share of the amount of qualifying 756  
section 179 depreciation expense allowed to any pass-through 757  
entity in which the taxpayer has a direct or indirect ownership 758  
interest. 759

(iii) Subject to division (A) (17) (a) (v) of this section, 760  
for taxable years beginning in 2012 or thereafter, if the 761  
increase in income taxes withheld by the taxpayer is equal to or 762  
greater than ten per cent of income taxes withheld by the 763  
taxpayer during the taxpayer's immediately preceding taxable 764  
year, "two-thirds" shall be substituted for "five-sixths" for 765  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 766

(iv) Subject to division (A) (17) (a) (v) of this section, 767  
for taxable years beginning in 2012 or thereafter, a taxpayer is 768  
not required to add an amount under division (A) (17) of this 769  
section if the increase in income taxes withheld by the taxpayer 770  
and by any pass-through entity in which the taxpayer has a 771  
direct or indirect ownership interest is equal to or greater 772  
than the sum of (I) the amount of qualifying section 179 773  
depreciation expense and (II) the amount of depreciation expense 774  
allowed to the taxpayer by subsection (k) of section 168 of the 775  
Internal Revenue Code, and including the taxpayer's 776  
proportionate or distributive shares of such amounts allowed to 777  
any such pass-through entities. 778

(v) If a taxpayer directly or indirectly incurs a net 779  
operating loss for the taxable year for federal income tax 780  
purposes, to the extent such loss resulted from depreciation 781

expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A) (17) (a) (i) and (ii) of this section.

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

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

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

(d) For the purposes of division (A) (17) (a) (v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

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

(i) "Income taxes withheld" means the total amount 811  
withheld and remitted under sections 5747.06 and 5747.07 of the 812  
Revised Code by an employer during the employer's taxable year. 813

(ii) "Increase in income taxes withheld" means the amount 814  
by which the amount of income taxes withheld by an employer 815  
during the employer's current taxable year exceeds the amount of 816  
income taxes withheld by that employer during the employer's 817  
immediately preceding taxable year. 818

(iii) "Qualifying section 179 depreciation expense" means 819  
the difference between (I) the amount of depreciation expense 820  
directly or indirectly allowed to a taxpayer under section 179 821  
of the Internal Revised Code, and (II) the amount of 822  
depreciation expense directly or indirectly allowed to the 823  
taxpayer under section 179 of the Internal Revenue Code as that 824  
section existed on December 31, 2002. 825

(18) (a) If the taxpayer was required to add an amount 826  
under division (A) (17) (a) of this section for a taxable year, 827  
deduct one of the following: 828

(i) One-fifth of the amount so added for each of the five 829  
succeeding taxable years if the amount so added was five-sixths 830  
of qualifying section 179 depreciation expense or depreciation 831  
expense allowed by subsection (k) of section 168 of the Internal 832  
Revenue Code; 833

(ii) One-half of the amount so added for each of the two 834  
succeeding taxable years if the amount so added was two-thirds 835  
of such depreciation expense; 836

(iii) One-sixth of the amount so added for each of the six 837  
succeeding taxable years if the entire amount of such 838  
depreciation expense was so added. 839

(b) If the amount deducted under division (A) (18) (a) of 840  
this section is attributable to an add-back allocated under 841  
division (A) (17) (c) of this section, the amount deducted shall 842  
be situated to the same location. Otherwise, the add-back shall 843  
be apportioned using the apportionment factors for the taxable 844  
year in which the deduction is taken, subject to one or more of 845  
the four alternative methods of apportionment enumerated in 846  
section 5747.21 of the Revised Code. 847

(c) No deduction is available under division (A) (18) (a) of 848  
this section with regard to any depreciation allowed by section 849  
168(k) of the Internal Revenue Code and by the qualifying 850  
section 179 depreciation expense amount to the extent that such 851  
depreciation results in or increases a federal net operating 852  
loss carryback or carryforward. If no such deduction is 853  
available for a taxable year, the taxpayer may carry forward the 854  
amount not deducted in such taxable year to the next taxable 855  
year and add that amount to any deduction otherwise available 856  
under division (A) (18) (a) of this section for that next taxable 857  
year. The carryforward of amounts not so deducted shall continue 858  
until the entire addition required by division (A) (17) (a) of 859  
this section has been deducted. 860

(19) Deduct, to the extent not otherwise deducted or 861  
excluded in computing federal or Ohio adjusted gross income for 862  
the taxable year, the amount the taxpayer received during the 863  
taxable year as reimbursement for life insurance premiums under 864  
section 5919.31 of the Revised Code. 865

(20) Deduct, to the extent not otherwise deducted or 866  
excluded in computing federal or Ohio adjusted gross income for 867  
the taxable year, the amount the taxpayer received during the 868  
taxable year as a death benefit paid by the adjutant general 869

under section 5919.33 of the Revised Code. 870

(21) Deduct, to the extent included in federal adjusted 871  
gross income and not otherwise allowable as a deduction or 872  
exclusion in computing federal or Ohio adjusted gross income for 873  
the taxable year, military pay and allowances received by the 874  
taxpayer during the taxable year for active duty service in the 875  
United States army, air force, navy, marine corps, or coast 876  
guard or reserve components thereof or the national guard. The 877  
deduction may not be claimed for military pay and allowances 878  
received by the taxpayer while the taxpayer is stationed in this 879  
state. 880

(22) Deduct, to the extent not otherwise allowable as a 881  
deduction or exclusion in computing federal or Ohio adjusted 882  
gross income for the taxable year and not otherwise compensated 883  
for by any other source, the amount of qualified organ donation 884  
expenses incurred by the taxpayer during the taxable year, not 885  
to exceed ten thousand dollars. A taxpayer may deduct qualified 886  
organ donation expenses only once for all taxable years 887  
beginning with taxable years beginning in 2007. 888

For the purposes of division (A) (22) of this section: 889

(a) "Human organ" means all or any portion of a human 890  
liver, pancreas, kidney, intestine, or lung, and any portion of 891  
human bone marrow. 892

(b) "Qualified organ donation expenses" means travel 893  
expenses, lodging expenses, and wages and salary forgone by a 894  
taxpayer in connection with the taxpayer's donation, while 895  
living, of one or more of the taxpayer's human organs to another 896  
human being. 897

(23) Deduct, to the extent not otherwise deducted or 898

excluded in computing federal or Ohio adjusted gross income for 899  
the taxable year, amounts received by the taxpayer as retired 900  
personnel pay for service in the uniformed services or reserve 901  
components thereof, or the national guard, or received by the 902  
surviving spouse or former spouse of such a taxpayer under the 903  
survivor benefit plan on account of such a taxpayer's death. If 904  
the taxpayer receives income on account of retirement paid under 905  
the federal civil service retirement system or federal employees 906  
retirement system, or under any successor retirement program 907  
enacted by the congress of the United States that is established 908  
and maintained for retired employees of the United States 909  
government, and such retirement income is based, in whole or in 910  
part, on credit for the taxpayer's uniformed service, the 911  
deduction allowed under this division shall include only that 912  
portion of such retirement income that is attributable to the 913  
taxpayer's uniformed service, to the extent that portion of such 914  
retirement income is otherwise included in federal adjusted 915  
gross income and is not otherwise deducted under this section. 916  
Any amount deducted under division (A) (23) of this section is 917  
not included in a taxpayer's adjusted gross income for the 918  
purposes of section 5747.055 of the Revised Code. No amount may 919  
be deducted under division (A) (23) of this section on the basis 920  
of which a credit was claimed under section 5747.055 of the 921  
Revised Code. 922

(24) Deduct, to the extent not otherwise deducted or 923  
excluded in computing federal or Ohio adjusted gross income for 924  
the taxable year, the amount the taxpayer received during the 925  
taxable year from the military injury relief fund created in 926  
section 5902.05 of the Revised Code. 927

(25) Deduct, to the extent not otherwise deducted or 928  
excluded in computing federal or Ohio adjusted gross income for 929



the taxable year, the amount the taxpayer received as a veterans 930  
bonus during the taxable year from the Ohio department of 931  
veterans services as authorized by Section 2r of Article VIII, 932  
Ohio Constitution. 933

(26) Deduct, to the extent not otherwise deducted or 934  
excluded in computing federal or Ohio adjusted gross income for 935  
the taxable year, any income derived from a transfer agreement 936  
or from the enterprise transferred under that agreement under 937  
section 4313.02 of the Revised Code. 938

(27) Deduct, to the extent not otherwise deducted or 939  
excluded in computing federal or Ohio adjusted gross income for 940  
the taxable year, Ohio college opportunity or federal Pell grant 941  
amounts received by the taxpayer or the taxpayer's spouse or 942  
dependent pursuant to section 3333.122 of the Revised Code or 20 943  
U.S.C. 1070a, et seq., and used to pay room or board furnished 944  
by the educational institution for which the grant was awarded 945  
at the institution's facilities, including meal plans 946  
administered by the institution. For the purposes of this 947  
division, receipt of a grant includes the distribution of a 948  
grant directly to an educational institution and the crediting 949  
of the grant to the enrollee's account with the institution. 950

(28) Deduct from the portion of an individual's federal 951  
adjusted gross income that is business income, to the extent not 952  
otherwise deducted or excluded in computing federal adjusted 953  
gross income for the taxable year, one hundred twenty-five 954  
thousand dollars for each spouse if spouses file separate 955  
returns under section 5747.08 of the Revised Code or two hundred 956  
fifty thousand dollars for all other individuals. 957

(29) Deduct, as provided under section 5747.78 of the 958  
Revised Code, contributions to ABLE savings accounts made in 959

accordance with sections 113.50 to 113.56 of the Revised Code.	960
(30) (a) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, all of the following:	961
(i) Compensation paid to a qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code to the extent such compensation is for disaster work conducted in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;	962
(ii) Compensation paid to a qualifying employee described in division (A) (14) (b) of section 5703.94 of the Revised Code to the extent such compensation is for disaster work conducted in this state by the employee during the disaster response period on critical infrastructure owned or used by the employee's employer;	963
(iii) Income received by an out-of-state disaster business for disaster work conducted in this state during a disaster response period, or, if the out-of-state disaster business is a pass-through entity, a taxpayer's distributive share of the pass-through entity's income from the business conducting disaster work in this state during a disaster response period, if, in either case, the disaster work is conducted pursuant to a qualifying solicitation received by the business.	964
(b) All terms used in division (A) (30) of this section have the same meanings as in section 5703.94 of the Revised Code.	965
(31) For a taxpayer who is a qualifying Ohio educator,	966
deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable	967
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year, the lesser of two hundred fifty dollars or the amount of 989  
expenses described in subsections (a) (2) (D) (i) and (ii) of 990  
section 62 of the Internal Revenue Code paid or incurred by the 991  
taxpayer during the taxpayer's taxable year in excess of the 992  
amount the taxpayer is authorized to deduct for that taxable 993  
year under subsection (a) (2) (D) of that section. 994

(32) Deduct, to the extent not otherwise deducted or 995  
excluded in computing federal or Ohio adjusted gross income for 996  
the taxable year, amounts received by the taxpayer as a 997  
disability severance payment, computed under 10 U.S.C. 1212, 998  
following discharge or release under honorable conditions from 999  
the armed forces, as defined by 10 U.S.C. 101. 1000

(33) Deduct, to the extent not otherwise deducted or 1001  
excluded in computing federal adjusted gross income or Ohio 1002  
adjusted gross income, amounts not subject to tax due to an 1003  
agreement entered into under division (A) (2) of section 5747.05 1004  
of the Revised Code. 1005

(34) Deduct amounts as provided under section 5747.79 of 1006  
the Revised Code related to the taxpayer's qualifying capital 1007  
gains and deductible payroll. 1008

To the extent a qualifying capital gain described under 1009  
division (A) (34) of this section is business income, the 1010  
taxpayer shall deduct those gains under this division before 1011  
deducting any such gains under division (A) (28) of this section. 1012

(35) (a) For taxable years beginning in or after 2026, 1013  
deduct, to the extent not otherwise deducted or excluded in 1014  
computing federal or Ohio adjusted gross income for the taxable 1015  
year: 1016

(i) One hundred per cent of the capital gain received by 1017

the taxpayer in the taxable year from a qualifying interest in 1018  
an Ohio venture capital operating company attributable to the 1019  
company's investments in Ohio businesses during the period for 1020  
which the company was an Ohio venture operating company; and 1021

(ii) Fifty per cent of the capital gain received by the 1022  
taxpayer in the taxable year from a qualifying interest in an 1023  
Ohio venture capital operating company attributable to the 1024  
company's investments in all other businesses during the period 1025  
for which the company was an Ohio venture operating company. 1026

(b) Add amounts previously deducted by the taxpayer under 1027  
division (A) (35) (a) of this section if the director of 1028  
development certifies to the tax commissioner that the 1029  
requirements for the deduction were not met. 1030

(c) All terms used in division (A) (35) of this section 1031  
have the same meanings as in section 122.851 of the Revised 1032  
Code. 1033

(d) To the extent a capital gain described in division (A) 1034  
(35) (a) of this section is business income, the taxpayer shall 1035  
apply that division before applying division (A) (28) of this 1036  
section. 1037

(36) Add, to the extent not otherwise included in 1038  
computing federal or Ohio adjusted gross income for any taxable 1039  
year, the taxpayer's proportionate share of the amount of the 1040  
tax levied under section 5747.38 of the Revised Code and paid by 1041  
an electing pass-through entity for the taxable year. 1042

(B) "Business income" means income, including gain or 1043  
loss, arising from transactions, activities, and sources in the 1044  
regular course of a trade or business and includes income, gain, 1045  
or loss from real property, tangible property, and intangible 1046

property if the acquisition, rental, management, and disposition 1047  
of the property constitute integral parts of the regular course 1048  
of a trade or business operation. "Business income" includes 1049  
income, including gain or loss, from a partial or complete 1050  
liquidation of a business, including, but not limited to, gain 1051  
or loss from the sale or other disposition of goodwill. 1052

(C) "Nonbusiness income" means all income other than 1053  
business income and may include, but is not limited to, 1054  
compensation, rents and royalties from real or tangible personal 1055  
property, capital gains, interest, dividends and distributions, 1056  
patent or copyright royalties, or lottery winnings, prizes, and 1057  
awards. 1058

(D) "Compensation" means any form of remuneration paid to 1059  
an employee for personal services. 1060

(E) "Fiduciary" means a guardian, trustee, executor, 1061  
administrator, receiver, conservator, or any other person acting 1062  
in any fiduciary capacity for any individual, trust, or estate. 1063

(F) "Fiscal year" means an accounting period of twelve 1064  
months ending on the last day of any month other than December. 1065

(G) "Individual" means any natural person. 1066

(H) "Internal Revenue Code" means the "Internal Revenue 1067  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1068

(I) "Resident" means any of the following: 1069

(1) An individual who is domiciled in this state, subject 1070  
to section 5747.24 of the Revised Code; 1071

(2) The estate of a decedent who at the time of death was 1072  
domiciled in this state. The domicile tests of section 5747.24 1073  
of the Revised Code are not controlling for purposes of division 1074

(I) (2) of this section.	1075
(3) A trust that, in whole or part, resides in this state.	1076
If only part of a trust resides in this state, the trust is a	1077
resident only with respect to that part.	1078
For the purposes of division (I) (3) of this section:	1079
(a) A trust resides in this state for the trust's current	1080
taxable year to the extent, as described in division (I) (3) (d)	1081
of this section, that the trust consists directly or indirectly,	1082
in whole or in part, of assets, net of any related liabilities,	1083
that were transferred, or caused to be transferred, directly or	1084
indirectly, to the trust by any of the following:	1085
(i) A person, a court, or a governmental entity or	1086
instrumentality on account of the death of a decedent, but only	1087
if the trust is described in division (I) (3) (e) (i) or (ii) of	1088
this section;	1089
(ii) A person who was domiciled in this state for the	1090
purposes of this chapter when the person directly or indirectly	1091
transferred assets to an irrevocable trust, but only if at least	1092
one of the trust's qualifying beneficiaries is domiciled in this	1093
state for the purposes of this chapter during all or some	1094
portion of the trust's current taxable year;	1095
(iii) A person who was domiciled in this state for the	1096
purposes of this chapter when the trust document or instrument	1097
or part of the trust document or instrument became irrevocable,	1098
but only if at least one of the trust's qualifying beneficiaries	1099
is a resident domiciled in this state for the purposes of this	1100
chapter during all or some portion of the trust's current	1101
taxable year. If a trust document or instrument became	1102
irrevocable upon the death of a person who at the time of death	1103

was domiciled in this state for purposes of this chapter, that 1104  
person is a person described in division (I) (3) (a) (iii) of this 1105  
section. 1106

(b) A trust is irrevocable to the extent that the 1107  
transferor is not considered to be the owner of the net assets 1108  
of the trust under sections 671 to 678 of the Internal Revenue 1109  
Code. 1110

(c) With respect to a trust other than a charitable lead 1111  
trust, "qualifying beneficiary" has the same meaning as 1112  
"potential current beneficiary" as defined in section 1361(e) (2) 1113  
of the Internal Revenue Code, and with respect to a charitable 1114  
lead trust "qualifying beneficiary" is any current, future, or 1115  
contingent beneficiary, but with respect to any trust 1116  
"qualifying beneficiary" excludes a person or a governmental 1117  
entity or instrumentality to any of which a contribution would 1118  
qualify for the charitable deduction under section 170 of the 1119  
Internal Revenue Code. 1120

(d) For the purposes of division (I) (3) (a) of this 1121  
section, the extent to which a trust consists directly or 1122  
indirectly, in whole or in part, of assets, net of any related 1123  
liabilities, that were transferred directly or indirectly, in 1124  
whole or part, to the trust by any of the sources enumerated in 1125  
that division shall be ascertained by multiplying the fair 1126  
market value of the trust's assets, net of related liabilities, 1127  
by the qualifying ratio, which shall be computed as follows: 1128

(i) The first time the trust receives assets, the 1129  
numerator of the qualifying ratio is the fair market value of 1130  
those assets at that time, net of any related liabilities, from 1131  
sources enumerated in division (I) (3) (a) of this section. The 1132  
denominator of the qualifying ratio is the fair market value of 1133

all the trust's assets at that time, net of any related 1134  
liabilities. 1135

(ii) Each subsequent time the trust receives assets, a 1136  
revised qualifying ratio shall be computed. The numerator of the 1137  
revised qualifying ratio is the sum of (1) the fair market value 1138  
of the trust's assets immediately prior to the subsequent 1139  
transfer, net of any related liabilities, multiplied by the 1140  
qualifying ratio last computed without regard to the subsequent 1141  
transfer, and (2) the fair market value of the subsequently 1142  
transferred assets at the time transferred, net of any related 1143  
liabilities, from sources enumerated in division (I) (3) (a) of 1144  
this section. The denominator of the revised qualifying ratio is 1145  
the fair market value of all the trust's assets immediately 1146  
after the subsequent transfer, net of any related liabilities. 1147

(iii) Whether a transfer to the trust is by or from any of 1148  
the sources enumerated in division (I) (3) (a) of this section 1149  
shall be ascertained without regard to the domicile of the 1150  
trust's beneficiaries. 1151

(e) For the purposes of division (I) (3) (a) (i) of this 1152  
section: 1153

(i) A trust is described in division (I) (3) (e) (i) of this 1154  
section if the trust is a testamentary trust and the testator of 1155  
that testamentary trust was domiciled in this state at the time 1156  
of the testator's death for purposes of the taxes levied under 1157  
Chapter 5731. of the Revised Code. 1158

(ii) A trust is described in division (I) (3) (e) (ii) of 1159  
this section if the transfer is a qualifying transfer described 1160  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1161  
trust is an irrevocable inter vivos trust, and at least one of 1162



the trust's qualifying beneficiaries is domiciled in this state 1163  
for purposes of this chapter during all or some portion of the 1164  
trust's current taxable year. 1165

(f) For the purposes of division (I)(3)(e)(ii) of this 1166  
section, a "qualifying transfer" is a transfer of assets, net of 1167  
any related liabilities, directly or indirectly to a trust, if 1168  
the transfer is described in any of the following: 1169

(i) The transfer is made to a trust, created by the 1170  
decedent before the decedent's death and while the decedent was 1171  
domiciled in this state for the purposes of this chapter, and, 1172  
prior to the death of the decedent, the trust became irrevocable 1173  
while the decedent was domiciled in this state for the purposes 1174  
of this chapter. 1175

(ii) The transfer is made to a trust to which the 1176  
decedent, prior to the decedent's death, had directly or 1177  
indirectly transferred assets, net of any related liabilities, 1178  
while the decedent was domiciled in this state for the purposes 1179  
of this chapter, and prior to the death of the decedent the 1180  
trust became irrevocable while the decedent was domiciled in 1181  
this state for the purposes of this chapter. 1182

(iii) The transfer is made on account of a contractual 1183  
relationship existing directly or indirectly between the 1184  
transferor and either the decedent or the estate of the decedent 1185  
at any time prior to the date of the decedent's death, and the 1186  
decedent was domiciled in this state at the time of death for 1187  
purposes of the taxes levied under Chapter 5731. of the Revised 1188  
Code. 1189

(iv) The transfer is made to a trust on account of a 1190  
contractual relationship existing directly or indirectly between 1191

the transferor and another person who at the time of the 1192  
decedent's death was domiciled in this state for purposes of 1193  
this chapter. 1194

(v) The transfer is made to a trust on account of the will 1195  
of a testator who was domiciled in this state at the time of the 1196  
testator's death for purposes of the taxes levied under Chapter 1197  
5731. of the Revised Code. 1198

(vi) The transfer is made to a trust created by or caused 1199  
to be created by a court, and the trust was directly or 1200  
indirectly created in connection with or as a result of the 1201  
death of an individual who, for purposes of the taxes levied 1202  
under Chapter 5731. of the Revised Code, was domiciled in this 1203  
state at the time of the individual's death. 1204

(g) The tax commissioner may adopt rules to ascertain the 1205  
part of a trust residing in this state. 1206

(J) "Nonresident" means an individual or estate that is 1207  
not a resident. An individual who is a resident for only part of 1208  
a taxable year is a nonresident for the remainder of that 1209  
taxable year. 1210

(K) "Pass-through entity" has the same meaning as in 1211  
section 5733.04 of the Revised Code. 1212

(L) "Return" means the notifications and reports required 1213  
to be filed pursuant to this chapter for the purpose of 1214  
reporting the tax due and includes declarations of estimated tax 1215  
when so required. 1216

(M) "Taxable year" means the calendar year or the 1217  
taxpayer's fiscal year ending during the calendar year, or 1218  
fractional part thereof, upon which the adjusted gross income is 1219  
calculated pursuant to this chapter. 1220

(N) "Taxpayer" means any person subject to the tax imposed 1221  
by section 5747.02 of the Revised Code or any pass-through 1222  
entity that makes the election under division (D) of section 1223  
5747.08 of the Revised Code. 1224

(O) "Dependents" means one of the following: 1225

(1) For taxable years beginning on or after January 1, 1226  
2018, and before January 1, 2026, dependents as defined in the 1227  
Internal Revenue Code; 1228

(2) For all other taxable years, dependents as defined in 1229  
the Internal Revenue Code and as claimed in the taxpayer's 1230  
federal income tax return for the taxable year or which the 1231  
taxpayer would have been permitted to claim had the taxpayer 1232  
filed a federal income tax return. 1233

(P) "Principal county of employment" means, in the case of 1234  
a nonresident, the county within the state in which a taxpayer 1235  
performs services for an employer or, if those services are 1236  
performed in more than one county, the county in which the major 1237  
portion of the services are performed. 1238

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1239  
Code: 1240

(1) "Subdivision" means any county, municipal corporation, 1241  
park district, or township. 1242

(2) "Essential local government purposes" includes all 1243  
functions that any subdivision is required by general law to 1244  
exercise, including like functions that are exercised under a 1245  
charter adopted pursuant to the Ohio Constitution. 1246

(R) "Overpayment" means any amount already paid that 1247  
exceeds the figure determined to be the correct amount of the 1248

tax.	1249
(S) "Taxable income" or "Ohio taxable income" applies only	1250
to estates and trusts, and means federal taxable income, as	1251
defined and used in the Internal Revenue Code, adjusted as	1252
follows:	1253
(1) Add interest or dividends, net of ordinary, necessary,	1254
and reasonable expenses not deducted in computing federal	1255
taxable income, on obligations or securities of any state or of	1256
any political subdivision or authority of any state, other than	1257
this state and its subdivisions and authorities, but only to the	1258
extent that such net amount is not otherwise includible in Ohio	1259
taxable income and is described in either division (S) (1) (a) or	1260
(b) of this section:	1261
(a) The net amount is not attributable to the S portion of	1262
an electing small business trust and has not been distributed to	1263
beneficiaries for the taxable year;	1264
(b) The net amount is attributable to the S portion of an	1265
electing small business trust for the taxable year.	1266
(2) Add interest or dividends, net of ordinary, necessary,	1267
and reasonable expenses not deducted in computing federal	1268
taxable income, on obligations of any authority, commission,	1269
instrumentality, territory, or possession of the United States	1270
to the extent that the interest or dividends are exempt from	1271
federal income taxes but not from state income taxes, but only	1272
to the extent that such net amount is not otherwise includible	1273
in Ohio taxable income and is described in either division (S)	1274
(1) (a) or (b) of this section;	1275
(3) Add the amount of personal exemption allowed to the	1276
estate pursuant to section 642(b) of the Internal Revenue Code;	1277

(4) Deduct interest or dividends, net of related expenses 1278  
deducted in computing federal taxable income, on obligations of 1279  
the United States and its territories and possessions or of any 1280  
authority, commission, or instrumentality of the United States 1281  
to the extent that the interest or dividends are exempt from 1282  
state taxes under the laws of the United States, but only to the 1283  
extent that such amount is included in federal taxable income 1284  
and is described in either division (S) (1) (a) or (b) of this 1285  
section; 1286

(5) Deduct the amount of wages and salaries, if any, not 1287  
otherwise allowable as a deduction but that would have been 1288  
allowable as a deduction in computing federal taxable income for 1289  
the taxable year, had the work opportunity tax credit allowed 1290  
under sections 38, 51, and 52 of the Internal Revenue Code not 1291  
been in effect, but only to the extent such amount relates 1292  
either to income included in federal taxable income for the 1293  
taxable year or to income of the S portion of an electing small 1294  
business trust for the taxable year; 1295

(6) Deduct any interest or interest equivalent, net of 1296  
related expenses deducted in computing federal taxable income, 1297  
on public obligations and purchase obligations, but only to the 1298  
extent that such net amount relates either to income included in 1299  
federal taxable income for the taxable year or to income of the 1300  
S portion of an electing small business trust for the taxable 1301  
year; 1302

(7) Add any loss or deduct any gain resulting from sale, 1303  
exchange, or other disposition of public obligations to the 1304  
extent that such loss has been deducted or such gain has been 1305  
included in computing either federal taxable income or income of 1306  
the S portion of an electing small business trust for the 1307

taxable year; 1308

(8) Except in the case of the final return of an estate, 1309  
add any amount deducted by the taxpayer on both its Ohio estate 1310  
tax return pursuant to section 5731.14 of the Revised Code, and 1311  
on its federal income tax return in determining federal taxable 1312  
income; 1313

(9) (a) Deduct any amount included in federal taxable 1314  
income solely because the amount represents a reimbursement or 1315  
refund of expenses that in a previous year the decedent had 1316  
deducted as an itemized deduction pursuant to section 63 of the 1317  
Internal Revenue Code and applicable treasury regulations. The 1318  
deduction otherwise allowed under division (S) (9) (a) of this 1319  
section shall be reduced to the extent the reimbursement is 1320  
attributable to an amount the taxpayer or decedent deducted 1321  
under this section in any taxable year. 1322

(b) Add any amount not otherwise included in Ohio taxable 1323  
income for any taxable year to the extent that the amount is 1324  
attributable to the recovery during the taxable year of any 1325  
amount deducted or excluded in computing federal or Ohio taxable 1326  
income in any taxable year, but only to the extent such amount 1327  
has not been distributed to beneficiaries for the taxable year. 1328

(10) Deduct any portion of the deduction described in 1329  
section 1341(a) (2) of the Internal Revenue Code, for repaying 1330  
previously reported income received under a claim of right, that 1331  
meets both of the following requirements: 1332

(a) It is allowable for repayment of an item that was 1333  
included in the taxpayer's taxable income or the decedent's 1334  
adjusted gross income for a prior taxable year and did not 1335  
qualify for a credit under division (A) or (B) of section 1336

5747.05 of the Revised Code for that year. 1337

(b) It does not otherwise reduce the taxpayer's taxable 1338  
income or the decedent's adjusted gross income for the current 1339  
or any other taxable year. 1340

(11) Add any amount claimed as a credit under section 1341  
5747.059 of the Revised Code to the extent that the amount 1342  
satisfies either of the following: 1343

(a) The amount was deducted or excluded from the 1344  
computation of the taxpayer's federal taxable income as required 1345  
to be reported for the taxpayer's taxable year under the 1346  
Internal Revenue Code; 1347

(b) The amount resulted in a reduction in the taxpayer's 1348  
federal taxable income as required to be reported for any of the 1349  
taxpayer's taxable years under the Internal Revenue Code. 1350

(12) Deduct any amount, net of related expenses deducted 1351  
in computing federal taxable income, that a trust is required to 1352  
report as farm income on its federal income tax return, but only 1353  
if the assets of the trust include at least ten acres of land 1354  
satisfying the definition of "land devoted exclusively to 1355  
agricultural use" under section 5713.30 of the Revised Code, 1356  
regardless of whether the land is valued for tax purposes as 1357  
such land under sections 5713.30 to 5713.38 of the Revised Code. 1358  
If the trust is a pass-through entity investor, section 5747.231 1359  
of the Revised Code applies in ascertaining if the trust is 1360  
eligible to claim the deduction provided by division (S)(12) of 1361  
this section in connection with the pass-through entity's farm 1362  
income. 1363

Except for farm income attributable to the S portion of an 1364  
electing small business trust, the deduction provided by 1365

division (S) (12) of this section is allowed only to the extent 1366  
that the trust has not distributed such farm income. 1367

(13) Add the net amount of income described in section 1368  
641(c) of the Internal Revenue Code to the extent that amount is 1369  
not included in federal taxable income. 1370

(14) Add or deduct the amount the taxpayer would be 1371  
required to add or deduct under division (A) (17) or (18) of this 1372  
section if the taxpayer's Ohio taxable income were computed in 1373  
the same manner as an individual's Ohio adjusted gross income is 1374  
computed under this section. 1375

(15) Add, to the extent not otherwise included in 1376  
computing taxable income or Ohio taxable income for any taxable 1377  
year, the taxpayer's proportionate share of the amount of the 1378  
tax levied under section 5747.38 of the Revised Code and paid by 1379  
an electing pass-through entity for the taxable year. 1380

(T) "School district income" and "school district income 1381  
tax" have the same meanings as in section 5748.01 of the Revised 1382  
Code. 1383

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1384  
(7) of this section, "public obligations," "purchase 1385  
obligations," and "interest or interest equivalent" have the 1386  
same meanings as in section 5709.76 of the Revised Code. 1387

(V) "Limited liability company" means any limited 1388  
liability company formed under Chapter 1705. or 1706. of the 1389  
Revised Code or under the laws of any other state. 1390

(W) "Pass-through entity investor" means any person who, 1391  
during any portion of a taxable year of a pass-through entity, 1392  
is a partner, member, shareholder, or equity investor in that 1393  
pass-through entity. 1394



(X) "Banking day" has the same meaning as in section	1395
1304.01 of the Revised Code.	1396
(Y) "Month" means a calendar month.	1397
(Z) "Quarter" means the first three months, the second	1398
three months, the third three months, or the last three months	1399
of the taxpayer's taxable year.	1400
(AA) (1) "Modified business income" means the business	1401
income included in a trust's Ohio taxable income after such	1402
taxable income is first reduced by the qualifying trust amount,	1403
if any.	1404
(2) "Qualifying trust amount" of a trust means capital	1405
gains and losses from the sale, exchange, or other disposition	1406
of equity or ownership interests in, or debt obligations of, a	1407
qualifying investee to the extent included in the trust's Ohio	1408
taxable income, but only if the following requirements are	1409
satisfied:	1410
(a) The book value of the qualifying investee's physical	1411
assets in this state and everywhere, as of the last day of the	1412
qualifying investee's fiscal or calendar year ending immediately	1413
prior to the date on which the trust recognizes the gain or	1414
loss, is available to the trust.	1415
(b) The requirements of section 5747.011 of the Revised	1416
Code are satisfied for the trust's taxable year in which the	1417
trust recognizes the gain or loss.	1418
Any gain or loss that is not a qualifying trust amount is	1419
modified business income, qualifying investment income, or	1420
modified nonbusiness income, as the case may be.	1421
(3) "Modified nonbusiness income" means a trust's Ohio	1422

taxable income other than modified business income, other than 1423  
the qualifying trust amount, and other than qualifying 1424  
investment income, as defined in section 5747.012 of the Revised 1425  
Code, to the extent such qualifying investment income is not 1426  
otherwise part of modified business income. 1427

(4) "Modified Ohio taxable income" applies only to trusts, 1428  
and means the sum of the amounts described in divisions (AA) (4) 1429  
(a) to (c) of this section: 1430

(a) The fraction, calculated under section 5747.013, and 1431  
applying section 5747.231 of the Revised Code, multiplied by the 1432  
sum of the following amounts: 1433

(i) The trust's modified business income; 1434

(ii) The trust's qualifying investment income, as defined 1435  
in section 5747.012 of the Revised Code, but only to the extent 1436  
the qualifying investment income does not otherwise constitute 1437  
modified business income and does not otherwise constitute a 1438  
qualifying trust amount. 1439

(b) The qualifying trust amount multiplied by a fraction, 1440  
the numerator of which is the sum of the book value of the 1441  
qualifying investee's physical assets in this state on the last 1442  
day of the qualifying investee's fiscal or calendar year ending 1443  
immediately prior to the day on which the trust recognizes the 1444  
qualifying trust amount, and the denominator of which is the sum 1445  
of the book value of the qualifying investee's total physical 1446  
assets everywhere on the last day of the qualifying investee's 1447  
fiscal or calendar year ending immediately prior to the day on 1448  
which the trust recognizes the qualifying trust amount. If, for 1449  
a taxable year, the trust recognizes a qualifying trust amount 1450  
with respect to more than one qualifying investee, the amount 1451

described in division (AA) (4) (b) of this section shall equal the 1452  
sum of the products so computed for each such qualifying 1453  
investee. 1454

(c) (i) With respect to a trust or portion of a trust that 1455  
is a resident as ascertained in accordance with division (I) (3) 1456  
(d) of this section, its modified nonbusiness income. 1457

(ii) With respect to a trust or portion of a trust that is 1458  
not a resident as ascertained in accordance with division (I) (3) 1459  
(d) of this section, the amount of its modified nonbusiness 1460  
income satisfying the descriptions in divisions (B) (2) to (5) of 1461  
section 5747.20 of the Revised Code, except as otherwise 1462  
provided in division (AA) (4) (c) (ii) of this section. With 1463  
respect to a trust or portion of a trust that is not a resident 1464  
as ascertained in accordance with division (I) (3) (d) of this 1465  
section, the trust's portion of modified nonbusiness income 1466  
recognized from the sale, exchange, or other disposition of a 1467  
debt interest in or equity interest in a section 5747.212 1468  
entity, as defined in section 5747.212 of the Revised Code, 1469  
without regard to division (A) of that section, shall not be 1470  
allocated to this state in accordance with section 5747.20 of 1471  
the Revised Code but shall be apportioned to this state in 1472  
accordance with division (B) of section 5747.212 of the Revised 1473  
Code without regard to division (A) of that section. 1474

If the allocation and apportionment of a trust's income 1475  
under divisions (AA) (4) (a) and (c) of this section do not fairly 1476  
represent the modified Ohio taxable income of the trust in this 1477  
state, the alternative methods described in division (C) of 1478  
section 5747.21 of the Revised Code may be applied in the manner 1479  
and to the same extent provided in that section. 1480

(5) (a) Except as set forth in division (AA) (5) (b) of this 1481

section, "qualifying investee" means a person in which a trust 1482  
has an equity or ownership interest, or a person or unit of 1483  
government the debt obligations of either of which are owned by 1484  
a trust. For the purposes of division (AA) (2) (a) of this section 1485  
and for the purpose of computing the fraction described in 1486  
division (AA) (4) (b) of this section, all of the following apply: 1487

(i) If the qualifying investee is a member of a qualifying 1488  
controlled group on the last day of the qualifying investee's 1489  
fiscal or calendar year ending immediately prior to the date on 1490  
which the trust recognizes the gain or loss, then "qualifying 1491  
investee" includes all persons in the qualifying controlled 1492  
group on such last day. 1493

(ii) If the qualifying investee, or if the qualifying 1494  
investee and any members of the qualifying controlled group of 1495  
which the qualifying investee is a member on the last day of the 1496  
qualifying investee's fiscal or calendar year ending immediately 1497  
prior to the date on which the trust recognizes the gain or 1498  
loss, separately or cumulatively own, directly or indirectly, on 1499  
the last day of the qualifying investee's fiscal or calendar 1500  
year ending immediately prior to the date on which the trust 1501  
recognizes the qualifying trust amount, more than fifty per cent 1502  
of the equity of a pass-through entity, then the qualifying 1503  
investee and the other members are deemed to own the 1504  
proportionate share of the pass-through entity's physical assets 1505  
which the pass-through entity directly or indirectly owns on the 1506  
last day of the pass-through entity's calendar or fiscal year 1507  
ending within or with the last day of the qualifying investee's 1508  
fiscal or calendar year ending immediately prior to the date on 1509  
which the trust recognizes the qualifying trust amount. 1510

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1511

section, "upper level pass-through entity" means a pass-through 1512  
entity directly or indirectly owning any equity of another pass- 1513  
through entity, and "lower level pass-through entity" means that 1514  
other pass-through entity. 1515

An upper level pass-through entity, whether or not it is 1516  
also a qualifying investee, is deemed to own, on the last day of 1517  
the upper level pass-through entity's calendar or fiscal year, 1518  
the proportionate share of the lower level pass-through entity's 1519  
physical assets that the lower level pass-through entity 1520  
directly or indirectly owns on the last day of the lower level 1521  
pass-through entity's calendar or fiscal year ending within or 1522  
with the last day of the upper level pass-through entity's 1523  
fiscal or calendar year. If the upper level pass-through entity 1524  
directly and indirectly owns less than fifty per cent of the 1525  
equity of the lower level pass-through entity on each day of the 1526  
upper level pass-through entity's calendar or fiscal year in 1527  
which or with which ends the calendar or fiscal year of the 1528  
lower level pass-through entity and if, based upon clear and 1529  
convincing evidence, complete information about the location and 1530  
cost of the physical assets of the lower pass-through entity is 1531  
not available to the upper level pass-through entity, then 1532  
solely for purposes of ascertaining if a gain or loss 1533  
constitutes a qualifying trust amount, the upper level pass- 1534  
through entity shall be deemed as owning no equity of the lower 1535  
level pass-through entity for each day during the upper level 1536  
pass-through entity's calendar or fiscal year in which or with 1537  
which ends the lower level pass-through entity's calendar or 1538  
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1539  
shall be construed to provide for any deduction or exclusion in 1540  
computing any trust's Ohio taxable income. 1541

(b) With respect to a trust that is not a resident for the 1542

taxable year and with respect to a part of a trust that is not a 1543  
resident for the taxable year, "qualifying investee" for that 1544  
taxable year does not include a C corporation if both of the 1545  
following apply: 1546

(i) During the taxable year the trust or part of the trust 1547  
recognizes a gain or loss from the sale, exchange, or other 1548  
disposition of equity or ownership interests in, or debt 1549  
obligations of, the C corporation. 1550

(ii) Such gain or loss constitutes nonbusiness income. 1551

(6) "Available" means information is such that a person is 1552  
able to learn of the information by the due date plus 1553  
extensions, if any, for filing the return for the taxable year 1554  
in which the trust recognizes the gain or loss. 1555

(BB) "Qualifying controlled group" has the same meaning as 1556  
in section 5733.04 of the Revised Code. 1557

(CC) "Related member" has the same meaning as in section 1558  
5733.042 of the Revised Code. 1559

(DD) (1) For the purposes of division (DD) of this section: 1560

(a) "Qualifying person" means any person other than a 1561  
qualifying corporation. 1562

(b) "Qualifying corporation" means any person classified 1563  
for federal income tax purposes as an association taxable as a 1564  
corporation, except either of the following: 1565

(i) A corporation that has made an election under 1566  
subchapter S, chapter one, subtitle A, of the Internal Revenue 1567  
Code for its taxable year ending within, or on the last day of, 1568  
the investor's taxable year; 1569

(ii) A subsidiary that is wholly owned by any corporation 1570  
that has made an election under subchapter S, chapter one, 1571  
subtitle A of the Internal Revenue Code for its taxable year 1572  
ending within, or on the last day of, the investor's taxable 1573  
year. 1574

(2) For the purposes of this chapter, unless expressly 1575  
stated otherwise, no qualifying person indirectly owns any asset 1576  
directly or indirectly owned by any qualifying corporation. 1577

(EE) For purposes of this chapter and Chapter 5751. of the 1578  
Revised Code: 1579

(1) "Trust" does not include a qualified pre-income tax 1580  
trust. 1581

(2) A "qualified pre-income tax trust" is any pre-income 1582  
tax trust that makes a qualifying pre-income tax trust election 1583  
as described in division (EE)(3) of this section. 1584

(3) A "qualifying pre-income tax trust election" is an 1585  
election by a pre-income tax trust to subject to the tax imposed 1586  
by section 5751.02 of the Revised Code the pre-income tax trust 1587  
and all pass-through entities of which the trust owns or 1588  
controls, directly, indirectly, or constructively through 1589  
related interests, five per cent or more of the ownership or 1590  
equity interests. The trustee shall notify the tax commissioner 1591  
in writing of the election on or before April 15, 2006. The 1592  
election, if timely made, shall be effective on and after 1593  
January 1, 2006, and shall apply for all tax periods and tax 1594  
years until revoked by the trustee of the trust. 1595

(4) A "pre-income tax trust" is a trust that satisfies all 1596  
of the following requirements: 1597

(a) The document or instrument creating the trust was 1598

executed by the grantor before January 1, 1972; 1599

(b) The trust became irrevocable upon the creation of the 1600  
trust; and 1601

(c) The grantor was domiciled in this state at the time 1602  
the trust was created. 1603

(FF) "Uniformed services" has the same meaning as in 10 1604  
U.S.C. 101. 1605

(GG) "Taxable business income" means the amount by which 1606  
an individual's business income that is included in federal 1607  
adjusted gross income exceeds the amount of business income the 1608  
individual is authorized to deduct under division (A) (28) of 1609  
this section for the taxable year. 1610

(HH) "Employer" does not include a franchisor with respect 1611  
to the franchisor's relationship with a franchisee or an 1612  
employee of a franchisee, unless the franchisor agrees to assume 1613  
that role in writing or a court of competent jurisdiction 1614  
determines that the franchisor exercises a type or degree of 1615  
control over the franchisee or the franchisee's employees that 1616  
is not customarily exercised by a franchisor for the purpose of 1617  
protecting the franchisor's trademark, brand, or both. For 1618  
purposes of this division, "franchisor" and "franchisee" have 1619  
the same meanings as in 16 C.F.R. 436.1. 1620

(II) "Modified adjusted gross income" means Ohio adjusted 1621  
gross income plus any amount deducted under divisions (A) (28) 1622  
and (34) of this section for the taxable year. 1623

(JJ) "Qualifying Ohio educator" means an individual who, 1624  
for a taxable year, qualifies as an eligible educator, as that 1625  
term is defined in section 62 of the Internal Revenue Code, and 1626  
who holds a certificate, license, or permit described in Chapter 1627



3319. or section 3301.071 of the Revised Code. 1628

**Sec. 5747.03.** (A) (1) All money collected under this 1629  
chapter arising from the taxes imposed by section 5747.02 ~~or,~~  1630  
5747.38, or 5747.41 of the Revised Code shall be credited to the 1631  
general revenue fund and distributed pursuant to division (F) of 1632  
section 321.24 and section 323.156 of the Revised Code; to make 1633  
subsidy payments to institutions of higher education from 1634  
appropriations to the department of higher education; to support 1635  
expenditures for programs and services for the mentally ill, 1636  
persons with developmental disabilities, and the elderly; for 1637  
primary and secondary education; for medical assistance; and for 1638  
any other purposes authorized by law, subject to the limitation 1639  
that at least fifty per cent of the income tax collected by the 1640  
state from the tax imposed by section 5747.02 of the Revised 1641  
Code shall be returned pursuant to Section 9 of Article XII, 1642  
Ohio Constitution. 1643

(2) To ensure that such constitutional requirement is 1644  
satisfied the tax commissioner shall, on or before the thirtieth 1645  
day of June of each year, from the best information available to 1646  
the tax commissioner, determine and certify for each county to 1647  
the director of budget and management the amount of taxes 1648  
collected under this chapter from the tax imposed under section 1649  
5747.02 of the Revised Code during the preceding calendar year 1650  
that are required to be returned to the county by Section 9 of 1651  
Article XII, Ohio Constitution. The director shall provide for 1652  
payment from the general revenue fund to the county in the 1653  
amount, if any, that the sum of the amount so certified for that 1654  
county exceeds the sum of the following: 1655

(a) The sum of the payments from the general revenue fund 1656  
for the preceding calendar year credited to the county's 1657

undivided income tax fund pursuant to division (F) of section 1658  
321.24 and section 323.156 of the Revised Code or made directly 1659  
from the general revenue fund to political subdivisions located 1660  
in the county; 1661

(b) The sum of the amounts from the general revenue fund 1662  
distributed in the county during the preceding calendar year for 1663  
subsidy payments to institutions of higher education from 1664  
appropriations to the department of higher education; for 1665  
programs and services for mentally ill persons, persons with 1666  
developmental disabilities, and elderly persons; for primary and 1667  
secondary education; and for medical assistance. 1668

(c) In the case of payments made by the director under 1669  
this division in 2007, the total amount distributed to the 1670  
county during the preceding calendar year from the local 1671  
government fund and the local government revenue assistance 1672  
fund, and, in the case of payments made by the director under 1673  
this division in subsequent calendar years, the amount 1674  
distributed to the county from the local government fund; 1675

(d) In the case of payments made by the director under 1676  
this division, the total amount distributed to the county during 1677  
the preceding calendar year from the public library fund. 1678

Payments under this division shall be credited to the 1679  
county's undivided income tax fund, except that, notwithstanding 1680  
section 5705.14 of the Revised Code, such payments may be 1681  
transferred by the board of county commissioners to the county 1682  
general fund by resolution adopted with the affirmative vote of 1683  
two-thirds of the members thereof. 1684

(B) All payments received in each month from taxes imposed 1685  
under Chapter 5748. of the Revised Code and any penalties or 1686

interest thereon shall be paid into the school district income 1687  
tax fund, which is hereby created in the state treasury, except 1688  
that an amount equal to the following portion of such payments 1689  
shall be paid into the general school district income tax 1690  
administrative fund, which is hereby created in the state 1691  
treasury: 1692

(1) One and three-quarters of one per cent of those 1693  
received in fiscal year 1996; 1694

(2) One and one-half per cent of those received in fiscal 1695  
year 1997 and thereafter. 1696

Money in the school district income tax administrative 1697  
fund shall be used by the tax commissioner to defray costs 1698  
incurred in administering the school district's income tax, 1699  
including the cost of providing employers with information 1700  
regarding the rate of tax imposed by any school district. Any 1701  
moneys remaining in the fund after such use shall be deposited 1702  
in the school district income tax fund. 1703

All interest earned on moneys in the school district 1704  
income tax fund shall be credited to the fund. 1705

(C) (1) (a) Within thirty days of the end of each calendar 1706  
quarter ending on the last day of March, June, September, and 1707  
December, the director of budget and management shall make a 1708  
payment from the school district income tax fund to each school 1709  
district for which school district income tax revenue was 1710  
received during that quarter. The amount of the payment shall 1711  
equal the balance in the school district's account at the end of 1712  
that quarter. 1713

(b) After a school district ceases to levy an income tax, 1714  
the director of budget and management shall adjust the payments 1715

under division (C) (1) (a) of this section to retain sufficient 1716  
money in the school district's account to pay refunds. For the 1717  
calendar quarters ending on the last day of March and December 1718  
of the calendar year following the last calendar year the tax is 1719  
levied, the director shall make the payments in the amount 1720  
required under division (C) (1) (a) of this section. For the 1721  
calendar quarter ending on the last day of June of the calendar 1722  
year following the last calendar year the tax is levied, the 1723  
director shall make a payment equal to nine-tenths of the 1724  
balance in the account at the end of that quarter. For the 1725  
calendar quarter ending on the last day of September of the 1726  
calendar year following the last calendar year the tax is 1727  
levied, the director shall make no payment. For the second and 1728  
succeeding calendar years following the last calendar year the 1729  
tax is levied, the director shall make one payment each year, 1730  
within thirty days of the last day of June, in an amount equal 1731  
to the balance in the district's account on the last day of 1732  
June. 1733

(2) Moneys paid to a school district under this division 1734  
shall be deposited in its school district income tax fund. All 1735  
interest earned on moneys in the school district income tax fund 1736  
shall be apportioned by the tax commissioner pro rata among the 1737  
school districts in the proportions and at the times the 1738  
districts are entitled to receive payments under this division. 1739

**Sec. 5747.08.** An annual return with respect to the tax 1740  
imposed by section 5747.02 of the Revised Code and each tax 1741  
imposed under Chapter 5748. of the Revised Code shall be made by 1742  
every taxpayer for any taxable year for which the taxpayer is 1743  
liable for the tax imposed by that section or under that 1744  
chapter, unless the total credits allowed under division (E) of 1745  
section 5747.05 and divisions (F) and (G) of section 5747.055 of 1746

the Revised Code for the year are equal to or exceed the tax 1747  
imposed by section 5747.02 of the Revised Code, in which case no 1748  
return shall be required unless the taxpayer is liable for a tax 1749  
imposed pursuant to Chapter 5748. of the Revised Code. 1750

(A) If an individual is deceased, any return or notice 1751  
required of that individual under this chapter shall be made and 1752  
filed by that decedent's executor, administrator, or other 1753  
person charged with the property of that decedent. 1754

(B) If an individual is unable to make a return or notice 1755  
required by this chapter, the return or notice required of that 1756  
individual shall be made and filed by the individual's duly 1757  
authorized agent, guardian, conservator, fiduciary, or other 1758  
person charged with the care of the person or property of that 1759  
individual. 1760

(C) Returns or notices required of an estate or a trust 1761  
shall be made and filed by the fiduciary of the estate or trust. 1762

(D) (1) (a) Except as otherwise provided in division (D) (1) 1763  
(b) of this section, any pass-through entity may file a single 1764  
return on behalf of one or more of the entity's investors other 1765  
than an investor that is a person subject to the tax imposed 1766  
under section 5733.06 of the Revised Code. The single return 1767  
shall set forth the name, address, and social security number or 1768  
other identifying number of each of those pass-through entity 1769  
investors and shall indicate the distributive share of each of 1770  
those pass-through entity investor's income taxable in this 1771  
state in accordance with sections 5747.20 to 5747.231 of the 1772  
Revised Code. Such pass-through entity investors for whom the 1773  
pass-through entity elects to file a single return are not 1774  
entitled to the exemption or credit provided for by sections 1775  
5747.02 and 5747.022 of the Revised Code; shall calculate the 1776

tax before business credits at the highest rate of tax set forth 1777  
in section 5747.02 of the Revised Code for the taxable year for 1778  
which the return is filed; and are entitled to only their 1779  
distributive share of the business credits as defined in 1780  
division (D) (2) of this section. A single check drawn by the 1781  
pass-through entity shall accompany the return in full payment 1782  
of the tax due, as shown on the single return, for such 1783  
investors, other than investors who are persons subject to the 1784  
tax imposed under section 5733.06 of the Revised Code. 1785

(b) (i) A pass-through entity shall not include in such a 1786  
single return any investor that is a trust to the extent that 1787  
any direct or indirect current, future, or contingent 1788  
beneficiary of the trust is a person subject to the tax imposed 1789  
under section 5733.06 of the Revised Code. 1790

(ii) A pass-through entity shall not include in such a 1791  
single return any investor that is itself a pass-through entity 1792  
to the extent that any direct or indirect investor in the second 1793  
pass-through entity is a person subject to the tax imposed under 1794  
section 5733.06 of the Revised Code. 1795

(c) ~~Nothing~~ Except as provided by division (L) of this 1796  
section, nothing in division (D) of this section precludes the 1797  
tax commissioner from requiring such investors to file the 1798  
return and make the payment of taxes and related interest, 1799  
penalty, and interest penalty required by this section or 1800  
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 1801  
Nothing in division (D) of this section precludes such an 1802  
investor from filing the annual return under this section, 1803  
utilizing the refundable credit equal to the investor's 1804  
proportionate share of the tax paid by the pass-through entity 1805  
on behalf of the investor under division (I) of this section, 1806

and making the payment of taxes imposed under section 5747.02 of 1807  
the Revised Code. Nothing in division (D) of this section shall 1808  
be construed to provide to such an investor or pass-through 1809  
entity any additional deduction or credit, other than the credit 1810  
provided by division (I) of this section, solely on account of 1811  
the entity's filing a return in accordance with this section. 1812  
Such a pass-through entity also shall make the filing and 1813  
payment of estimated taxes on behalf of the pass-through entity 1814  
investors other than an investor that is a person subject to the 1815  
tax imposed under section 5733.06 of the Revised Code. 1816

(2) For the purposes of this section, "business credits" 1817  
means the credits listed in section 5747.98 of the Revised Code 1818  
excluding the following credits: 1819

(a) The retirement income credit under division (B) of 1820  
section 5747.055 of the Revised Code; 1821

(b) The senior citizen credit under division (F) of 1822  
section 5747.055 of the Revised Code; 1823

(c) The lump sum distribution credit under division (G) of 1824  
section 5747.055 of the Revised Code; 1825

(d) The dependent care credit under section 5747.054 of 1826  
the Revised Code; 1827

(e) The lump sum retirement income credit under division 1828  
(C) of section 5747.055 of the Revised Code; 1829

(f) The lump sum retirement income credit under division 1830  
(D) of section 5747.055 of the Revised Code; 1831

(g) The lump sum retirement income credit under division 1832  
(E) of section 5747.055 of the Revised Code; 1833

(h) The credit for displaced workers who pay for job 1834

training under section 5747.27 of the Revised Code;	1835
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1836 1837
(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	1838 1839
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1840 1841
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1842 1843
(m) The earned income tax credit under section 5747.71 of the Revised Code;	1844 1845
(n) The lead abatement credit under section 5747.26 of the Revised Code;	1846 1847
(o) The credit for education expenses under section 5747.72 of the Revised Code;	1848 1849
(p) The credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code.	1850 1851
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	1852 1853 1854 1855 1856 1857 1858 1859
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity	1860 1861



shall be liable for any additional taxes, interest, interest 1862  
penalty, or penalties imposed by this chapter if the tax 1863  
commissioner finds that the single return does not reflect the 1864  
correct tax due by the pass-through entity investors covered by 1865  
that return. Nothing in this division shall be construed to 1866  
limit or alter the liability, if any, imposed on pass-through 1867  
entity investors for unpaid or underpaid taxes, interest, 1868  
interest penalty, or penalties as a result of the pass-through 1869  
entity's making the election provided for under division (D) of 1870  
this section. For the purposes of division (D) of this section, 1871  
"correct tax due" means the tax that would have been paid by the 1872  
pass-through entity had the single return been filed in a manner 1873  
reflecting the commissioner's findings. Nothing in division (D) 1874  
of this section shall be construed to make or hold a pass- 1875  
through entity liable for tax attributable to a pass-through 1876  
entity investor's income from a source other than the pass- 1877  
through entity electing to file the single return. 1878

(E) If a husband and wife file a joint federal income tax 1879  
return for a taxable year, they shall file a joint return under 1880  
this section for that taxable year, and their liabilities are 1881  
joint and several, but, if the federal income tax liability of 1882  
either spouse is determined on a separate federal income tax 1883  
return, they shall file separate returns under this section. 1884

If either spouse is not required to file a federal income 1885  
tax return and either or both are required to file a return 1886  
pursuant to this chapter, they may elect to file separate or 1887  
joint returns, and, pursuant to that election, their liabilities 1888  
are separate or joint and several. If a husband and wife file 1889  
separate returns pursuant to this chapter, each must claim the 1890  
taxpayer's own exemption, but not both, as authorized under 1891  
section 5747.02 of the Revised Code on the taxpayer's own 1892

return. 1893

(F) Each return or notice required to be filed under this 1894  
section shall contain the signature of the taxpayer or the 1895  
taxpayer's duly authorized agent and of the person who prepared 1896  
the return for the taxpayer, and shall include the taxpayer's 1897  
social security number. Each return shall be verified by a 1898  
declaration under the penalties of perjury. The tax commissioner 1899  
shall prescribe the form that the signature and declaration 1900  
shall take. 1901

(G) Each return or notice required to be filed under this 1902  
section shall be made and filed as required by section 5747.04 1903  
of the Revised Code, on or before the fifteenth day of April of 1904  
each year, on forms that the tax commissioner shall prescribe, 1905  
together with remittance made payable to the treasurer of state 1906  
in the combined amount of the state and all school district 1907  
income taxes shown to be due on the form. 1908

Upon good cause shown, the commissioner may extend the 1909  
period for filing any notice or return required to be filed 1910  
under this section and may adopt rules relating to extensions. 1911  
If the extension results in an extension of time for the payment 1912  
of any state or school district income tax liability with 1913  
respect to which the return is filed, the taxpayer shall pay at 1914  
the time the tax liability is paid an amount of interest 1915  
computed at the rate per annum prescribed by section 5703.47 of 1916  
the Revised Code on that liability from the time that payment is 1917  
due without extension to the time of actual payment. Except as 1918  
provided in section 5747.132 of the Revised Code, in addition to 1919  
all other interest charges and penalties, all taxes imposed 1920  
under this chapter or Chapter 5748. of the Revised Code and 1921  
remaining unpaid after they become due, except combined amounts 1922

due of one dollar or less, bear interest at the rate per annum 1923  
prescribed by section 5703.47 of the Revised Code until paid or 1924  
until the day an assessment is issued under section 5747.13 of 1925  
the Revised Code, whichever occurs first. 1926

If the commissioner considers it necessary in order to 1927  
ensure the payment of the tax imposed by section 5747.02 of the 1928  
Revised Code or any tax imposed under Chapter 5748. of the 1929  
Revised Code, the commissioner may require returns and payments 1930  
to be made otherwise than as provided in this section. 1931

To the extent that any provision in this division 1932  
conflicts with any provision in section 5747.026 of the Revised 1933  
Code, the provision in that section prevails. 1934

(H) The amounts withheld pursuant to section 5747.06, 1935  
5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of the 1936  
Revised Code shall be allowed to the ultimate recipient of the 1937  
income as credits against payment of the appropriate taxes 1938  
imposed on the ultimate recipient by section 5747.02 and under 1939  
Chapter 5748. of the Revised Code. As used in this division, 1940  
"ultimate recipient" means the person who is required to report 1941  
income from which amounts are withheld pursuant to section 1942  
5747.06, 5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of 1943  
the Revised Code on the annual return required to be filed under 1944  
this section. 1945

(I) If a pass-through entity elects to file a single 1946  
return under division (D) of this section and if any investor is 1947  
required to file the annual return and make the payment of taxes 1948  
required by this chapter on account of the investor's other 1949  
income that is not included in a single return filed by a pass- 1950  
through entity or any other investor elects to file the annual 1951  
return, the investor is entitled to a refundable credit equal to 1952

the investor's proportionate share of the tax paid by the pass- 1953  
through entity on behalf of the investor. The investor shall 1954  
claim the credit for the investor's taxable year in which or 1955  
with which ends the taxable year of the pass-through entity. 1956  
Nothing in this chapter shall be construed to allow any credit 1957  
provided in this chapter to be claimed more than once. For the 1958  
purpose of computing any interest, penalty, or interest penalty, 1959  
the investor shall be deemed to have paid the refundable credit 1960  
provided by this division on the day that the pass-through 1961  
entity paid the estimated tax or the tax giving rise to the 1962  
credit. 1963

(J) The tax commissioner shall ensure that each return 1964  
required to be filed under this section includes a box that the 1965  
taxpayer may check to authorize a paid tax preparer who prepared 1966  
the return to communicate with the department of taxation about 1967  
matters pertaining to the return. The return or instructions 1968  
accompanying the return shall indicate that by checking the box 1969  
the taxpayer authorizes the department of taxation to contact 1970  
the preparer concerning questions that arise during the 1971  
processing of the return and authorizes the preparer only to 1972  
provide the department with information that is missing from the 1973  
return, to contact the department for information about the 1974  
processing of the return or the status of the taxpayer's refund 1975  
or payments, and to respond to notices about mathematical 1976  
errors, offsets, or return preparation that the taxpayer has 1977  
received from the department and has shown to the preparer. 1978

(K) The tax commissioner shall permit individual taxpayers 1979  
to instruct the department of taxation to cause any refund of 1980  
overpaid taxes to be deposited directly into a checking account, 1981  
savings account, or an individual retirement account or 1982  
individual retirement annuity, or preexisting college savings 1983

plan or program account offered by the Ohio tuition trust 1984  
authority under Chapter 3334. of the Revised Code, as designated 1985  
by the taxpayer, when the taxpayer files the annual return 1986  
required by this section electronically. 1987

(L) If, for the taxable year, a nonresident or trust that 1988  
is the owner of an electing pass-through entity, as defined in 1989  
section 5747.38 of the Revised Code, does not have Ohio adjusted 1990  
gross income or, in the case of a trust, modified Ohio taxable 1991  
income other than from one or more electing pass-through 1992  
entities, the nonresident or trust shall not be required to file 1993  
an annual return under this section. Nothing in this division 1994  
precludes such an owner from filing the annual return under this 1995  
section, utilizing the refundable credit under section 5747.39 1996  
of the Revised Code equal to the owner's proportionate share of 1997  
the tax levied under section 5747.38 of the Revised Code and 1998  
paid by the electing pass-through entity, and making the payment 1999  
of taxes imposed under section 5747.02 of the Revised Code. 2000

(M) The tax commissioner may adopt rules to administer 2001  
this section. 2002

**Sec. 5747.11.** (A) The tax commissioner shall refund to 2003  
employers, qualifying entities, electing pass-through entities, 2004  
or taxpayers subject to a tax imposed under section 5733.41, 2005  
5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised 2006  
Code the amount of any overpayment of such tax. 2007

(B) Except as otherwise provided under divisions (D) and 2008  
(E) of this section, applications for refund shall be filed with 2009  
the tax commissioner, on the form prescribed by the 2010  
commissioner, within four years from the date of the illegal, 2011  
erroneous, or excessive payment of the tax, or within any 2012  
additional period allowed by division (B) (3) (b) of section 2013

5747.05, division (E) of section 5747.10, division (A) of 2014  
section 5747.13, or division (C) of section 5747.45 of the 2015  
Revised Code. 2016

On filing of the refund application, the commissioner 2017  
shall determine the amount of refund due and, if that amount 2018  
exceeds one dollar, certify such amount to the director of 2019  
budget and management and treasurer of state for payment from 2020  
the tax refund fund created by section 5703.052 of the Revised 2021  
Code. Payment shall be made as provided in division (C) of 2022  
section 126.35 of the Revised Code. 2023

(C) (1) Interest shall be allowed and paid at the rate per 2024  
annum prescribed by section 5703.47 of the Revised Code on 2025  
amounts refunded with respect to the tax imposed under section 2026  
5747.02 or Chapter 5748. of the Revised Code from the date of 2027  
the overpayment until the date of the refund of the overpayment, 2028  
except that if any overpayment is refunded within ninety days 2029  
after the final filing date of the annual return or ninety days 2030  
after the return is filed, whichever is later, no interest shall 2031  
be allowed on such overpayment. If the overpayment results from 2032  
the carryback of a net operating loss or net capital loss to a 2033  
previous taxable year, the overpayment is deemed not to have 2034  
been made prior to the filing date, including any extension 2035  
thereof, for the taxable year in which the net operating loss or 2036  
net capital loss arises. For purposes of the payment of interest 2037  
on overpayments, no amount of tax, for any taxable year, shall 2038  
be treated as having been paid before the date on which the tax 2039  
return for that year was due without regard to any extension of 2040  
time for filing such return. 2041

(2) Interest shall be allowed at the rate per annum 2042  
prescribed by section 5703.47 of the Revised Code on amounts 2043

refunded with respect to the taxes imposed under sections 2044  
5733.41 and 5747.41 or under section 5747.38 of the Revised 2045  
Code. The interest shall run from whichever of the following 2046  
days is the latest until the day the refund is paid: the day the 2047  
illegal, erroneous, or excessive payment was made; the ninetieth 2048  
day after the final day the annual report was required to be 2049  
filed under section 5747.42 of the Revised Code; or the 2050  
ninetieth day after the day that report was filed. 2051

(D) "Ninety days" shall be substituted for "four years" in 2052  
division (B) of this section if the taxpayer satisfies both of 2053  
the following conditions: 2054

(1) The taxpayer has applied for a refund based in whole 2055  
or in part upon section 5747.059 of the Revised Code; 2056

(2) The taxpayer asserts that either the imposition or 2057  
collection of the tax imposed or charged by this chapter or any 2058  
portion of such tax violates the Constitution of the United 2059  
States or the Constitution of Ohio. 2060

(E) (1) Division (E) (2) of this section applies only if all 2061  
of the following conditions are satisfied: 2062

(a) A qualifying entity pays an amount of the tax imposed 2063  
by section 5733.41 or 5747.41 of the Revised Code; 2064

(b) The taxpayer is a qualifying investor as to that 2065  
qualifying entity; 2066

(c) The taxpayer did not claim the credit provided for in 2067  
section 5747.059 of the Revised Code as to the tax described in 2068  
division (E) (1) (a) of this section; 2069

(d) The four-year period described in division (B) of this 2070  
section has ended as to the taxable year for which the taxpayer 2071

otherwise would have claimed that credit. 2072

(2) A taxpayer shall file an application for refund 2073  
pursuant to division (E) of this section within one year after 2074  
the date the payment described in division (E)(1)(a) of this 2075  
section is made. An application filed under division (E)(2) of 2076  
this section shall claim refund only of overpayments resulting 2077  
from the taxpayer's failure to claim the credit described in 2078  
division (E)(1)(c) of this section. Nothing in division (E) of 2079  
this section shall be construed to relieve a taxpayer from 2080  
complying with division (A)(15) of section 5747.01 of the 2081  
Revised Code. 2082

**Sec. 5747.13.** (A) If any employer collects the tax imposed 2083  
by section 5747.02 or under Chapter 5748. of the Revised Code 2084  
and fails to remit the tax as required by law, or fails to 2085  
collect the tax, the employer is personally liable for any 2086  
amount collected that the employer fails to remit, or any amount 2087  
that the employer fails to collect. If any taxpayer fails to 2088  
file a return or fails to pay the tax imposed by section 5747.02 2089  
or under Chapter 5748. of the Revised Code, the taxpayer is 2090  
personally liable for the amount of the tax. 2091

If any employer, taxpayer, ~~or~~ qualifying entity, or 2092  
electing pass-through entity required to file a return under 2093  
this chapter fails to file the return within the time 2094  
prescribed, files an incorrect return, fails to remit the full 2095  
amount of the taxes due for the period covered by the return, or 2096  
fails to remit any additional tax due as a result of a reduction 2097  
in the amount of the credit allowed under division (B) of 2098  
section 5747.05 of the Revised Code together with interest on 2099  
the additional tax within the time prescribed by that division, 2100  
the tax commissioner may make an assessment against any person 2101



liable for any deficiency for the period for which the return is 2102  
or taxes are due, based upon any information in the 2103  
commissioner's possession. 2104

An assessment issued against either the employer or the 2105  
taxpayer pursuant to this section shall not be considered an 2106  
election of remedies or a bar to an assessment against the other 2107  
for failure to report or pay the same tax. No assessment shall 2108  
be issued against any person if the tax actually has been paid 2109  
by another. 2110

No assessment shall be made or issued against an employer, 2111  
a taxpayer, ~~or a qualifying entity, or an electing pass-through~~ 2112  
entity more than four years after the final date the return 2113  
subject to assessment was required to be filed or the date the 2114  
return was filed, whichever is later. However, the commissioner 2115  
may assess any balance due as the result of a reduction in the 2116  
credit allowed under division (B) of section 5747.05 of the 2117  
Revised Code, including applicable penalty and interest, within 2118  
four years of the date on which the taxpayer reports a change in 2119  
either the portion of the taxpayer's adjusted gross income 2120  
subjected to an income tax or tax measured by income in another 2121  
state or the District of Columbia, or the amount of liability 2122  
for an income tax or tax measured by income to another state or 2123  
the District of Columbia, as required by division (B) (3) of 2124  
section 5747.05 of the Revised Code. Such time limits may be 2125  
extended if both the employer, taxpayer, ~~or qualifying entity,~~ 2126  
or electing pass-through entity and the commissioner consent in 2127  
writing to the extension or if an agreement waiving or extending 2128  
the time limits has been entered into pursuant to section 2129  
122.171 of the Revised Code. Any such extension shall extend the 2130  
four-year time limit in division (B) of section 5747.11 of the 2131  
Revised Code for the same period of time. There shall be no bar 2132

or limit to an assessment against an employer for taxes withheld 2133  
from employees and not remitted to the state, against an 2134  
employer, a taxpayer, ~~or a~~ qualifying entity, or an electing 2135  
pass-through entity that fails to file a return subject to 2136  
assessment as required by this chapter, or against an employer, 2137  
a taxpayer, ~~or a~~ qualifying entity, or an electing pass-through 2138  
entity that files a fraudulent return. 2139

The commissioner shall give the party assessed written 2140  
notice of the assessment in the manner provided in section 2141  
5703.37 of the Revised Code. With the notice, the commissioner 2142  
shall provide instructions on how to petition for reassessment 2143  
and request a hearing on the petition. 2144

(B) Unless the party assessed files with the tax 2145  
commissioner within sixty days after service of the notice of 2146  
assessment, either personally or by certified mail, a written 2147  
petition for reassessment, signed by the party assessed or that 2148  
party's authorized agent having knowledge of the facts, the 2149  
assessment becomes final, and the amount of the assessment is 2150  
due and payable from the party assessed to the commissioner with 2151  
remittance made payable to the treasurer of state. The petition 2152  
shall indicate the objections of the party assessed, but 2153  
additional objections may be raised in writing if received by 2154  
the commissioner prior to the date shown on the final 2155  
determination. If the petition has been properly filed, the 2156  
commissioner shall proceed under section 5703.60 of the Revised 2157  
Code. 2158

(C) After an assessment becomes final, if any portion of 2159  
the assessment remains unpaid, including accrued interest, a 2160  
certified copy of the tax commissioner's entry making the 2161  
assessment final may be filed in the office of the clerk of the 2162

court of common pleas in the county in which the employer's, 2163  
taxpayer's, ~~or~~ qualifying entity's, or electing pass-through 2164  
entity's place of business is located or the county in which the 2165  
party assessed resides. If the party assessed is not a resident 2166  
of this state, the certified copy of the entry may be filed in 2167  
the office of the clerk of the court of common pleas of Franklin 2168  
county. 2169

Immediately upon the filing of the entry, the clerk shall 2170  
enter a judgment against the party assessed in the amount shown 2171  
on the entry. The judgment shall be filed by the clerk in one of 2172  
two loose-leaf books, one entitled "special judgments for state 2173  
and school district income taxes," and the other entitled 2174  
"special judgments for qualifying entity and electing pass- 2175  
through entity taxes." The judgment shall have the same effect 2176  
as other judgments. Execution shall issue upon the judgment upon 2177  
the request of the tax commissioner, and all laws applicable to 2178  
sales on execution shall apply to sales made under the judgment. 2179

If the assessment is not paid in its entirety within sixty 2180  
days after the assessment was issued, the portion of the 2181  
assessment consisting of tax due shall bear interest at the rate 2182  
per annum prescribed by section 5703.47 of the Revised Code from 2183  
the day the tax commissioner issues the assessment until it is 2184  
paid or until it is certified to the attorney general for 2185  
collection under section 131.02 of the Revised Code, whichever 2186  
comes first. If the unpaid portion of the assessment is 2187  
certified to the attorney general for collection, the entire 2188  
unpaid portion of the assessment shall bear interest at the rate 2189  
per annum prescribed by section 5703.47 of the Revised Code from 2190  
the date of certification until the date it is paid in its 2191  
entirety. Interest shall be paid in the same manner as the tax 2192  
and may be collected by the issuance of an assessment under this 2193

section. 2194

(D) All money collected under this section shall be 2195  
considered as revenue arising from the taxes imposed by this 2196  
chapter or Chapter 5733. or 5748. of the Revised Code, as 2197  
appropriate. 2198

(E) If the party assessed files a petition for 2199  
reassessment under division (B) of this section, the person, on 2200  
or before the last day the petition may be filed, shall pay the 2201  
assessed amount, including assessed interest and assessed 2202  
penalties, if any of the following conditions exists: 2203

(1) The person files a tax return reporting Ohio adjusted 2204  
gross income, less the exemptions allowed by section 5747.025 of 2205  
the Revised Code, in an amount less than one cent, and the 2206  
reported amount is not based on the computations required under 2207  
division (A) of section 5747.01 or section 5747.025 of the 2208  
Revised Code. 2209

(2) The person files a tax return that the tax 2210  
commissioner determines to be incomplete, false, fraudulent, or 2211  
frivolous. 2212

(3) The person fails to file a tax return, and the basis 2213  
for this failure is not either of the following: 2214

(a) An assertion that the person has no nexus with this 2215  
state; 2216

(b) The computations required under division (A) of 2217  
section 5747.01 of the Revised Code or the application of 2218  
credits allowed under this chapter has the result that the 2219  
person's tax liability is less than one dollar and one cent. 2220

(F) Notwithstanding the fact that a petition for 2221

reassessment is pending, the petitioner may pay all or a portion 2222  
of the assessment that is the subject of the petition. The 2223  
acceptance of a payment by the treasurer of state does not 2224  
prejudice any claim for refund upon final determination of the 2225  
petition. 2226

If upon final determination of the petition an error in 2227  
the assessment is corrected by the tax commissioner, upon 2228  
petition so filed or pursuant to a decision of the board of tax 2229  
appeals or any court to which the determination or decision has 2230  
been appealed, so that the amount due from the party assessed 2231  
under the corrected assessment is less than the portion paid, 2232  
there shall be issued to the petitioner or to the petitioner's 2233  
assigns or legal representative a refund in the amount of the 2234  
overpayment as provided by section 5747.11 of the Revised Code, 2235  
with interest on that amount as provided by such section, 2236  
subject to section 5747.12 of the Revised Code. 2237

**Sec. 5747.132.** (A) As used in this section: 2238

(1) "Qualifying taxpayer" means a taxpayer, an employer, 2239  
~~or a qualifying entity, or an electing pass-through entity.~~ 2240

(2) "Qualifying refund overpayment" means an amount 2241  
received by a qualifying taxpayer in excess of a refund or 2242  
request for payment claimed or made by or on behalf of the 2243  
qualifying taxpayer on a return, report, or other document filed 2244  
with the tax commissioner. 2245

(B) A qualifying taxpayer is not liable for any interest 2246  
or penalty with respect to the repayment of a qualifying refund 2247  
overpayment if the taxpayer pays the entire amount of the 2248  
overpayment to the tax commissioner not later than thirty days 2249  
after the taxpayer receives an assessment for it. If the 2250

taxpayer does not pay the entire amount of the overpayment to 2251  
the commissioner within the time prescribed by this section, 2252  
interest shall accrue on the amount of the deficiency pursuant 2253  
to section 5747.13 of the Revised Code from the day the 2254  
commissioner issues the assessment until the deficiency is paid. 2255

**Sec. 5747.14.** If the tax commissioner finds that an 2256  
employer, a qualifying entity, an electing pass-through entity, 2257  
or a taxpayer liable for any tax imposed under section 5733.41, 2258  
this chapter, or Chapter 5748. of the Revised Code is about to 2259  
depart from the state, to remove the employer's, qualifying 2260  
entity's, electing pass-through entity's, or taxpayer's property 2261  
therefrom, to conceal the employer's, qualifying entity's, 2262  
electing pass-through entity's, or taxpayer's self or the 2263  
employer's, qualifying entity's, electing pass-through entity's, 2264  
or taxpayer's property, or to do any other act tending to 2265  
prejudice or render wholly or partly ineffectual proceedings to 2266  
collect such tax, unless such proceedings are brought without 2267  
delay, or if the commissioner believes that the collection of 2268  
the amount due from any employer, qualifying entity, electing 2269  
pass-through entity, or taxpayer will be jeopardized by delay, 2270  
the commissioner shall give notice of such findings to such 2271  
employer, qualifying entity, electing pass-through entity, or 2272  
taxpayer together with the demand for an immediate return and 2273  
immediate payment of such tax, with an assessment and penalty, 2274  
if applicable as provided in section 5747.13 of the Revised 2275  
Code, whereupon such tax shall become immediately due and 2276  
payable. In such cases the commissioner may immediately file the 2277  
commissioner's entry with the clerk of the court of common pleas 2278  
in the same manner and with the same effect as provided in 2279  
section 5747.13 of the Revised Code, provided that if such 2280  
employer, qualifying entity, electing pass-through entity, or 2281

taxpayer, within five days from notice of the assessment, 2282  
furnishes evidence satisfactory to the commissioner, under the 2283  
rules prescribed by the commissioner, that the employer, 2284  
qualifying entity, electing pass-through entity, or taxpayer is 2285  
not in default in making returns or paying or collecting any tax 2286  
prescribed by this chapter or that the employer, qualifying 2287  
entity, electing pass-through entity, or taxpayer will duly 2288  
return and pay, or post bond satisfactory to the commissioner 2289  
conditioned upon payment of the tax finally determined to be 2290  
due, such tax shall not be payable prior to the time and manner 2291  
otherwise fixed for payment under section 5747.13 of the Revised 2292  
Code, and the person assessed shall be restored to the rights 2293  
granted the person under such section. Upon satisfaction of the 2294  
assessment the commissioner shall order the bond canceled, 2295  
securities released, and judgment vacated. 2296

**Sec. 5747.15.** (A) In addition to any other penalty imposed 2297  
by this chapter or Chapter 5703. of the Revised Code, the 2298  
following penalties shall apply: 2299

(1) If a taxpayer, a qualifying entity, an electing pass- 2300  
through entity, or an employer required to file any report or 2301  
return, including an informational notice, report, or return, 2302  
under this chapter fails to make and file the report or return 2303  
within the time prescribed, including any extensions of time 2304  
granted by the tax commissioner, a penalty may be imposed not 2305  
exceeding the greater of fifty dollars per month or fraction of 2306  
a month, not to exceed five hundred dollars, or five per cent 2307  
per month or fraction of a month, not to exceed fifty per cent, 2308  
of the sum of the taxes required to be shown on the report or 2309  
return, for each month or fraction of a month elapsing between 2310  
the due date, including extensions of the due date, and the date 2311  
on which filed. 2312

(2) If a taxpayer fails to pay any amount of tax required 2313  
to be paid under section 5733.41 or Chapters 5747. or 5748. of 2314  
the Revised Code, except estimated tax under section 5747.09 or 2315  
5747.43 of the Revised Code, by the dates prescribed for 2316  
payment, a penalty may be imposed not exceeding twice the 2317  
applicable interest charged under division (G) of section 2318  
5747.08 of the Revised Code for the delinquent payment. 2319

(3) (a) If an employer fails to pay any amount of tax 2320  
imposed by section 5747.02 of the Revised Code and required to 2321  
be paid under this chapter by the dates prescribed for payment, 2322  
a penalty may be imposed not exceeding the sum of ten per cent 2323  
of the delinquent payment plus twice the interest charged under 2324  
division (F) (5) of section 5747.07 of the Revised Code for the 2325  
delinquent payment. 2326

(b) If a qualifying entity or an electing pass-through 2327  
entity fails to pay any amount of tax imposed by section 2328  
5733.41, 5747.38, or 5747.41 of the Revised Code and required to 2329  
be paid under this chapter by the dates prescribed for payment, 2330  
a penalty may be imposed not exceeding the sum of ten per cent 2331  
of the delinquent payment plus twice the applicable interest 2332  
charged under division (G) of section 5747.08 of the Revised 2333  
Code for the delinquent payment. 2334

(4) (a) If an employer withholds from employees the tax 2335  
imposed by section 5747.02 of the Revised Code and fails to 2336  
remit the tax withheld to the state as required by this chapter 2337  
on or before the dates prescribed for payment, a penalty may be 2338  
imposed not exceeding fifty per cent of the delinquent payment. 2339

(b) If a qualifying entity withholds any amount of tax 2340  
imposed under section 5747.41 of the Revised Code from an 2341  
individual's qualifying amount and fails to remit that amount to 2342



the state as required by sections 5747.42 to 5747.453 of the Revised Code on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(5) If a taxpayer, a qualifying entity, an electing pass-through entity, or an employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax levied by section 5733.41, 5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised Code, a penalty of up to five hundred dollars may be imposed.

(6) If a taxpayer ~~or,~~ a qualifying entity, or an electing pass-through entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(7) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed under division (A) (7) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5747.13 of the Revised Code as tax, penalty, or interest imposed under section 5733.41, 5747.02, 5747.38, or 5747.41 of the Revised Code, without regard to whether the person making

the claim is otherwise subject to the provisions of this chapter 2373  
or Chapter 5733. of the Revised Code, and without regard to any 2374  
time limitation for the assessment imposed by division (A) of 2375  
section 5747.13 of the Revised Code. 2376

(B) For purposes of this section, the taxes required to be 2377  
shown on the return shall be reduced by the amount of any part 2378  
of the taxes paid on or before the date, including any 2379  
extensions of the date, prescribed for filing the return. 2380

(C) Any penalty imposed under this section shall be in 2381  
addition to all other penalties imposed under this section. All 2382  
or part of any penalty imposed under this section may be abated 2383  
by the commissioner. All or part of any penalty imposed under 2384  
this section may be abated by the commissioner if the taxpayer, 2385  
qualifying entity, electing pass-through entity, or employer 2386  
shows that the failure to comply with the provisions of this 2387  
chapter is due to reasonable cause and not willful neglect. 2388

**Sec. 5747.38.** (A) As used in this section and section 2389  
5747.39 of the Revised Code and in other sections of Chapter 2390  
5747. of the Revised Code in the context of the tax imposed 2391  
under this section: 2392

(1) "Electing pass-through entity" means a qualifying 2393  
pass-through entity that elects to be subject to the tax levied 2394  
under this section for a taxable year pursuant to division (C) 2395  
of this section. 2396

(2) "Owner" means a person that is a partner, member, 2397  
shareholder, or investor in an electing pass-through entity for 2398  
any portion of the taxable year. 2399

(3) "Income" means the sum of owners' distributive shares 2400  
of the income, gain, expense, or loss of an electing pass- 2401

through entity for the taxable year, as reported for federal 2402  
income tax purposes. 2403

(4) "Qualifying taxable income" means the sum of the 2404  
following: 2405

(a) The portion of an electing pass-through entity's 2406  
income that is business income, subject to the applicable 2407  
adjustments in divisions (A)(2) to (7) of section 5733.40 of the 2408  
Revised Code, multiplied by the fraction described in division 2409  
(B)(1) of that section; 2410

(b) The portion of the electing pass-through entity's 2411  
income that is nonbusiness income allocated to this state under 2412  
section 5747.20 of the Revised Code. 2413

(B) For the same purposes for which the tax is levied 2414  
under section 5747.02 of the Revised Code, a tax is hereby 2415  
levied on each electing pass-through entity on the entity's 2416  
qualifying taxable income for the taxable year, at the following 2417  
rates: 2418

(1) For an electing pass-through entity's taxable year 2419  
that begins in 2022, five per cent; 2420

(2) For an electing pass-through entity's taxable year 2421  
that begins in 2023 and in any year thereafter, the rate equal 2422  
to the tax rate imposed on taxable business income under 2423  
division (A)(4)(a) of section 5747.02 of the Revised Code 2424  
applicable to that taxable year. 2425

(C) A pass-through entity that is not a disregarded 2426  
entity, as defined in section 5733.01 of the Revised Code, may 2427  
elect to be subject to the tax levied under this section by 2428  
filing with the tax commissioner a form prescribed by the 2429  
commissioner making such election on or before the deadline to 2430

file the return under section 5747.42 of the Revised Code for 2431  
the taxable year. Such election applies only to the taxable year 2432  
for which the election is made and is, once made, irrevocable 2433  
for that year. 2434

(D) The tax levied under this section shall be calculated 2435  
without regard to any deductions or credits otherwise permitted 2436  
to be claimed by an owner of the electing pass-through entity in 2437  
computing the owner's aggregate tax liability under section 2438  
5747.02 of the Revised Code. 2439

(E) The tax levied under this section is intended to 2440  
comply with the provisions of internal revenue service notice 2441  
2020-75 in which such tax paid by an electing pass-through 2442  
entity is deductible to the entity for federal income tax 2443  
purposes. 2444

(F) The tax commissioner shall adopt rules to administer 2445  
the tax levied under this section. Such rules shall include a 2446  
description of how the adjustments to income under divisions (A) 2447  
(36) and (S) (15) of section 5747.01 of the Revised Code and the 2448  
credit under section 5747.39 of the Revised Code apply to direct 2449  
or indirect owners of an electing pass-through entity based on 2450  
various ownership structures. Any rule adopted under this 2451  
section is not a regulatory restriction for the purpose of 2452  
section 121.95 of the Revised Code. 2453

**Sec. 5747.39.** There is hereby allowed a refundable credit 2454  
against a taxpayer's aggregate tax liability under section 2455  
5747.02 of the Revised Code for a taxpayer who is an owner of an 2456  
electing pass-through entity. The credit shall equal the owner's 2457  
proportionate share of the tax levied under section 5747.38 of 2458  
the Revised Code remitted by the owner's electing pass-through 2459  
entity for the taxable year. 2460

The credit shall be claimed for the taxpayer's taxable 2461  
year that includes the last day of the electing pass-through 2462  
entity's taxable year for which the tax levied under that 2463  
section was paid and in the order required under section 5747.98 2464  
of the Revised Code. If the credit exceeds the aggregate amount 2465  
of tax otherwise due, the excess shall be refunded to the 2466  
taxpayer. 2467

The tax commissioner may request that a taxpayer claiming 2468  
a credit under this section furnish information as is necessary 2469  
to support the claim for the credit under this section, and no 2470  
credit shall be allowed unless the requested information is 2471  
provided. 2472

**Sec. 5747.41.** For the same purposes for which the tax is 2473  
levied under section 5747.02 of the Revised Code, there is 2474  
hereby levied a withholding tax on every qualifying pass-through 2475  
entity having at least one qualifying investor who is an 2476  
individual and on every qualifying trust having at least one 2477  
qualifying beneficiary who is an individual. The withholding tax 2478  
imposed by this section is imposed on the sum of the adjusted 2479  
qualifying amounts of a qualifying pass-through entity's 2480  
qualifying investors who are individuals and on the sum of the 2481  
adjusted qualifying amounts of a qualifying trust's qualifying 2482  
beneficiaries, at a rate equal to the tax rate imposed on 2483  
taxable business income under division (A) (4) (a) of section 2484  
5747.02 of the Revised Code. 2485

The tax imposed by this section applies only if the 2486  
qualifying entity has nexus with this state under the 2487  
Constitution of the United States for any portion of the 2488  
qualifying entity's qualifying taxable year, and the sum of the 2489  
qualifying entity's adjusted qualifying amounts exceeds one 2490

thousand dollars for the qualifying entity's qualifying taxable year. 2491  
2492

The tax imposed under this section does not apply to a 2493  
qualifying pass-through entity that makes an election under 2494  
division (C) of section 5747.38 of the Revised Code to be 2495  
subject to the tax levied under that section for the entity's 2496  
qualifying taxable year. 2497

**Sec. 5747.42.** (A) In addition to the other returns 2498  
required to be filed and other remittances required to be made 2499  
pursuant to this chapter, every qualifying entity or electing 2500  
pass-through entity that is subject to the tax imposed by 2501  
section 5733.41, 5747.38, or 5747.41 of the Revised Code shall 2502  
file an annual return as follows: 2503

(1) For a qualifying entity, on or before the fifteenth 2504  
day of the fourth month following the end of the ~~qualifying~~ 2505  
entity's qualifying taxable year, ~~and;~~ 2506

(2) For an electing pass-through entity, on or before the 2507  
fifteenth day of April following the end of the entity's taxable 2508  
year that ends in the preceding calendar year. 2509

Each entity shall also remit to the tax commissioner, with 2510  
the remittance made payable to the treasurer of state, the 2511  
amount of the taxes shown to be due on the return, less the 2512  
amount paid for the taxable year on a declaration of estimated 2513  
tax report filed by the taxpayer as provided by section 5747.43 2514  
of the Revised Code. Remittance shall be made in the form 2515  
prescribed by the tax commissioner, including electronic funds 2516  
transfer if required by section 5747.44 of the Revised Code. 2517

A domestic qualifying entity shall not dissolve, and a 2518  
foreign qualifying entity shall not withdraw or retire from 2519

business in this state, without filing the tax returns and 2520  
paying the taxes charged for the year in which such dissolution 2521  
or withdrawal occurs. 2522

(B) The tax commissioner shall furnish qualifying entities 2523  
or electing pass-through entities, upon request, copies of the 2524  
forms prescribed by the commissioner for the purpose of making 2525  
the returns required by sections 5747.42 to 5747.453 of the 2526  
Revised Code. 2527

(C) The annual return required by this section shall be 2528  
signed by the ~~qualifying applicable~~ entity's trustee or other 2529  
fiduciary, or president, vice-president, secretary, treasurer, 2530  
general manager, general partner, superintendent, or managing 2531  
agent in this state. The annual return shall contain the facts, 2532  
figures, computations, and attachments that result in the tax 2533  
charged by section 5733.41, 5747.38, or 5747.41 of the Revised 2534  
Code. Each ~~qualifying~~ entity also shall file with its annual 2535  
return all of the following: 2536

(1) ~~The~~ In the case of the tax charged by section 5733.41 2537  
or 5747.41 of the Revised Code, the full name and address of 2538  
each qualifying investor or qualifying beneficiary unless the 2539  
qualifying entity submits such information in accordance with 2540  
division (D) of this section; 2541

(2) ~~The~~ In the case of the tax charged by section 5733.41 2542  
or 5747.41 of the Revised Code, the social security number, 2543  
federal employer identification number, or other identifying 2544  
number of each qualifying investor or qualifying beneficiary, 2545  
unless the taxpayer submits that information in accordance with 2546  
division (D) of this section; 2547

(3) In the case of the tax charged by section 5747.38 of 2548

the Revised Code, the full name and address and the social 2549  
security number, federal employer identification number, or 2550  
other identifying number of each owner of the electing pass- 2551  
through entity, unless the entity submits such information in 2552  
accordance with division (D) of this section; 2553

(4) The amount of tax imposed by sections 5733.41 and 2554  
5747.41 or by section 5747.38 of the Revised Code, and the 2555  
amount of the tax paid by the ~~qualifying~~ entity, for the 2556  
~~qualifying~~ applicable taxable year covered by the annual return; 2557

~~(4)~~ (5) The amount of tax imposed by sections 5733.41 and 2558  
5747.41 or by section 5747.38 of the Revised Code that is 2559  
attributable to each qualifying investor ~~or,~~ qualifying 2560  
beneficiary, or owner, as applicable, unless the ~~qualifying~~ 2561  
entity submits this information in accordance with division (D) 2562  
of this section. 2563

(D) On the date the annual return is due, including 2564  
extensions of time, if any, the ~~qualifying~~ applicable entity may 2565  
be required by rule to transmit electronically or by magnetic 2566  
media the information set forth in division (C) of this section. 2567  
The tax commissioner may adopt rules governing the format for 2568  
the transmission of such information. The tax commissioner may 2569  
exempt a ~~qualifying~~ an entity or a class of ~~qualifying~~ entities 2570  
from the requirements imposed by this division. 2571

(E) Upon good cause shown, the tax commissioner may extend 2572  
the period for filing any return required to be filed under this 2573  
section or section 5747.43 or 5747.44 of the Revised Code and 2574  
for transmitting any information required to be transmitted 2575  
under those sections. The tax commissioner may adopt rules 2576  
relating to extensions of time to file and to transmit. At the 2577  
time a ~~qualifying~~ an entity pays any tax imposed under section 2578



5733.41, 5747.38, or 5747.41 of the Revised Code or estimated 2579  
tax as required under section 5747.43 of the Revised Code, the 2580  
~~qualifying~~ entity also shall pay interest computed at the rate 2581  
per annum prescribed by section 5703.47 of the Revised Code on 2582  
that tax or estimated tax, from the time the tax or estimated 2583  
tax originally was required to be paid, without consideration of 2584  
any filing extensions, to the time of actual payment. Nothing in 2585  
this division shall be construed to abate, modify, or limit the 2586  
imposition of any penalties imposed for the failure to timely 2587  
pay taxes under this chapter or Chapter 5733. of the Revised 2588  
Code without consideration of any filing extensions. 2589

**Sec. 5747.43.** (A) As used in this section: 2590

(1) "Estimated taxes" means the amount that a qualifying 2591  
entity or electing pass-through entity estimates to be the sum 2592  
of its liability under sections 5733.41 and 5747.41 or section 2593  
5747.38 of the Revised Code for its current qualifying taxable 2594  
year or taxable year, as applicable. 2595

(2) "Tax liability" means the total of the taxes and 2596  
withholding taxes due under sections 5733.41 and 5747.41 of the 2597  
Revised Code or the tax due under section 5747.38 of the Revised 2598  
Code for the ~~qualifying applicable~~ taxable year prior to 2599  
applying any estimated tax payment or refund from another year. 2600

(3) "Taxes paid" includes payments of estimated taxes made 2601  
under division (C) of this section and tax refunds applied by 2602  
the qualifying entity or electing pass-through entity in payment 2603  
of estimated taxes. 2604

(4) "Required installment" means a payment equal to 2605  
twenty-five per cent of the lesser of the following: 2606

(a) Ninety per cent of the tax liability for the 2607

qualifying taxable year; 2608

(b) One hundred per cent of the tax liability shown on the 2609  
return of a qualifying entity or an electing pass-through entity 2610  
for the preceding ~~qualifying~~-taxable year. 2611

Division (A) (4) (b) of this section applies only if the 2612  
~~qualifying~~-entity filed a return under section 5747.42 of the 2613  
Revised Code for the preceding ~~qualifying~~-taxable year and if 2614  
the preceding ~~qualifying~~-taxable year was a twelve-month taxable 2615  
year. 2616

(B) In addition to the return required to be filed 2617  
pursuant to section 5747.42 of the Revised Code, each qualifying 2618  
entity or electing pass-through entity that is subject to the 2619  
tax imposed under section 5733.41 and to the withholding tax 2620  
imposed by section 5747.41 of the Revised Code or that is 2621  
subject to the tax imposed under section 5747.38 of the Revised 2622  
Code shall file an estimated tax return and pay a portion of the 2623  
~~qualifying~~-entity's tax liability for its ~~qualifying~~-taxable 2624  
year. The portion of those taxes required to be paid, and the 2625  
last day prescribed for payment thereof, shall be as prescribed 2626  
by divisions (B) (1), (2), (3), and (4) of this section: 2627

(1) On or before the fifteenth day of the month following 2628  
the last day of the first quarter of the ~~qualifying~~-entity's 2629  
~~qualifying~~-taxable year, twenty-two and one-half per cent of the 2630  
~~qualifying~~-entity's estimated tax liability for that taxable 2631  
year; 2632

(2) On or before the fifteenth day of the month following 2633  
the last day of the second quarter of the ~~qualifying~~-entity's 2634  
~~qualifying~~-taxable year, forty-five per cent of the ~~qualifying~~- 2635  
entity's estimated tax liability for that taxable year; 2636

(3) On or before the fifteenth day of the month following 2637  
the last day of the third quarter of the ~~qualifying~~ entity's 2638  
~~qualifying~~ taxable year, sixty-seven and one-half per cent of 2639  
the ~~qualifying~~ entity's estimated tax liability for that taxable 2640  
year; 2641

(4) On or before the fifteenth day of the month following 2642  
the last day of the fourth quarter of the ~~qualifying~~ entity's 2643  
~~qualifying~~ taxable year, ninety per cent of the ~~qualifying~~ 2644  
entity's estimated tax liability for that taxable year. 2645

Payments of estimated taxes shall be made payable to the 2646  
treasurer of state. 2647

(C) If a payment of estimated taxes is not paid in the 2648  
full amount required under division (B) of this section, a 2649  
penalty shall be added to the taxes charged for the qualifying 2650  
taxable year or taxable year, as applicable, unless the 2651  
underpayment is due to reasonable cause as described in division 2652  
(D) of this section. The penalty shall accrue at the rate per 2653  
annum prescribed by section 5703.47 of the Revised Code upon the 2654  
amount of underpayment from the day the estimated payment was 2655  
required to be made to the day the payment is made. 2656

The amount of the underpayment upon which the penalty 2657  
shall accrue shall be determined as follows: 2658

(1) For the first payment of estimated taxes each year, 2659  
the required installment less the amount of taxes paid by the 2660  
date prescribed for that payment; 2661

(2) For the second payment of estimated taxes each year, 2662  
the required installment less the amount of taxes paid by the 2663  
date prescribed for that payment; 2664

(3) For the third payment of estimated taxes each year, 2665

the required installment less the amount of taxes paid by the 2666  
date prescribed for that payment; 2667

(4) For the fourth payment of estimated taxes each year, 2668  
the required installment less the amount of taxes paid by the 2669  
date prescribed for that payment. 2670

For the purposes of this section, a payment of estimated 2671  
taxes on or before any payment date shall be considered a 2672  
payment of a previous underpayment only to the extent the 2673  
payment of estimated taxes exceeds the amount of the payment 2674  
presently required to be paid to avoid any penalty. 2675

The penalty imposed under division (C) of this section is 2676  
in lieu of any other interest charge or penalty imposed for 2677  
failure to file a declaration of estimated tax report and make 2678  
estimated payments as required by this section. 2679

(D) An underpayment of estimated taxes determined under 2680  
division (C) of this section is due to reasonable cause if any 2681  
of the following apply: 2682

(1) The amount of tax that was paid equals at least ninety 2683  
per cent of the tax liability for the current ~~qualifying~~-taxable 2684  
year, determined by annualizing the income received during that 2685  
year up to the end of the month immediately preceding the month 2686  
in which the payment is due; 2687

(2) The amount of tax liability that was paid equals at 2688  
least ninety per cent of the tax liability for the current 2689  
~~qualifying~~-taxable year; 2690

(3) The amount of tax liability that was paid equals at 2691  
least one hundred per cent of the tax liability shown on the 2692  
return of the ~~qualifying~~-entity for the preceding ~~qualifying~~- 2693  
taxable year, provided that the immediately preceding ~~qualifying~~- 2694

taxable year reflected a period of twelve months and the 2695  
~~qualifying~~ entity filed a return under section 5747.42 of the 2696  
Revised Code for that year. 2697

(E) (1) Divisions (B) and (C) of this section do not apply 2698  
for a taxable year if either of the following applies to the 2699  
~~qualifying~~ entity: 2700

(a) For the immediately preceding taxable year, the entity 2701  
computes in good faith and in a reasonable manner that the sum 2702  
of its adjusted qualifying amounts or its qualifying taxable 2703  
income, as applicable, is ten thousand dollars or less. 2704

(b) For the taxable year the entity computes in good faith 2705  
and in a reasonable manner that the sum of its adjusted 2706  
qualifying amounts or its qualifying taxable income, as 2707  
applicable, is ten thousand dollars or less. 2708

(2) Notwithstanding any other provision of Title LVII of 2709  
the Revised Code to the contrary, the entity shall establish by 2710  
a preponderance of the evidence that its computation of the 2711  
adjusted qualifying amounts or qualifying taxable income, as 2712  
applicable, for the immediately preceding taxable year and the 2713  
taxable year was, in fact, made in good faith and in a 2714  
reasonable manner. 2715

(F) The tax commissioner may waive the requirement for 2716  
filing a declaration of estimated taxes for any class of 2717  
qualifying entities if the commissioner finds the waiver is 2718  
reasonable and proper in view of administrative costs and other 2719  
factors. 2720

(G) Estimated taxes paid by a qualifying entity or an 2721  
electing pass-through entity may be applied to satisfy the 2722  
entity's tax liability under section 5733.41, 5747.38, or 2723

5747.41 of the Revised Code. Nothing in this section authorizes 2724  
such an entity to apply estimated taxes paid against more than 2725  
one tax. 2726

**Sec. 5747.44.** (A) If a qualifying entity's or an electing 2727  
pass-through entity's total liability for taxes imposed under 2728  
sections 5733.41 and 5747.41 or under section 5747.38 of the 2729  
Revised Code exceeds one hundred eighty thousand dollars for the 2730  
second preceding taxable year or qualifying taxable year, as 2731  
applicable, the ~~qualifying~~ entity shall make all payments 2732  
required under sections 5747.42 and 5747.43 or under section 2733  
5747.38 of the Revised Code by electronic funds transfer as 2734  
prescribed by this section and rules adopted by the treasurer of 2735  
state under section 113.061 of the Revised Code. 2736

The tax commissioner shall notify each qualifying entity 2737  
and electing pass-through entity required to remit taxes by 2738  
electronic funds transfer of the entity's obligation to do so, 2739  
shall maintain an updated list of those entities, and shall 2740  
provide the list and any additions thereto or deletions 2741  
therefrom to the treasurer of state. Failure by the tax 2742  
commissioner to notify a ~~qualifying~~ an entity subject to this 2743  
section to remit taxes by electronic funds transfer does not 2744  
relieve the ~~qualifying~~ entity of its obligation to remit taxes 2745  
by electronic funds transfer. 2746

(B) Except as otherwise provided in this division, the 2747  
payment of taxes by electronic funds transfer does not affect a 2748  
qualifying entity's or an electing pass-through entity's 2749  
obligation to file the returns required under sections 5747.42 2750  
and 5747.43 of the Revised Code. The treasurer of state, in 2751  
consultation with the tax commissioner, may adopt rules in 2752  
addition to the rules adopted under section 113.061 of the 2753

Revised Code governing the format for filing returns by 2754  
qualifying entities and electing pass-through entities that 2755  
remit taxes by electronic funds transfer. The rules may provide 2756  
for the filing of returns at less frequent intervals than 2757  
otherwise required if the treasurer of state and the tax 2758  
commissioner determine that remittance by electronic funds 2759  
transfer warrants less frequent filing of returns. 2760

(C) A qualifying entity or an electing pass-through entity 2761  
required by this section to remit taxes by electronic funds 2762  
transfer may apply to the treasurer of state in the manner 2763  
prescribed by the treasurer of state to be excused from that 2764  
requirement. The treasurer of state may excuse the ~~qualifying~~ 2765  
entity from remittance by electronic funds transfer for good 2766  
cause shown for the period of time requested by the ~~qualifying~~ 2767  
entity or for a portion of that period. The treasurer of state 2768  
shall notify the tax commissioner and the ~~qualifying~~ entity of 2769  
the treasurer of state's decision as soon as is practicable. 2770

(D) If a qualifying entity or an electing pass-through 2771  
entity required by this section to remit taxes by electronic 2772  
funds transfer remits those taxes by some means other than by 2773  
electronic funds transfer as prescribed by this section and the 2774  
rules adopted by the treasurer of state, and the treasurer of 2775  
state determines that such failure was not due to reasonable 2776  
cause or was due to willful neglect, the treasurer of state 2777  
shall notify the tax commissioner of the failure to remit by 2778  
electronic funds transfer and shall provide the commissioner 2779  
with any information used in making that determination. The tax 2780  
commissioner may collect an additional charge by assessment in 2781  
the manner prescribed by section 5747.13 of the Revised Code. 2782  
The additional charge shall equal five per cent of the amount of 2783  
the taxes required to be paid by electronic funds transfer, but 2784

shall not exceed five thousand dollars. Any additional charge 2785  
assessed under this section is in addition to any other penalty 2786  
or charge imposed under this chapter or Chapter 5733. of the 2787  
Revised Code, and shall be considered as revenue arising from 2788  
the taxes imposed under sections 5733.41 and 5747.41 or under 2789  
section 5747.38 of the Revised Code. The tax commissioner may 2790  
remit all or a portion of such a charge and may adopt rules 2791  
governing such remission. 2792

No additional charge shall be assessed under this division 2793  
against a qualifying entity or an electing pass-through entity 2794  
that has been notified of its obligation to remit taxes under 2795  
this section and that remits its first two tax payments after 2796  
such notification by some means other than electronic funds 2797  
transfer. The additional charge may be assessed upon the 2798  
remittance of any subsequent tax payment that the ~~qualifying~~ 2799  
entity remits by some means other than electronic funds 2800  
transfer. 2801

**Sec. 5747.45.** (A) A qualifying entity's qualifying taxable 2802  
year is the same as its taxable year for federal income tax 2803  
purposes. If a qualifying entity's taxable year is changed for 2804  
federal income tax purposes, the qualifying taxable year for 2805  
purposes of this chapter and sections 5733.40 and 5733.41 of the 2806  
Revised Code is changed accordingly. 2807

(B) A qualifying entity's and an electing pass-through 2808  
entity's method of accounting shall be the same as its method of 2809  
accounting for federal income tax purposes. In the absence of 2810  
any method of accounting for federal income tax purposes, income 2811  
shall be computed under such method as in the opinion of the tax 2812  
commissioner clearly reflects income. 2813

If a qualifying entity's or an electing pass-through 2814



entity's method of accounting is changed for federal income tax 2815  
purposes, its method of accounting for purposes of this chapter 2816  
shall be changed accordingly. 2817

(C) If any of the facts, figures, computations, or 2818  
attachments required in a qualifying entity's or an electing 2819  
pass-through entity's annual report to determine the taxes 2820  
imposed by section 5733.41, 5747.38, or 5747.41 of the Revised 2821  
Code must be altered as the result of an adjustment to the 2822  
~~qualifying~~ entity's federal income tax return, whether the 2823  
adjustment is initiated by the ~~qualifying~~ entity or the internal 2824  
revenue service, and such alteration affects the ~~qualifying~~ 2825  
entity's tax liability under ~~one or both~~ any of those sections, 2826  
the ~~qualifying~~ entity shall file an amended report with the tax 2827  
commissioner in such form as the commissioner requires. The 2828  
amended report shall be filed not later than one year after the 2829  
adjustment has been agreed to or finally determined for federal 2830  
income tax purposes or any federal income tax deficiency or 2831  
refund, or the abatement or credit resulting therefrom, has been 2832  
assessed or paid, whichever occurs first. 2833

(1) In the case of an underpayment, the amended report 2834  
shall be accompanied by payment of an additional tax and 2835  
interest due and is a report subject to assessment under section 2836  
5747.13 of the Revised Code for the purpose of assessing any 2837  
additional tax due under this division, together with any 2838  
applicable penalty and interest. It shall not reopen those 2839  
facts, figures, computations, or attachments from a previously 2840  
filed report no longer subject to assessment that are not 2841  
affected, either directly or indirectly, by the adjustment to 2842  
the qualifying entity's or electing pass-through entity's 2843  
federal income tax return. 2844

(2) In the case of an overpayment, an application for  
refund may be filed under this division within the one-year  
period prescribed for filing the amended report even if it is  
filed beyond the period prescribed in division (B) of section  
5747.11 of the Revised Code if it otherwise conforms to the  
requirements of that section. An application filed under this  
division shall claim refund of overpayments resulting from  
alterations to only those facts, figures, computations, or  
attachments required in the qualifying entity's or electing  
pass-through entity's annual report that are affected, either  
directly or indirectly, by the adjustment to the ~~qualifying~~  
entity's federal income tax return unless it is also filed  
within the time prescribed in division (B) of section 5747.11 of  
the Revised Code. It shall not reopen those facts, figures,  
computations, or attachments that are not affected, either  
directly or indirectly, by the adjustment to the qualifying  
entity's federal income tax return.

**Sec. 5747.451.** (A) The mere retirement from business or  
voluntary dissolution of a domestic or foreign qualifying entity  
or electing pass-through entity does not exempt it from the  
requirements to make reports as required under sections 5747.42  
to 5747.44 or to pay the taxes imposed under section 5733.41, 5747.38,  
5747.38, or 5747.41 of the Revised Code. If any qualifying  
entity or electing pass-through entity subject to the taxes  
imposed under section 5733.41, 5747.38, or 5747.41 of the  
Revised Code sells its business or stock of merchandise or quits  
its business, the taxes required to be paid prior to that time,  
together with any interest or penalty thereon, become due and  
payable immediately, and the ~~qualifying~~ entity shall make a  
final return within fifteen days after the date of selling or  
quitting business. The successor of the qualifying entity or

electing pass-through entity shall withhold a sufficient amount 2876  
of the purchase money to cover the amount of such taxes, 2877  
interest, and penalties due and unpaid until the ~~qualifying~~ 2878  
entity produces a receipt from the tax commissioner showing that 2879  
the taxes, interest, and penalties have been paid, or a 2880  
certificate indicating that no taxes are due. If the purchaser 2881  
of the business or stock of goods fails to withhold purchase 2882  
money, the purchaser is personally liable for the payment of the 2883  
taxes, interest, and penalties accrued and unpaid during the 2884  
operation of the business by the ~~qualifying~~ entity. If the 2885  
amount of those taxes, interest, and penalty unpaid at the time 2886  
of the purchase exceeds the total purchase money, the tax 2887  
commissioner may adjust the ~~qualifying~~ entity's liability for 2888  
those taxes, interest, and penalty, or adjust the responsibility 2889  
of the purchaser to pay that liability, in a manner calculated 2890  
to maximize the collection of those liabilities. 2891

(B) Annually, on the last day of each qualifying taxable 2892  
year of a qualifying entity or taxable year of an electing pass- 2893  
through entity, the taxes imposed under section 5733.41,  2894  
5747.38, or 5747.41 of the Revised Code, together with any 2895  
penalties subsequently accruing thereon, become a lien on all 2896  
property in this state of the ~~qualifying~~ entity, whether such 2897  
property is employed by the ~~qualifying~~ entity in the prosecution 2898  
of its business or is in the hands of an assignee, trustee, or 2899  
receiver for the benefit of the ~~qualifying~~ entity's creditors 2900  
and investors. The lien shall continue until those taxes, 2901  
together with any penalties subsequently accruing, are paid. 2902

Upon failure of such a qualifying entity or an electing 2903  
pass-through entity to pay those taxes on the day fixed for 2904  
payment, the treasurer of state shall thereupon notify the tax 2905  
commissioner, and the commissioner may file in the office of the 2906

county recorder in each county in this state in which the 2907  
~~qualifying~~ entity owns or has a beneficial interest in real 2908  
estate, notice of the lien containing a brief description of 2909  
such real estate. No fee shall be charged for such a filing. The 2910  
lien is not valid as against any mortgagee, purchaser, or 2911  
judgment creditor whose rights have attached prior to the time 2912  
the notice is so filed in the county in which the real estate 2913  
which is the subject of such mortgage, purchase, or judgment 2914  
lien is located. The notice shall be recorded in the official 2915  
records kept by the county recorder and indexed under the name 2916  
of the ~~qualifying~~ entity charged with the tax. When the tax, 2917  
together with any penalties subsequently accruing thereon, have 2918  
been paid, the tax commissioner shall furnish to the ~~qualifying~~ 2919  
entity an acknowledgment of such payment that the ~~qualifying~~ 2920  
entity may record with the county recorder of each county in 2921  
which notice of such lien has been filed, for which recording 2922  
the county recorder shall charge and receive a fee of two 2923  
dollars. 2924

(C) In addition to all other remedies for the collection 2925  
of any taxes or penalties due under law, whenever any taxes, 2926  
interest, or penalties due from any qualifying entity or 2927  
electing pass-through entity under section 5733.41 of the 2928  
Revised Code or this chapter have remained unpaid for a period 2929  
of ninety days, or whenever any qualifying entity or electing 2930  
pass-through entity has failed for a period of ninety days to 2931  
make any report or return required by law, or to pay any penalty 2932  
for failure to make or file such report or return, the attorney 2933  
general, upon the request of the tax commissioner, shall file a 2934  
petition in the court of common pleas in the county of the state 2935  
in which such ~~qualifying~~ entity has its principal place of 2936  
business for a judgment for the amount of the taxes, interest, 2937

or penalties appearing to be due, the enforcement of any lien in 2938  
favor of the state, and an injunction to restrain such 2939  
~~qualifying~~ entity and its officers, directors, and managing 2940  
agents from the transaction of any business within this state, 2941  
other than such acts as are incidental to liquidation or winding 2942  
up, until the payment of such taxes, interest, and penalties, 2943  
and the costs of the proceeding fixed by the court, or the 2944  
making and filing of such report or return. 2945

The petition shall be in the name of the state. Any of the 2946  
qualifying entities or electing pass-through entities having its 2947  
principal places of business in the county may be joined in one 2948  
suit. On the motion of the attorney general, the court of common 2949  
pleas shall enter an order requiring all defendants to answer by 2950  
a day certain, and may appoint a special master commissioner to 2951  
take testimony, with such other power and authority as the court 2952  
confers, and permitting process to be served by registered mail 2953  
and by publication in a newspaper of general circulation in the 2954  
county, which publication need not be made more than once, 2955  
setting forth the name of each delinquent ~~qualifying~~ entity, the 2956  
matter in which the ~~qualifying~~ entity is delinquent, the names 2957  
of its officers, directors, and managing agents, if set forth in 2958  
the petition, and the amount of any taxes, fees, or penalties 2959  
claimed to be owing by the ~~qualifying~~ entity. 2960

All or any of the trustees or other fiduciaries, officers, 2961  
directors, investors, beneficiaries, or managing agents of any 2962  
qualifying entity or electing pass-through entity may be joined 2963  
as defendants with ~~the qualifying~~ such entity. 2964

If it appears to the court upon hearing that any 2965  
qualifying entity or electing pass-through entity that is a 2966  
party to the proceeding is indebted to the state for taxes 2967

imposed under section 5733.41, 5747.38, or 5747.41 of the 2968  
Revised Code, or interest or penalties thereon, judgment shall 2969  
be entered therefor with interest; and if it appears that any 2970  
qualifying entity or electing pass-through entity has failed to 2971  
make or file any report or return, a mandatory injunction may be 2972  
issued against the ~~qualifying~~ entity, its trustees or other 2973  
fiduciaries, officers, directors, and managing agents, enjoining 2974  
them from the transaction of any business within this state, 2975  
other than acts incidental to liquidation or winding up, until 2976  
the making and filing of all proper reports or returns and until 2977  
the payment in full of all taxes, interest, and penalties. 2978

If the trustees or other fiduciaries, officers, directors, 2979  
investors, beneficiaries, or managing agents of a qualifying 2980  
entity or an electing pass-through entity are not made parties 2981  
in the first instance, and a judgment or an injunction is 2982  
rendered or issued against the ~~qualifying~~ entity, those 2983  
officers, directors, investors, or managing agents may be made 2984  
parties to such proceedings upon the motion of the attorney 2985  
general, and, upon notice to them of the form and terms of such 2986  
injunction, they shall be bound thereby as fully as if they had 2987  
been made parties in the first instance. 2988

In any action authorized by this division, a statement of 2989  
the tax commissioner, or the secretary of state, when duly 2990  
certified, shall be prima-facie evidence of the amount of taxes, 2991  
interest, or penalties due from any qualifying entity or 2992  
electing pass-through entity, or of the failure of any 2993  
~~qualifying~~ such entity to file with the commissioner or the 2994  
secretary of state any report required by law, and any such 2995  
certificate of the commissioner or the secretary of state may be 2996  
required in evidence in any such proceeding. 2997

On the application of any defendant and for good cause 2998  
shown, the court may order a separate hearing of the issues as 2999  
to any defendant. 3000

The costs of the proceeding shall be apportioned among the 3001  
parties as the court deems proper. 3002

The court in such proceeding may make, enter, and enforce 3003  
such other judgments and orders and grant such other relief as 3004  
is necessary or incidental to the enforcement of the claims and 3005  
lien of the state. 3006

In the performance of the duties enjoined upon the 3007  
attorney general by this division, the attorney general may 3008  
direct any prosecuting attorney to bring an action, as 3009  
authorized by this division, in the name of the state with 3010  
respect to any delinquent qualifying entities or delinquent 3011  
electing pass-through entities within the prosecuting attorney's 3012  
county, and like proceedings and orders shall be had as if such 3013  
action were instituted by the attorney general. 3014

(D) If any qualifying entity or electing pass-through 3015  
entity fails to make and file the reports or returns required 3016  
under this chapter, or to pay the penalties provided by law for 3017  
failure to make and file such reports or returns for a period of 3018  
ninety days after the time prescribed by this chapter, the 3019  
attorney general, on the request of the tax commissioner, shall 3020  
commence an action in quo warranto in the court of appeals of 3021  
the county in which that ~~qualifying~~ entity has its principal 3022  
place of business to forfeit and annul its privileges and 3023  
franchises. If the court is satisfied that any such ~~qualifying~~ 3024  
entity is in default, it shall render judgment ousting such 3025  
~~qualifying~~ entity from the exercise of its privileges and 3026  
franchises within this state, and shall otherwise proceed as 3027

provided in sections 2733.02 to 2733.39 of the Revised Code. 3028

**Sec. 5747.453.** An employee, an owner, or a beneficiary of, 3029  
or an investor in, a qualifying entity or an electing pass- 3030  
through entity having control or supervision of, or charged with 3031  
the responsibility for, filing returns and making payments, or 3032  
any trustee or other fiduciary, officer, member, or manager of 3033  
the ~~qualifying~~ entity who is responsible for the execution of 3034  
the ~~qualifying~~ entity's fiscal responsibilities, is personally 3035  
liable for the failure to file any report or to pay any tax due 3036  
as required by sections 5747.40 to 5747.453 of the Revised Code. 3037  
The dissolution, termination, or bankruptcy of a qualifying 3038  
entity or an electing pass-through entity does not discharge a 3039  
responsible trustee's, fiduciary's, officer's, member's, 3040  
manager's, employee's, investor's, owner's, or beneficiary's 3041  
liability for failure of the ~~qualifying~~ entity to file any 3042  
report or pay any tax due as required by those sections. The sum 3043  
due for the liability may be collected by assessment in the 3044  
manner provided in section 5747.13 of the Revised Code. 3045

**Sec. 5747.98.** (A) To provide a uniform procedure for 3046  
calculating a taxpayer's aggregate tax liability under section 3047  
5747.02 of the Revised Code, a taxpayer shall claim any credits 3048  
to which the taxpayer is entitled in the following order: 3049

Either the retirement income credit under division (B) of 3050  
section 5747.055 of the Revised Code or the lump sum retirement 3051  
income credits under divisions (C), (D), and (E) of that 3052  
section; 3053

Either the senior citizen credit under division (F) of 3054  
section 5747.055 of the Revised Code or the lump sum 3055  
distribution credit under division (G) of that section; 3056



The dependent care credit under section 5747.054 of the Revised Code;	3057 3058
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	3059 3060
The campaign contribution credit under section 5747.29 of the Revised Code;	3061 3062
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	3063 3064
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	3065 3066
The earned income credit under section 5747.71 of the Revised Code;	3067 3068
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	3069 3070
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	3071 3072 3073
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	3074 3075 3076
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	3077 3078
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	3079 3080
The enterprise zone credit under section 5709.66 of the Revised Code;	3081 3082
The credit for purchases of qualifying grape production	3083

property under section 5747.28 of the Revised Code;	3084
The small business investment credit under section 5747.81	3085
of the Revised Code;	3086
The nonrefundable lead abatement credit under section	3087
5747.26 of the Revised Code;	3088
The opportunity zone investment credit under section	3089
122.84 of the Revised Code;	3090
The enterprise zone credits under section 5709.65 of the	3091
Revised Code;	3092
The research and development credit under section 5747.331	3093
of the Revised Code;	3094
The credit for rehabilitating a historic building under	3095
section 5747.76 of the Revised Code;	3096
The nonresident credit under division (A) of section	3097
5747.05 of the Revised Code;	3098
The credit for a resident's out-of-state income under	3099
division (B) of section 5747.05 of the Revised Code;	3100
The refundable motion picture and Broadway theatrical	3101
production credit under section 5747.66 of the Revised Code;	3102
The refundable jobs creation credit or job retention	3103
credit under division (A) of section 5747.058 of the Revised	3104
Code;	3105
The refundable credit for taxes paid by a qualifying	3106
entity granted under section 5747.059 of the Revised Code;	3107
The refundable credits for taxes paid by a qualifying	3108
pass-through entity granted under division (I) of section	3109
5747.08 of the Revised Code;	3110

The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

**Section 2.** That existing sections 5733.04, 5733.41, 5747.01, 5747.03, 5747.08, 5747.11, 5747.13, 5747.132, 5747.14, 5747.15, 5747.41, 5747.42, 5747.43, 5747.44, 5747.45, 5747.451, 5747.453, and 5747.98 of the Revised Code are hereby repealed.