

As Introduced

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Senators Lang, Roegner

Cosponsors: Senators Cirino, Reineke, Romanchuk, Schaffer



A BILL

To amend section 5747.01 of the Revised Code to 1
exempt from income tax certain gains from the 2
sale of an ownership interest in a business. 3

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

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

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

As used in this chapter: 15

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

section:	19
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	20 21 22 23
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	24 25 26 27 28
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	29 30 31 32 33 34
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	35 36
(5) Deduct the following, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income:	37 38 39
(a) Benefits under Title II of the Social Security Act and tier 1 railroad retirement;	40 41
(b) Railroad retirement benefits, other than tier 1 railroad retirement benefits, to the extent such amounts are exempt from state taxation under federal law.	42 43 44
(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been	45 46

allowable as a deduction in computing federal adjusted gross 47
income for the taxable year, had the work opportunity tax credit 48
allowed and determined under sections 38, 51, and 52 of the 49
Internal Revenue Code not been in effect. 50

(7) Deduct any interest or interest equivalent on public 51
obligations and purchase obligations to the extent that the 52
interest or interest equivalent is included in federal adjusted 53
gross income. 54

(8) Add any loss or deduct any gain resulting from the 55
sale, exchange, or other disposition of public obligations to 56
the extent that the loss has been deducted or the gain has been 57
included in computing federal adjusted gross income. 58

(9) Deduct or add amounts, as provided under section 59
5747.70 of the Revised Code, related to contributions to 60
variable college savings program accounts made or tuition units 61
purchased pursuant to Chapter 3334. of the Revised Code. 62

(10) (a) Deduct, to the extent not otherwise allowable as a 63
deduction or exclusion in computing federal or Ohio adjusted 64
gross income for the taxable year, the amount the taxpayer paid 65
during the taxable year for medical care insurance and qualified 66
long-term care insurance for the taxpayer, the taxpayer's 67
spouse, and dependents. No deduction for medical care insurance 68
under division (A) (10) (a) of this section shall be allowed 69
either to any taxpayer who is eligible to participate in any 70
subsidized health plan maintained by any employer of the 71
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 72
entitled to, or on application would be entitled to, benefits 73
under part A of Title XVIII of the "Social Security Act," 49 74
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 75
division (A) (10) (a) of this section, "subsidized health plan" 76

means a health plan for which the employer pays any portion of 77
the plan's cost. The deduction allowed under division (A) (10) (a) 78
of this section shall be the net of any related premium refunds, 79
related premium reimbursements, or related insurance premium 80
dividends received during the taxable year. 81

(b) Deduct, to the extent not otherwise deducted or 82
excluded in computing federal or Ohio adjusted gross income 83
during the taxable year, the amount the taxpayer paid during the 84
taxable year, not compensated for by any insurance or otherwise, 85
for medical care of the taxpayer, the taxpayer's spouse, and 86
dependents, to the extent the expenses exceed seven and one-half 87
per cent of the taxpayer's federal adjusted gross income. 88

(c) For purposes of division (A) (10) of this section, 89
"medical care" has the meaning given in section 213 of the 90
Internal Revenue Code, subject to the special rules, 91
limitations, and exclusions set forth therein, and "qualified 92
long-term care" has the same meaning given in section 7702B(c) 93
of the Internal Revenue Code. Solely for purposes of division 94
(A) (10) (a) of this section, "dependent" includes a person who 95
otherwise would be a "qualifying relative" and thus a 96
"dependent" under section 152 of the Internal Revenue Code but 97
for the fact that the person fails to meet the income and 98
support limitations under section 152(d) (1) (B) and (C) of the 99
Internal Revenue Code. 100

(11) (a) Deduct any amount included in federal adjusted 101
gross income solely because the amount represents a 102
reimbursement or refund of expenses that in any year the 103
taxpayer had deducted as an itemized deduction pursuant to 104
section 63 of the Internal Revenue Code and applicable United 105
States department of the treasury regulations. The deduction 106

otherwise allowed under division (A) (11) (a) of this section 107
shall be reduced to the extent the reimbursement is attributable 108
to an amount the taxpayer deducted under this section in any 109
taxable year. 110

(b) Add any amount not otherwise included in Ohio adjusted 111
gross income for any taxable year to the extent that the amount 112
is attributable to the recovery during the taxable year of any 113
amount deducted or excluded in computing federal or Ohio 114
adjusted gross income in any taxable year. 115

(12) Deduct any portion of the deduction described in 116
section 1341(a) (2) of the Internal Revenue Code, for repaying 117
previously reported income received under a claim of right, that 118
meets both of the following requirements: 119

(a) It is allowable for repayment of an item that was 120
included in the taxpayer's adjusted gross income for a prior 121
taxable year and did not qualify for a credit under division (A) 122
or (B) of section 5747.05 of the Revised Code for that year; 123

(b) It does not otherwise reduce the taxpayer's adjusted 124
gross income for the current or any other taxable year. 125

(13) Deduct an amount equal to the deposits made to, and 126
net investment earnings of, a medical savings account during the 127
taxable year, in accordance with section 3924.66 of the Revised 128
Code. The deduction allowed by division (A) (13) of this section 129
does not apply to medical savings account deposits and earnings 130
otherwise deducted or excluded for the current or any other 131
taxable year from the taxpayer's federal adjusted gross income. 132

(14) (a) Add an amount equal to the funds withdrawn from a 133
medical savings account during the taxable year, and the net 134
investment earnings on those funds, when the funds withdrawn 135

were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(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.

(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:

(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;

(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.

(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.

(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- 165
through entity in which the taxpayer has a direct or indirect 166
ownership interest. 167

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 168
of this section, add five-sixths of the amount of qualifying 169
section 179 depreciation expense, including the taxpayer's 170
proportionate or distributive share of the amount of qualifying 171
section 179 depreciation expense allowed to any pass-through 172
entity in which the taxpayer has a direct or indirect ownership 173
interest. 174

(iii) Subject to division (A) (17) (a) (v) of this section, 175
for taxable years beginning in 2012 or thereafter, if the 176
increase in income taxes withheld by the taxpayer is equal to or 177
greater than ten per cent of income taxes withheld by the 178
taxpayer during the taxpayer's immediately preceding taxable 179
year, "two-thirds" shall be substituted for "five-sixths" for 180
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 181

(iv) Subject to division (A) (17) (a) (v) of this section, 182
for taxable years beginning in 2012 or thereafter, a taxpayer is 183
not required to add an amount under division (A) (17) of this 184
section if the increase in income taxes withheld by the taxpayer 185
and by any pass-through entity in which the taxpayer has a 186
direct or indirect ownership interest is equal to or greater 187
than the sum of (I) the amount of qualifying section 179 188
depreciation expense and (II) the amount of depreciation expense 189
allowed to the taxpayer by subsection (k) of section 168 of the 190
Internal Revenue Code, and including the taxpayer's 191
proportionate or distributive shares of such amounts allowed to 192
any such pass-through entities. 193

(v) If a taxpayer directly or indirectly incurs a net 194

operating loss for the taxable year for federal income tax 195
purposes, to the extent such loss resulted from depreciation 196
expense allowed by subsection (k) of section 168 of the Internal 197
Revenue Code and by qualifying section 179 depreciation expense, 198
"the entire" shall be substituted for "five-sixths of the" for 199
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 200

The tax commissioner, under procedures established by the 201
commissioner, may waive the add-backs related to a pass-through 202
entity if the taxpayer owns, directly or indirectly, less than 203
five per cent of the pass-through entity. 204

(b) Nothing in division (A) (17) of this section shall be 205
construed to adjust or modify the adjusted basis of any asset. 206

(c) To the extent the add-back required under division (A) 207
(17) (a) of this section is attributable to property generating 208
nonbusiness income or loss allocated under section 5747.20 of 209
the Revised Code, the add-back shall be situated to the same 210
location as the nonbusiness income or loss generated by the 211
property for the purpose of determining the credit under 212
division (A) of section 5747.05 of the Revised Code. Otherwise, 213
the add-back shall be apportioned, subject to one or more of the 214
four alternative methods of apportionment enumerated in section 215
5747.21 of the Revised Code. 216

(d) For the purposes of division (A) (17) (a) (v) of this 217
section, net operating loss carryback and carryforward shall not 218
include the allowance of any net operating loss deduction 219
carryback or carryforward to the taxable year to the extent such 220
loss resulted from depreciation allowed by section 168(k) of the 221
Internal Revenue Code and by the qualifying section 179 222
depreciation expense amount. 223

(e) For the purposes of divisions (A) (17) and (18) of this section:	224 225
(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.	226 227 228
(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.	229 230 231 232 233
(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.	234 235 236 237 238 239 240
(18) (a) If the taxpayer was required to add an amount under division (A) (17) (a) of this section for a taxable year, deduct one of the following:	241 242 243
(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;	244 245 246 247 248
(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;	249 250 251
(iii) One-sixth of the amount so added for each of the six	252

succeeding taxable years if the entire amount of such 253
depreciation expense was so added. 254

(b) If the amount deducted under division (A) (18) (a) of 255
this section is attributable to an add-back allocated under 256
division (A) (17) (c) of this section, the amount deducted shall 257
be situated to the same location. Otherwise, the add-back shall 258
be apportioned using the apportionment factors for the taxable 259
year in which the deduction is taken, subject to one or more of 260
the four alternative methods of apportionment enumerated in 261
section 5747.21 of the Revised Code. 262

(c) No deduction is available under division (A) (18) (a) of 263
this section with regard to any depreciation allowed by section 264
168(k) of the Internal Revenue Code and by the qualifying 265
section 179 depreciation expense amount to the extent that such 266
depreciation results in or increases a federal net operating 267
loss carryback or carryforward. If no such deduction is 268
available for a taxable year, the taxpayer may carry forward the 269
amount not deducted in such taxable year to the next taxable 270
year and add that amount to any deduction otherwise available 271
under division (A) (18) (a) of this section for that next taxable 272
year. The carryforward of amounts not so deducted shall continue 273
until the entire addition required by division (A) (17) (a) of 274
this section has been deducted. 275

(19) Deduct, to the extent not otherwise deducted or 276
excluded in computing federal or Ohio adjusted gross income for 277
the taxable year, the amount the taxpayer received during the 278
taxable year as reimbursement for life insurance premiums under 279
section 5919.31 of the Revised Code. 280

(20) Deduct, to the extent not otherwise deducted or 281
excluded in computing federal or Ohio adjusted gross income for 282

the taxable year, the amount the taxpayer received during the 283
taxable year as a death benefit paid by the adjutant general 284
under section 5919.33 of the Revised Code. 285

(21) Deduct, to the extent included in federal adjusted 286
gross income and not otherwise allowable as a deduction or 287
exclusion in computing federal or Ohio adjusted gross income for 288
the taxable year, military pay and allowances received by the 289
taxpayer during the taxable year for active duty service in the 290
United States army, air force, navy, marine corps, or coast 291
guard or reserve components thereof or the national guard. The 292
deduction may not be claimed for military pay and allowances 293
received by the taxpayer while the taxpayer is stationed in this 294
state. 295

(22) Deduct, to the extent not otherwise allowable as a 296
deduction or exclusion in computing federal or Ohio adjusted 297
gross income for the taxable year and not otherwise compensated 298
for by any other source, the amount of qualified organ donation 299
expenses incurred by the taxpayer during the taxable year, not 300
to exceed ten thousand dollars. A taxpayer may deduct qualified 301
organ donation expenses only once for all taxable years 302
beginning with taxable years beginning in 2007. 303

For the purposes of division (A) (22) of this section: 304

(a) "Human organ" means all or any portion of a human 305
liver, pancreas, kidney, intestine, or lung, and any portion of 306
human bone marrow. 307

(b) "Qualified organ donation expenses" means travel 308
expenses, lodging expenses, and wages and salary forgone by a 309
taxpayer in connection with the taxpayer's donation, while 310
living, of one or more of the taxpayer's human organs to another 311

human being. 312

(23) Deduct, to the extent not otherwise deducted or 313
excluded in computing federal or Ohio adjusted gross income for 314
the taxable year, amounts received by the taxpayer as retired 315
personnel pay for service in the uniformed services or reserve 316
components thereof, or the national guard, or received by the 317
surviving spouse or former spouse of such a taxpayer under the 318
survivor benefit plan on account of such a taxpayer's death. If 319
the taxpayer receives income on account of retirement paid under 320
the federal civil service retirement system or federal employees 321
retirement system, or under any successor retirement program 322
enacted by the congress of the United States that is established 323
and maintained for retired employees of the United States 324
government, and such retirement income is based, in whole or in 325
part, on credit for the taxpayer's uniformed service, the 326
deduction allowed under this division shall include only that 327
portion of such retirement income that is attributable to the 328
taxpayer's uniformed service, to the extent that portion of such 329
retirement income is otherwise included in federal adjusted 330
gross income and is not otherwise deducted under this section. 331
Any amount deducted under division (A) (23) of this section is 332
not included in a taxpayer's adjusted gross income for the 333
purposes of section 5747.055 of the Revised Code. No amount may 334
be deducted under division (A) (23) of this section on the basis 335
of which a credit was claimed under section 5747.055 of the 336
Revised Code. 337

(24) Deduct, to the extent not otherwise deducted or 338
excluded in computing federal or Ohio adjusted gross income for 339
the taxable year, the amount the taxpayer received during the 340
taxable year from the military injury relief fund created in 341
section 5902.05 of the Revised Code. 342

(25) Deduct, to the extent not otherwise deducted or 343
excluded in computing federal or Ohio adjusted gross income for 344
the taxable year, the amount the taxpayer received as a veterans 345
bonus during the taxable year from the Ohio department of 346
veterans services as authorized by Section 2r of Article VIII, 347
Ohio Constitution. 348

(26) Deduct, to the extent not otherwise deducted or 349
excluded in computing federal or Ohio adjusted gross income for 350
the taxable year, any income derived from a transfer agreement 351
or from the enterprise transferred under that agreement under 352
section 4313.02 of the Revised Code. 353

(27) Deduct, to the extent not otherwise deducted or 354
excluded in computing federal or Ohio adjusted gross income for 355
the taxable year, Ohio college opportunity or federal Pell grant 356
amounts received by the taxpayer or the taxpayer's spouse or 357
dependent pursuant to section 3333.122 of the Revised Code or 20 358
U.S.C. 1070a, et seq., and used to pay room or board furnished 359
by the educational institution for which the grant was awarded 360
at the institution's facilities, including meal plans 361
administered by the institution. For the purposes of this 362
division, receipt of a grant includes the distribution of a 363
grant directly to an educational institution and the crediting 364
of the grant to the enrollee's account with the institution. 365

(28) Deduct from the portion of an individual's federal 366
adjusted gross income that is business income, to the extent not 367
otherwise deducted or excluded in computing federal adjusted 368
gross income for the taxable year, one hundred twenty-five 369
thousand dollars for each spouse if spouses file separate 370
returns under section 5747.08 of the Revised Code or two hundred 371
fifty thousand dollars for all other individuals. 372

(29) Deduct, as provided under section 5747.78 of the Revised Code, contributions to ABLE savings accounts made in accordance with sections 113.50 to 113.56 of the Revised Code.	373 374 375
(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:	376 377 378
(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;	379 380 381 382 383
(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;	384 385 386 387 388 389
(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.	390 391 392 393 394 395 396 397
(b) All terms used in division (A) (30) of this section have the same meanings as in section 5703.94 of the Revised Code.	398 399 400
(31) For a taxpayer who is a qualifying Ohio educator,	401

deduct, to the extent not otherwise deducted or excluded in 402
computing federal or Ohio adjusted gross income for the taxable 403
year, the lesser of two hundred fifty dollars or the amount of 404
expenses described in subsections (a) (2) (D) (i) and (ii) of 405
section 62 of the Internal Revenue Code paid or incurred by the 406
taxpayer during the taxpayer's taxable year in excess of the 407
amount the taxpayer is authorized to deduct for that taxable 408
year under subsection (a) (2) (D) of that section. 409

(32) Deduct, to the extent not otherwise deducted or 410
excluded in computing federal or Ohio adjusted gross income for 411
the taxable year, amounts received by the taxpayer as a 412
disability severance payment, computed under 10 U.S.C. 1212, 413
following discharge or release under honorable conditions from 414
the armed forces, as defined by 10 U.S.C. 101. 415

(33) Deduct, to the extent not otherwise deducted or 416
excluded in computing federal adjusted gross income or Ohio 417
adjusted gross income, amounts not subject to tax due to an 418
agreement entered into under division (A) (2) of section 5747.05 419
of the Revised Code. 420

(34) Deduct amounts as provided under section 5747.79 of 421
the Revised Code related to the taxpayer's qualifying capital 422
gains and deductible payroll. 423

To the extent a qualifying capital gain described under 424
division (A) (34) of this section is business income, the 425
taxpayer shall deduct those gains under this division before 426
deducting any such gains under division (A) (28) of this section. 427

(35) (a) For taxable years beginning in or after 2026, 428
deduct, to the extent not otherwise deducted or excluded in 429
computing federal or Ohio adjusted gross income for the taxable 430

year: 431

(i) One hundred per cent of the capital gain received by 432
the taxpayer in the taxable year from a qualifying interest in 433
an Ohio venture capital operating company attributable to the 434
company's investments in Ohio businesses during the period for 435
which the company was an Ohio venture operating company; and 436

(ii) Fifty per cent of the capital gain received by the 437
taxpayer in the taxable year from a qualifying interest in an 438
Ohio venture capital operating company attributable to the 439
company's investments in all other businesses during the period 440
for which the company was an Ohio venture operating company. 441

(b) Add amounts previously deducted by the taxpayer under 442
division (A) (35) (a) of this section if the director of 443
development certifies to the tax commissioner that the 444
requirements for the deduction were not met. 445

(c) All terms used in division (A) (35) of this section 446
have the same meanings as in section 122.851 of the Revised 447
Code. 448

(d) To the extent a capital gain described in division (A) 449
(35) (a) of this section is business income, the taxpayer shall 450
apply that division before applying division (A) (28) of this 451
section. 452

(B) "Business income" means income, including gain or 453
loss, arising from transactions, activities, and sources in the 454
regular course of a trade or business and includes income, gain, 455
or loss from real property, tangible property, and intangible 456
property if the acquisition, rental, management, and disposition 457
of the property constitute integral parts of the regular course 458
of a trade or business operation. "Business income" includes 459

income, including gain or loss, from a partial or complete 460
liquidation of a business, including, but not limited to, gain 461
or loss from the sale or other disposition of goodwill or the 462
sale of an equity or ownership interest in a business. 463

As used in this division, the "sale of an equity or 464
ownership interest in a business" means sales to which either or 465
both of the following apply: 466

(1) The sale is treated for federal income tax purposes as 467
the sale of assets; 468

(2) The seller materially participated, as described in 26 469
C.F.R. 1.469-5T, in the activities of the business during the 470
taxable year in which the sale occurs or during any of the five 471
preceding taxable years. 472

(C) "Nonbusiness income" means all income other than 473
business income and may include, but is not limited to, 474
compensation, rents and royalties from real or tangible personal 475
property, capital gains, interest, dividends and distributions, 476
patent or copyright royalties, or lottery winnings, prizes, and 477
awards. 478

(D) "Compensation" means any form of remuneration paid to 479
an employee for personal services. 480

(E) "Fiduciary" means a guardian, trustee, executor, 481
administrator, receiver, conservator, or any other person acting 482
in any fiduciary capacity for any individual, trust, or estate. 483

(F) "Fiscal year" means an accounting period of twelve 484
months ending on the last day of any month other than December. 485

(G) "Individual" means any natural person. 486

(H) "Internal Revenue Code" means the "Internal Revenue 487

Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	488
(I) "Resident" means any of the following:	489
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	490 491
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	492 493 494 495
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	496 497 498
For the purposes of division (I) (3) of this section:	499
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	500 501 502 503 504 505
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section;	506 507 508 509
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;	510 511 512 513 514 515

(iii) A person who was domiciled in this state for the 516
purposes of this chapter when the trust document or instrument 517
or part of the trust document or instrument became irrevocable, 518
but only if at least one of the trust's qualifying beneficiaries 519
is a resident domiciled in this state for the purposes of this 520
chapter during all or some portion of the trust's current 521
taxable year. If a trust document or instrument became 522
irrevocable upon the death of a person who at the time of death 523
was domiciled in this state for purposes of this chapter, that 524
person is a person described in division (I) (3) (a) (iii) of this 525
section. 526

(b) A trust is irrevocable to the extent that the 527
transferor is not considered to be the owner of the net assets 528
of the trust under sections 671 to 678 of the Internal Revenue 529
Code. 530

(c) With respect to a trust other than a charitable lead 531
trust, "qualifying beneficiary" has the same meaning as 532
"potential current beneficiary" as defined in section 1361(e) (2) 533
of the Internal Revenue Code, and with respect to a charitable 534
lead trust "qualifying beneficiary" is any current, future, or 535
contingent beneficiary, but with respect to any trust 536
"qualifying beneficiary" excludes a person or a governmental 537
entity or instrumentality to any of which a contribution would 538
qualify for the charitable deduction under section 170 of the 539
Internal Revenue Code. 540

(d) For the purposes of division (I) (3) (a) of this 541
section, the extent to which a trust consists directly or 542
indirectly, in whole or in part, of assets, net of any related 543
liabilities, that were transferred directly or indirectly, in 544
whole or part, to the trust by any of the sources enumerated in 545

that division shall be ascertained by multiplying the fair 546
market value of the trust's assets, net of related liabilities, 547
by the qualifying ratio, which shall be computed as follows: 548

(i) The first time the trust receives assets, the 549
numerator of the qualifying ratio is the fair market value of 550
those assets at that time, net of any related liabilities, from 551
sources enumerated in division (I) (3) (a) of this section. The 552
denominator of the qualifying ratio is the fair market value of 553
all the trust's assets at that time, net of any related 554
liabilities. 555

(ii) Each subsequent time the trust receives assets, a 556
revised qualifying ratio shall be computed. The numerator of the 557
revised qualifying ratio is the sum of (1) the fair market value 558
of the trust's assets immediately prior to the subsequent 559
transfer, net of any related liabilities, multiplied by the 560
qualifying ratio last computed without regard to the subsequent 561
transfer, and (2) the fair market value of the subsequently 562
transferred assets at the time transferred, net of any related 563
liabilities, from sources enumerated in division (I) (3) (a) of 564
this section. The denominator of the revised qualifying ratio is 565
the fair market value of all the trust's assets immediately 566
after the subsequent transfer, net of any related liabilities. 567

(iii) Whether a transfer to the trust is by or from any of 568
the sources enumerated in division (I) (3) (a) of this section 569
shall be ascertained without regard to the domicile of the 570
trust's beneficiaries. 571

(e) For the purposes of division (I) (3) (a) (i) of this 572
section: 573

(i) A trust is described in division (I) (3) (e) (i) of this 574

section if the trust is a testamentary trust and the testator of 575
that testamentary trust was domiciled in this state at the time 576
of the testator's death for purposes of the taxes levied under 577
Chapter 5731. of the Revised Code. 578

(ii) A trust is described in division (I)(3)(e)(ii) of 579
this section if the transfer is a qualifying transfer described 580
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 581
trust is an irrevocable inter vivos trust, and at least one of 582
the trust's qualifying beneficiaries is domiciled in this state 583
for purposes of this chapter during all or some portion of the 584
trust's current taxable year. 585

(f) For the purposes of division (I)(3)(e)(ii) of this 586
section, a "qualifying transfer" is a transfer of assets, net of 587
any related liabilities, directly or indirectly to a trust, if 588
the transfer is described in any of the following: 589

(i) The transfer is made to a trust, created by the 590
decedent before the decedent's death and while the decedent was 591
domiciled in this state for the purposes of this chapter, and, 592
prior to the death of the decedent, the trust became irrevocable 593
while the decedent was domiciled in this state for the purposes 594
of this chapter. 595

(ii) The transfer is made to a trust to which the 596
decedent, prior to the decedent's death, had directly or 597
indirectly transferred assets, net of any related liabilities, 598
while the decedent was domiciled in this state for the purposes 599
of this chapter, and prior to the death of the decedent the 600
trust became irrevocable while the decedent was domiciled in 601
this state for the purposes of this chapter. 602

(iii) The transfer is made on account of a contractual 603

relationship existing directly or indirectly between the 604
transferor and either the decedent or the estate of the decedent 605
at any time prior to the date of the decedent's death, and the 606
decedent was domiciled in this state at the time of death for 607
purposes of the taxes levied under Chapter 5731. of the Revised 608
Code. 609

(iv) The transfer is made to a trust on account of a 610
contractual relationship existing directly or indirectly between 611
the transferor and another person who at the time of the 612
decedent's death was domiciled in this state for purposes of 613
this chapter. 614

(v) The transfer is made to a trust on account of the will 615
of a testator who was domiciled in this state at the time of the 616
testator's death for purposes of the taxes levied under Chapter 617
5731. of the Revised Code. 618

(vi) The transfer is made to a trust created by or caused 619
to be created by a court, and the trust was directly or 620
indirectly created in connection with or as a result of the 621
death of an individual who, for purposes of the taxes levied 622
under Chapter 5731. of the Revised Code, was domiciled in this 623
state at the time of the individual's death. 624

(g) The tax commissioner may adopt rules to ascertain the 625
part of a trust residing in this state. 626

(J) "Nonresident" means an individual or estate that is 627
not a resident. An individual who is a resident for only part of 628
a taxable year is a nonresident for the remainder of that 629
taxable year. 630

(K) "Pass-through entity" has the same meaning as in 631
section 5733.04 of the Revised Code. 632

(L) "Return" means the notifications and reports required 633
to be filed pursuant to this chapter for the purpose of 634
reporting the tax due and includes declarations of estimated tax 635
when so required. 636

(M) "Taxable year" means the calendar year or the 637
taxpayer's fiscal year ending during the calendar year, or 638
fractional part thereof, upon which the adjusted gross income is 639
calculated pursuant to this chapter. 640

(N) "Taxpayer" means any person subject to the tax imposed 641
by section 5747.02 of the Revised Code or any pass-through 642
entity that makes the election under division (D) of section 643
5747.08 of the Revised Code. 644

(O) "Dependents" means one of the following: 645

(1) For taxable years beginning on or after January 1, 646
2018, and before January 1, 2026, dependents as defined in the 647
Internal Revenue Code; 648

(2) For all other taxable years, dependents as defined in 649
the Internal Revenue Code and as claimed in the taxpayer's 650
federal income tax return for the taxable year or which the 651
taxpayer would have been permitted to claim had the taxpayer 652
filed a federal income tax return. 653

(P) "Principal county of employment" means, in the case of 654
a nonresident, the county within the state in which a taxpayer 655
performs services for an employer or, if those services are 656
performed in more than one county, the county in which the major 657
portion of the services are performed. 658

(Q) As used in sections 5747.50 to 5747.55 of the Revised 659
Code: 660

(1) "Subdivision" means any county, municipal corporation, 661
park district, or township. 662

(2) "Essential local government purposes" includes all 663
functions that any subdivision is required by general law to 664
exercise, including like functions that are exercised under a 665
charter adopted pursuant to the Ohio Constitution. 666

(R) "Overpayment" means any amount already paid that 667
exceeds the figure determined to be the correct amount of the 668
tax. 669

(S) "Taxable income" or "Ohio taxable income" applies only 670
to estates and trusts, and means federal taxable income, as 671
defined and used in the Internal Revenue Code, adjusted as 672
follows: 673

(1) Add interest or dividends, net of ordinary, necessary, 674
and reasonable expenses not deducted in computing federal 675
taxable income, on obligations or securities of any state or of 676
any political subdivision or authority of any state, other than 677
this state and its subdivisions and authorities, but only to the 678
extent that such net amount is not otherwise includible in Ohio 679
taxable income and is described in either division (S)(1)(a) or 680
(b) of this section: 681

(a) The net amount is not attributable to the S portion of 682
an electing small business trust and has not been distributed to 683
beneficiaries for the taxable year; 684

(b) The net amount is attributable to the S portion of an 685
electing small business trust for the taxable year. 686

(2) Add interest or dividends, net of ordinary, necessary, 687
and reasonable expenses not deducted in computing federal 688
taxable income, on obligations of any authority, commission, 689

instrumentality, territory, or possession of the United States 690
to the extent that the interest or dividends are exempt from 691
federal income taxes but not from state income taxes, but only 692
to the extent that such net amount is not otherwise includible 693
in Ohio taxable income and is described in either division (S) 694
(1) (a) or (b) of this section; 695

(3) Add the amount of personal exemption allowed to the 696
estate pursuant to section 642(b) of the Internal Revenue Code; 697

(4) Deduct interest or dividends, net of related expenses 698
deducted in computing federal taxable income, on obligations of 699
the United States and its territories and possessions or of any 700
authority, commission, or instrumentality of the United States 701
to the extent that the interest or dividends are exempt from 702
state taxes under the laws of the United States, but only to the 703
extent that such amount is included in federal taxable income 704
and is described in either division (S) (1) (a) or (b) of this 705
section; 706

(5) Deduct the amount of wages and salaries, if any, not 707
otherwise allowable as a deduction but that would have been 708
allowable as a deduction in computing federal taxable income for 709
the taxable year, had the work opportunity tax credit allowed 710
under sections 38, 51, and 52 of the Internal Revenue Code not 711
been in effect, but only to the extent such amount relates 712
either to income included in federal taxable income for the 713
taxable year or to income of the S portion of an electing small 714
business trust for the taxable year; 715

(6) Deduct any interest or interest equivalent, net of 716
related expenses deducted in computing federal taxable income, 717
on public obligations and purchase obligations, but only to the 718
extent that such net amount relates either to income included in 719

federal taxable income for the taxable year or to income of the 720
S portion of an electing small business trust for the taxable 721
year; 722

(7) Add any loss or deduct any gain resulting from sale, 723
exchange, or other disposition of public obligations to the 724
extent that such loss has been deducted or such gain has been 725
included in computing either federal taxable income or income of 726
the S portion of an electing small business trust for the 727
taxable year; 728

(8) Except in the case of the final return of an estate, 729
add any amount deducted by the taxpayer on both its Ohio estate 730
tax return pursuant to section 5731.14 of the Revised Code, and 731
on its federal income tax return in determining federal taxable 732
income; 733

(9) (a) Deduct any amount included in federal taxable 734
income solely because the amount represents a reimbursement or 735
refund of expenses that in a previous year the decedent had 736
deducted as an itemized deduction pursuant to section 63 of the 737
Internal Revenue Code and applicable treasury regulations. The 738
deduction otherwise allowed under division (S) (9) (a) of this 739
section shall be reduced to the extent the reimbursement is 740
attributable to an amount the taxpayer or decedent deducted 741
under this section in any taxable year. 742

(b) Add any amount not otherwise included in Ohio taxable 743
income for any taxable year to the extent that the amount is 744
attributable to the recovery during the taxable year of any 745
amount deducted or excluded in computing federal or Ohio taxable 746
income in any taxable year, but only to the extent such amount 747
has not been distributed to beneficiaries for the taxable year. 748

(10) Deduct any portion of the deduction described in 749
section 1341(a) (2) of the Internal Revenue Code, for repaying 750
previously reported income received under a claim of right, that 751
meets both of the following requirements: 752

(a) It is allowable for repayment of an item that was 753
included in the taxpayer's taxable income or the decedent's 754
adjusted gross income for a prior taxable year and did not 755
qualify for a credit under division (A) or (B) of section 756
5747.05 of the Revised Code for that year. 757

(b) It does not otherwise reduce the taxpayer's taxable 758
income or the decedent's adjusted gross income for the current 759
or any other taxable year. 760

(11) Add any amount claimed as a credit under section 761
5747.059 of the Revised Code to the extent that the amount 762
satisfies either of the following: 763

(a) The amount was deducted or excluded from the 764
computation of the taxpayer's federal taxable income as required 765
to be reported for the taxpayer's taxable year under the 766
Internal Revenue Code; 767

(b) The amount resulted in a reduction in the taxpayer's 768
federal taxable income as required to be reported for any of the 769
taxpayer's taxable years under the Internal Revenue Code. 770

(12) Deduct any amount, net of related expenses deducted 771
in computing federal taxable income, that a trust is required to 772
report as farm income on its federal income tax return, but only 773
if the assets of the trust include at least ten acres of land 774
satisfying the definition of "land devoted exclusively to 775
agricultural use" under section 5713.30 of the Revised Code, 776
regardless of whether the land is valued for tax purposes as 777

such land under sections 5713.30 to 5713.38 of the Revised Code. 778
If the trust is a pass-through entity investor, section 5747.231 779
of the Revised Code applies in ascertaining if the trust is 780
eligible to claim the deduction provided by division (S) (12) of 781
this section in connection with the pass-through entity's farm 782
income. 783

Except for farm income attributable to the S portion of an 784
electing small business trust, the deduction provided by 785
division (S) (12) of this section is allowed only to the extent 786
that the trust has not distributed such farm income. 787

(13) Add the net amount of income described in section 788
641(c) of the Internal Revenue Code to the extent that amount is 789
not included in federal taxable income. 790

(14) Add or deduct the amount the taxpayer would be 791
required to add or deduct under division (A) (17) or (18) of this 792
section if the taxpayer's Ohio taxable income were computed in 793
the same manner as an individual's Ohio adjusted gross income is 794
computed under this section. 795

(T) "School district income" and "school district income 796
tax" have the same meanings as in section 5748.01 of the Revised 797
Code. 798

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 799
(7) of this section, "public obligations," "purchase 800
obligations," and "interest or interest equivalent" have the 801
same meanings as in section 5709.76 of the Revised Code. 802

(V) "Limited liability company" means any limited 803
liability company formed under Chapter 1705. or 1706. of the 804
Revised Code or under the laws of any other state. 805

(W) "Pass-through entity investor" means any person who, 806

during any portion of a taxable year of a pass-through entity, 807
is a partner, member, shareholder, or equity investor in that 808
pass-through entity. 809

(X) "Banking day" has the same meaning as in section 810
1304.01 of the Revised Code. 811

(Y) "Month" means a calendar month. 812

(Z) "Quarter" means the first three months, the second 813
three months, the third three months, or the last three months 814
of the taxpayer's taxable year. 815

(AA) (1) "Modified business income" means the business 816
income included in a trust's Ohio taxable income after such 817
taxable income is first reduced by the qualifying trust amount, 818
if any. 819

(2) "Qualifying trust amount" of a trust means capital 820
gains and losses from the sale, exchange, or other disposition 821
of equity or ownership interests in, or debt obligations of, a 822
qualifying investee to the extent included in the trust's Ohio 823
taxable income, but only if the following requirements are 824
satisfied: 825

(a) The book value of the qualifying investee's physical 826
assets in this state and everywhere, as of the last day of the 827
qualifying investee's fiscal or calendar year ending immediately 828
prior to the date on which the trust recognizes the gain or 829
loss, is available to the trust. 830

(b) The requirements of section 5747.011 of the Revised 831
Code are satisfied for the trust's taxable year in which the 832
trust recognizes the gain or loss. 833

Any gain or loss that is not a qualifying trust amount is 834

modified business income, qualifying investment income, or 835
modified nonbusiness income, as the case may be. 836

(3) "Modified nonbusiness income" means a trust's Ohio 837
taxable income other than modified business income, other than 838
the qualifying trust amount, and other than qualifying 839
investment income, as defined in section 5747.012 of the Revised 840
Code, to the extent such qualifying investment income is not 841
otherwise part of modified business income. 842

(4) "Modified Ohio taxable income" applies only to trusts, 843
and means the sum of the amounts described in divisions (AA) (4) 844
(a) to (c) of this section: 845

(a) The fraction, calculated under section 5747.013, and 846
applying section 5747.231 of the Revised Code, multiplied by the 847
sum of the following amounts: 848

(i) The trust's modified business income; 849

(ii) The trust's qualifying investment income, as defined 850
in section 5747.012 of the Revised Code, but only to the extent 851
the qualifying investment income does not otherwise constitute 852
modified business income and does not otherwise constitute a 853
qualifying trust amount. 854

(b) The qualifying trust amount multiplied by a fraction, 855
the numerator of which is the sum of the book value of the 856
qualifying investee's physical assets in this state on the last 857
day of the qualifying investee's fiscal or calendar year ending 858
immediately prior to the day on which the trust recognizes the 859
qualifying trust amount, and the denominator of which is the sum 860
of the book value of the qualifying investee's total physical 861
assets everywhere on the last day of the qualifying investee's 862
fiscal or calendar year ending immediately prior to the day on 863

which the trust recognizes the qualifying trust amount. If, for 864
a taxable year, the trust recognizes a qualifying trust amount 865
with respect to more than one qualifying investee, the amount 866
described in division (AA) (4) (b) of this section shall equal the 867
sum of the products so computed for each such qualifying 868
investee. 869

(c) (i) With respect to a trust or portion of a trust that 870
is a resident as ascertained in accordance with division (I) (3) 871
(d) of this section, its modified nonbusiness income. 872

(ii) With respect to a trust or portion of a trust that is 873
not a resident as ascertained in accordance with division (I) (3) 874
(d) of this section, the amount of its modified nonbusiness 875
income satisfying the descriptions in divisions (B) (2) to (5) of 876
section 5747.20 of the Revised Code, except as otherwise 877
provided in division (AA) (4) (c) (ii) of this section. With 878
respect to a trust or portion of a trust that is not a resident 879
as ascertained in accordance with division (I) (3) (d) of this 880
section, the trust's portion of modified nonbusiness income 881
recognized from the sale, exchange, or other disposition of a 882
debt interest in or equity interest in a section 5747.212 883
entity, as defined in section 5747.212 of the Revised Code, 884
without regard to division (A) of that section, shall not be 885
allocated to this state in accordance with section 5747.20 of 886
the Revised Code but shall be apportioned to this state in 887
accordance with division (B) of section 5747.212 of the Revised 888
Code without regard to division (A) of that section. 889

If the allocation and apportionment of a trust's income 890
under divisions (AA) (4) (a) and (c) of this section do not fairly 891
represent the modified Ohio taxable income of the trust in this 892
state, the alternative methods described in division (C) of 893

section 5747.21 of the Revised Code may be applied in the manner 894
and to the same extent provided in that section. 895

(5) (a) Except as set forth in division (AA) (5) (b) of this 896
section, "qualifying investee" means a person in which a trust 897
has an equity or ownership interest, or a person or unit of 898
government the debt obligations of either of which are owned by 899
a trust. For the purposes of division (AA) (2) (a) of this section 900
and for the purpose of computing the fraction described in 901
division (AA) (4) (b) of this section, all of the following apply: 902

(i) If the qualifying investee is a member of a qualifying 903
controlled group on the last day of the qualifying investee's 904
fiscal or calendar year ending immediately prior to the date on 905
which the trust recognizes the gain or loss, then "qualifying 906
investee" includes all persons in the qualifying controlled 907
group on such last day. 908

(ii) If the qualifying investee, or if the qualifying 909
investee and any members of the qualifying controlled group of 910
which the qualifying investee is a member on the last day of the 911
qualifying investee's fiscal or calendar year ending immediately 912
prior to the date on which the trust recognizes the gain or 913
loss, separately or cumulatively own, directly or indirectly, on 914
the last day of the qualifying investee's fiscal or calendar 915
year ending immediately prior to the date on which the trust 916
recognizes the qualifying trust amount, more than fifty per cent 917
of the equity of a pass-through entity, then the qualifying 918
investee and the other members are deemed to own the 919
proportionate share of the pass-through entity's physical assets 920
which the pass-through entity directly or indirectly owns on the 921
last day of the pass-through entity's calendar or fiscal year 922
ending within or with the last day of the qualifying investee's 923

fiscal or calendar year ending immediately prior to the date on 924
which the trust recognizes the qualifying trust amount. 925

(iii) For the purposes of division (AA) (5) (a) (iii) of this 926
section, "upper level pass-through entity" means a pass-through 927
entity directly or indirectly owning any equity of another pass- 928
through entity, and "lower level pass-through entity" means that 929
other pass-through entity. 930

An upper level pass-through entity, whether or not it is 931
also a qualifying investee, is deemed to own, on the last day of 932
the upper level pass-through entity's calendar or fiscal year, 933
the proportionate share of the lower level pass-through entity's 934
physical assets that the lower level pass-through entity 935
directly or indirectly owns on the last day of the lower level 936
pass-through entity's calendar or fiscal year ending within or 937
with the last day of the upper level pass-through entity's 938
fiscal or calendar year. If the upper level pass-through entity 939
directly and indirectly owns less than fifty per cent of the 940
equity of the lower level pass-through entity on each day of the 941
upper level pass-through entity's calendar or fiscal year in 942
which or with which ends the calendar or fiscal year of the 943
lower level pass-through entity and if, based upon clear and 944
convincing evidence, complete information about the location and 945
cost of the physical assets of the lower pass-through entity is 946
not available to the upper level pass-through entity, then 947
solely for purposes of ascertaining if a gain or loss 948
constitutes a qualifying trust amount, the upper level pass- 949
through entity shall be deemed as owning no equity of the lower 950
level pass-through entity for each day during the upper level 951
pass-through entity's calendar or fiscal year in which or with 952
which ends the lower level pass-through entity's calendar or 953
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 954

shall be construed to provide for any deduction or exclusion in 955
computing any trust's Ohio taxable income. 956

(b) With respect to a trust that is not a resident for the 957
taxable year and with respect to a part of a trust that is not a 958
resident for the taxable year, "qualifying investee" for that 959
taxable year does not include a C corporation if both of the 960
following apply: 961

(i) During the taxable year the trust or part of the trust 962
recognizes a gain or loss from the sale, exchange, or other 963
disposition of equity or ownership interests in, or debt 964
obligations of, the C corporation. 965

(ii) Such gain or loss constitutes nonbusiness income. 966

(6) "Available" means information is such that a person is 967
able to learn of the information by the due date plus 968
extensions, if any, for filing the return for the taxable year 969
in which the trust recognizes the gain or loss. 970

(BB) "Qualifying controlled group" has the same meaning as 971
in section 5733.04 of the Revised Code. 972

(CC) "Related member" has the same meaning as in section 973
5733.042 of the Revised Code. 974

(DD) (1) For the purposes of division (DD) of this section: 975

(a) "Qualifying person" means any person other than a 976
qualifying corporation. 977

(b) "Qualifying corporation" means any person classified 978
for federal income tax purposes as an association taxable as a 979
corporation, except either of the following: 980

(i) A corporation that has made an election under 981

subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	982 983 984
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	985 986 987 988 989
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	990 991 992
(EE) For purposes of this chapter and Chapter 5751. of the Revised Code:	993 994
(1) "Trust" does not include a qualified pre-income tax trust.	995 996
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (EE)(3) of this section.	997 998 999
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.	1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010

(4) A "pre-income tax trust" is a trust that satisfies all 1011
of the following requirements: 1012

(a) The document or instrument creating the trust was 1013
executed by the grantor before January 1, 1972; 1014

(b) The trust became irrevocable upon the creation of the 1015
trust; and 1016

(c) The grantor was domiciled in this state at the time 1017
the trust was created. 1018

(FF) "Uniformed services" has the same meaning as in 10
U.S.C. 101. 1019
1020

(GG) "Taxable business income" means the amount by which 1021
an individual's business income that is included in federal 1022
adjusted gross income exceeds the amount of business income the 1023
individual is authorized to deduct under division (A) (28) of 1024
this section for the taxable year. 1025

(HH) "Employer" does not include a franchisor with respect 1026
to the franchisor's relationship with a franchisee or an 1027
employee of a franchisee, unless the franchisor agrees to assume 1028
that role in writing or a court of competent jurisdiction 1029
determines that the franchisor exercises a type or degree of 1030
control over the franchisee or the franchisee's employees that 1031
is not customarily exercised by a franchisor for the purpose of 1032
protecting the franchisor's trademark, brand, or both. For 1033
purposes of this division, "franchisor" and "franchisee" have 1034
the same meanings as in 16 C.F.R. 436.1. 1035

(II) "Modified adjusted gross income" means Ohio adjusted 1036
gross income plus any amount deducted under divisions (A) (28) 1037
and (34) of this section for the taxable year. 1038

(JJ) "Qualifying Ohio educator" means an individual who, 1039
for a taxable year, qualifies as an eligible educator, as that 1040
term is defined in section 62 of the Internal Revenue Code, and 1041
who holds a certificate, license, or permit described in Chapter 1042
3319. or section 3301.071 of the Revised Code. 1043

Section 2. That existing section 5747.01 of the Revised 1044
Code is hereby repealed. 1045

Section 3. The amendment by this act of section 5747.01 of 1046
the Revised Code is a remedial measure intended to clarify 1047
existing law and applies to any petition for reassessment or any 1048
appeal thereof and to any application for refund or any appeal 1049
thereof pending on or after the effective date of this section 1050
and to any transaction that is subject to an audit by the 1051
Department of Taxation on or after that effective date. 1052