

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 33**

**Senators Hottinger, Brenner**

**Cosponsors: Senators Wilson, Lang, Roegner, Yuko, Fedor**

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**A BILL**

To amend sections 5747.01, 5747.10, and 5747.70 of 1  
the Revised Code to expand the income tax 2  
deduction allowed for contributions to Ohio's 3  
529 education savings plans to include 4  
contributions to 529 plans established by other 5  
states. 6

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

**Section 1.** That sections 5747.01, 5747.10, and 5747.70 of 7  
the Revised Code be amended to read as follows: 8

**Sec. 5747.01.** Except as otherwise expressly provided or 9  
clearly appearing from the context, any term used in this 10  
chapter that is not otherwise defined in this section has the 11  
same meaning as when used in a comparable context in the laws of 12  
the United States relating to federal income taxes or if not 13  
used in a comparable context in those laws, has the same meaning 14  
as in section 5733.40 of the Revised Code. Any reference in this 15  
chapter to the Internal Revenue Code includes other laws of the 16  
United States relating to federal income taxes. 17

As used in this chapter: 18

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

(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.

(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.

(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.

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

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit

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 made to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code under a qualified tuition program established pursuant to section 529 of the Internal Revenue 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 78  
the plan's cost. The deduction allowed under division (A) (10) (a) 79  
of this section shall be the net of any related premium refunds, 80  
related premium reimbursements, or related insurance premium 81  
dividends received during the taxable year. 82

(b) Deduct, to the extent not otherwise deducted or 83  
excluded in computing federal or Ohio adjusted gross income 84  
during the taxable year, the amount the taxpayer paid during the 85  
taxable year, not compensated for by any insurance or otherwise, 86  
for medical care of the taxpayer, the taxpayer's spouse, and 87  
dependents, to the extent the expenses exceed seven and one-half 88  
per cent of the taxpayer's federal adjusted gross income. 89

(c) For purposes of division (A) (10) of this section, 90  
"medical care" has the meaning given in section 213 of the 91  
Internal Revenue Code, subject to the special rules, 92  
limitations, and exclusions set forth therein, and "qualified 93  
long-term care" has the same meaning given in section 7702B(c) 94  
of the Internal Revenue Code. Solely for purposes of division 95  
(A) (10) (a) of this section, "dependent" includes a person who 96  
otherwise would be a "qualifying relative" and thus a 97  
"dependent" under section 152 of the Internal Revenue Code but 98  
for the fact that the person fails to meet the income and 99  
support limitations under section 152(d) (1) (B) and (C) of the 100  
Internal Revenue Code. 101

(11) (a) Deduct any amount included in federal adjusted 102  
gross income solely because the amount represents a 103  
reimbursement or refund of expenses that in any year the 104  
taxpayer had deducted as an itemized deduction pursuant to 105  
section 63 of the Internal Revenue Code and applicable United 106  
States department of the treasury regulations. The deduction 107

otherwise allowed under division (A) (11) (a) of this section 108  
shall be reduced to the extent the reimbursement is attributable 109  
to an amount the taxpayer deducted under this section in any 110  
taxable year. 111

(b) Add any amount not otherwise included in Ohio adjusted 112  
gross income for any taxable year to the extent that the amount 113  
is attributable to the recovery during the taxable year of any 114  
amount deducted or excluded in computing federal or Ohio 115  
adjusted gross income in any taxable year. 116

(12) Deduct any portion of the deduction described in 117  
section 1341(a) (2) of the Internal Revenue Code, for repaying 118  
previously reported income received under a claim of right, that 119  
meets both of the following requirements: 120

(a) It is allowable for repayment of an item that was 121  
included in the taxpayer's adjusted gross income for a prior 122  
taxable year and did not qualify for a credit under division (A) 123  
or (B) of section 5747.05 of the Revised Code for that year; 124

(b) It does not otherwise reduce the taxpayer's adjusted 125  
gross income for the current or any other taxable year. 126

(13) Deduct an amount equal to the deposits made to, and 127  
net investment earnings of, a medical savings account during the 128  
taxable year, in accordance with section 3924.66 of the Revised 129  
Code. The deduction allowed by division (A) (13) of this section 130  
does not apply to medical savings account deposits and earnings 131  
otherwise deducted or excluded for the current or any other 132  
taxable year from the taxpayer's federal adjusted gross income. 133

(14) (a) Add an amount equal to the funds withdrawn from a 134  
medical savings account during the taxable year, and the net 135  
investment earnings on those funds, when the funds withdrawn 136

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-through entity in which the taxpayer has a direct or indirect ownership interest. 166  
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(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest. 169  
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(iii) Subject to division (A) (17) (a) (v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 176  
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(iv) Subject to division (A) (17) (a) (v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A) (17) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities. 183  
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(v) If a taxpayer directly or indirectly incurs a net 195

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

The tax commissioner, under procedures established by the 202  
commissioner, may waive the add-backs related to a pass-through 203  
entity if the taxpayer owns, directly or indirectly, less than 204  
five per cent of the pass-through entity. 205

(b) Nothing in division (A) (17) of this section shall be 206  
construed to adjust or modify the adjusted basis of any asset. 207

(c) To the extent the add-back required under division (A) 208  
(17) (a) of this section is attributable to property generating 209  
nonbusiness income or loss allocated under section 5747.20 of 210  
the Revised Code, the add-back shall be situated to the same 211  
location as the nonbusiness income or loss generated by the 212  
property for the purpose of determining the credit under 213  
division (A) of section 5747.05 of the Revised Code. Otherwise, 214  
the add-back shall be apportioned, subject to one or more of the 215  
four alternative methods of apportionment enumerated in section 216  
5747.21 of the Revised Code. 217

(d) For the purposes of division (A) (17) (a) (v) of this 218  
section, net operating loss carryback and carryforward shall not 219  
include the allowance of any net operating loss deduction 220  
carryback or carryforward to the taxable year to the extent such 221  
loss resulted from depreciation allowed by section 168(k) of the 222  
Internal Revenue Code and by the qualifying section 179 223  
depreciation expense amount. 224



(e) For the purposes of divisions (A) (17) and (18) of this section:	225 226
(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.	227 228 229
(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.	230 231 232 233 234
(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.	235 236 237 238 239 240 241
(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:	242 243 244
(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;	245 246 247 248 249
(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;	250 251 252
(iii) One-sixth of the amount so added for each of the six	253

succeeding taxable years if the entire amount of such 254  
depreciation expense was so added. 255

(b) If the amount deducted under division (A) (18) (a) of 256  
this section is attributable to an add-back allocated under 257  
division (A) (17) (c) of this section, the amount deducted shall 258  
be situated to the same location. Otherwise, the add-back shall 259  
be apportioned using the apportionment factors for the taxable 260  
year in which the deduction is taken, subject to one or more of 261  
the four alternative methods of apportionment enumerated in 262  
section 5747.21 of the Revised Code. 263

(c) No deduction is available under division (A) (18) (a) of 264  
this section with regard to any depreciation allowed by section 265  
168(k) of the Internal Revenue Code and by the qualifying 266  
section 179 depreciation expense amount to the extent that such 267  
depreciation results in or increases a federal net operating 268  
loss carryback or carryforward. If no such deduction is 269  
available for a taxable year, the taxpayer may carry forward the 270  
amount not deducted in such taxable year to the next taxable 271  
year and add that amount to any deduction otherwise available 272  
under division (A) (18) (a) of this section for that next taxable 273  
year. The carryforward of amounts not so deducted shall continue 274  
until the entire addition required by division (A) (17) (a) of 275  
this section has been deducted. 276

(19) Deduct, to the extent not otherwise deducted or 277  
excluded in computing federal or Ohio adjusted gross income for 278  
the taxable year, the amount the taxpayer received during the 279  
taxable year as reimbursement for life insurance premiums under 280  
section 5919.31 of the Revised Code. 281

(20) Deduct, to the extent not otherwise deducted or 282  
excluded in computing federal or Ohio adjusted gross income for 283

the taxable year, the amount the taxpayer received during the 284  
taxable year as a death benefit paid by the adjutant general 285  
under section 5919.33 of the Revised Code. 286

(21) Deduct, to the extent included in federal adjusted 287  
gross income and not otherwise allowable as a deduction or 288  
exclusion in computing federal or Ohio adjusted gross income for 289  
the taxable year, military pay and allowances received by the 290  
taxpayer during the taxable year for active duty service in the 291  
United States army, air force, navy, marine corps, or coast 292  
guard or reserve components thereof or the national guard. The 293  
deduction may not be claimed for military pay and allowances 294  
received by the taxpayer while the taxpayer is stationed in this 295  
state. 296

(22) Deduct, to the extent not otherwise allowable as a 297  
deduction or exclusion in computing federal or Ohio adjusted 298  
gross income for the taxable year and not otherwise compensated 299  
for by any other source, the amount of qualified organ donation 300  
expenses incurred by the taxpayer during the taxable year, not 301  
to exceed ten thousand dollars. A taxpayer may deduct qualified 302  
organ donation expenses only once for all taxable years 303  
beginning with taxable years beginning in 2007. 304

For the purposes of division (A) (22) of this section: 305

(a) "Human organ" means all or any portion of a human 306  
liver, pancreas, kidney, intestine, or lung, and any portion of 307  
human bone marrow. 308

(b) "Qualified organ donation expenses" means travel 309  
expenses, lodging expenses, and wages and salary forgone by a 310  
taxpayer in connection with the taxpayer's donation, while 311  
living, of one or more of the taxpayer's human organs to another 312

human being. 313

(23) Deduct, to the extent not otherwise deducted or 314  
excluded in computing federal or Ohio adjusted gross income for 315  
the taxable year, amounts received by the taxpayer as retired 316  
personnel pay for service in the uniformed services or reserve 317  
components thereof, or the national guard, or received by the 318  
surviving spouse or former spouse of such a taxpayer under the 319  
survivor benefit plan on account of such a taxpayer's death. If 320  
the taxpayer receives income on account of retirement paid under 321  
the federal civil service retirement system or federal employees 322  
retirement system, or under any successor retirement program 323  
enacted by the congress of the United States that is established 324  
and maintained for retired employees of the United States 325  
government, and such retirement income is based, in whole or in 326  
part, on credit for the taxpayer's uniformed service, the 327  
deduction allowed under this division shall include only that 328  
portion of such retirement income that is attributable to the 329  
taxpayer's uniformed service, to the extent that portion of such 330  
retirement income is otherwise included in federal adjusted 331  
gross income and is not otherwise deducted under this section. 332  
Any amount deducted under division (A) (23) of this section is 333  
not included in a taxpayer's adjusted gross income for the 334  
purposes of section 5747.055 of the Revised Code. No amount may 335  
be deducted under division (A) (23) of this section on the basis 336  
of which a credit was claimed under section 5747.055 of the 337  
Revised Code. 338

(24) Deduct, to the extent not otherwise deducted or 339  
excluded in computing federal or Ohio adjusted gross income for 340  
the taxable year, the amount the taxpayer received during the 341  
taxable year from the military injury relief fund created in 342  
section 5902.05 of the Revised Code. 343

(25) Deduct, to the extent not otherwise deducted or 344  
excluded in computing federal or Ohio adjusted gross income for 345  
the taxable year, the amount the taxpayer received as a veterans 346  
bonus during the taxable year from the Ohio department of 347  
veterans services as authorized by Section 2r of Article VIII, 348  
Ohio Constitution. 349

(26) Deduct, to the extent not otherwise deducted or 350  
excluded in computing federal or Ohio adjusted gross income for 351  
the taxable year, any income derived from a transfer agreement 352  
or from the enterprise transferred under that agreement under 353  
section 4313.02 of the Revised Code. 354

(27) Deduct, to the extent not otherwise deducted or 355  
excluded in computing federal or Ohio adjusted gross income for 356  
the taxable year, Ohio college opportunity or federal Pell grant 357  
amounts received by the taxpayer or the taxpayer's spouse or 358  
dependent pursuant to section 3333.122 of the Revised Code or 20 359  
U.S.C. 1070a, et seq., and used to pay room or board furnished 360  
by the educational institution for which the grant was awarded 361  
at the institution's facilities, including meal plans 362  
administered by the institution. For the purposes of this 363  
division, receipt of a grant includes the distribution of a 364  
grant directly to an educational institution and the crediting 365  
of the grant to the enrollee's account with the institution. 366

(28) Deduct from the portion of an individual's federal 367  
adjusted gross income that is business income, to the extent not 368  
otherwise deducted or excluded in computing federal adjusted 369  
gross income for the taxable year, one hundred twenty-five 370  
thousand dollars for each spouse if spouses file separate 371  
returns under section 5747.08 of the Revised Code or two hundred 372  
fifty thousand dollars for all other individuals. 373

(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.

(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:

(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;

(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;

(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.

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

(31) For a taxpayer who is a qualifying Ohio educator,

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

~~(34)~~ (32) Deduct, to the extent not otherwise deducted or 411  
excluded in computing federal or Ohio adjusted gross income for 412  
the taxable year, amounts received by the taxpayer as a 413  
disability severance payment, computed under 10 U.S.C. 1212, 414  
following discharge or release under honorable conditions from 415  
the armed forces, as defined by 10 U.S.C. 101. 416

(B) "Business income" means income, including gain or 417  
loss, arising from transactions, activities, and sources in the 418  
regular course of a trade or business and includes income, gain, 419  
or loss from real property, tangible property, and intangible 420  
property if the acquisition, rental, management, and disposition 421  
of the property constitute integral parts of the regular course 422  
of a trade or business operation. "Business income" includes 423  
income, including gain or loss, from a partial or complete 424  
liquidation of a business, including, but not limited to, gain 425  
or loss from the sale or other disposition of goodwill. 426

(C) "Nonbusiness income" means all income other than 427  
business income and may include, but is not limited to, 428  
compensation, rents and royalties from real or tangible personal 429  
property, capital gains, interest, dividends and distributions, 430  
patent or copyright royalties, or lottery winnings, prizes, and 431  
awards. 432

(D) "Compensation" means any form of remuneration paid to an employee for personal services.	433 434
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	435 436 437
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	438 439
(G) "Individual" means any natural person.	440
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	441 442
(I) "Resident" means any of the following:	443
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	444 445
(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.	446 447 448 449
(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.	450 451 452
For the purposes of division (I) (3) of this section:	453
(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:	454 455 456 457 458 459



(i) A person, a court, or a governmental entity or 460  
instrumentality on account of the death of a decedent, but only 461  
if the trust is described in division (I) (3) (e) (i) or (ii) of 462  
this section; 463

(ii) A person who was domiciled in this state for the 464  
purposes of this chapter when the person directly or indirectly 465  
transferred assets to an irrevocable trust, but only if at least 466  
one of the trust's qualifying beneficiaries is domiciled in this 467  
state for the purposes of this chapter during all or some 468  
portion of the trust's current taxable year; 469

(iii) A person who was domiciled in this state for the 470  
purposes of this chapter when the trust document or instrument 471  
or part of the trust document or instrument became irrevocable, 472  
but only if at least one of the trust's qualifying beneficiaries 473  
is a resident domiciled in this state for the purposes of this 474  
chapter during all or some portion of the trust's current 475  
taxable year. If a trust document or instrument became 476  
irrevocable upon the death of a person who at the time of death 477  
was domiciled in this state for purposes of this chapter, that 478  
person is a person described in division (I) (3) (a) (iii) of this 479  
section. 480

(b) A trust is irrevocable to the extent that the 481  
transferor is not considered to be the owner of the net assets 482  
of the trust under sections 671 to 678 of the Internal Revenue 483  
Code. 484

(c) With respect to a trust other than a charitable lead 485  
trust, "qualifying beneficiary" has the same meaning as 486  
"potential current beneficiary" as defined in section 1361(e) (2) 487  
of the Internal Revenue Code, and with respect to a charitable 488  
lead trust "qualifying beneficiary" is any current, future, or 489

contingent beneficiary, but with respect to any trust 490  
"qualifying beneficiary" excludes a person or a governmental 491  
entity or instrumentality to any of which a contribution would 492  
qualify for the charitable deduction under section 170 of the 493  
Internal Revenue Code. 494

(d) For the purposes of division (I)(3)(a) of this 495  
section, the extent to which a trust consists directly or 496  
indirectly, in whole or in part, of assets, net of any related 497  
liabilities, that were transferred directly or indirectly, in 498  
whole or part, to the trust by any of the sources enumerated in 499  
that division shall be ascertained by multiplying the fair 500  
market value of the trust's assets, net of related liabilities, 501  
by the qualifying ratio, which shall be computed as follows: 502

(i) The first time the trust receives assets, the 503  
numerator of the qualifying ratio is the fair market value of 504  
those assets at that time, net of any related liabilities, from 505  
sources enumerated in division (I)(3)(a) of this section. The 506  
denominator of the qualifying ratio is the fair market value of 507  
all the trust's assets at that time, net of any related 508  
liabilities. 509

(ii) Each subsequent time the trust receives assets, a 510  
revised qualifying ratio shall be computed. The numerator of the 511  
revised qualifying ratio is the sum of (1) the fair market value 512  
of the trust's assets immediately prior to the subsequent 513  
transfer, net of any related liabilities, multiplied by the 514  
qualifying ratio last computed without regard to the subsequent 515  
transfer, and (2) the fair market value of the subsequently 516  
transferred assets at the time transferred, net of any related 517  
liabilities, from sources enumerated in division (I)(3)(a) of 518  
this section. The denominator of the revised qualifying ratio is 519

the fair market value of all the trust's assets immediately 520  
after the subsequent transfer, net of any related liabilities. 521

(iii) Whether a transfer to the trust is by or from any of 522  
the sources enumerated in division (I) (3) (a) of this section 523  
shall be ascertained without regard to the domicile of the 524  
trust's beneficiaries. 525

(e) For the purposes of division (I) (3) (a) (i) of this 526  
section: 527

(i) A trust is described in division (I) (3) (e) (i) of this 528  
section if the trust is a testamentary trust and the testator of 529  
that testamentary trust was domiciled in this state at the time 530  
of the testator's death for purposes of the taxes levied under 531  
Chapter 5731. of the Revised Code. 532

(ii) A trust is described in division (I) (3) (e) (ii) of 533  
this section if the transfer is a qualifying transfer described 534  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 535  
trust is an irrevocable inter vivos trust, and at least one of 536  
the trust's qualifying beneficiaries is domiciled in this state 537  
for purposes of this chapter during all or some portion of the 538  
trust's current taxable year. 539

(f) For the purposes of division (I) (3) (e) (ii) of this 540  
section, a "qualifying transfer" is a transfer of assets, net of 541  
any related liabilities, directly or indirectly to a trust, if 542  
the transfer is described in any of the following: 543

(i) The transfer is made to a trust, created by the 544  
decedent before the decedent's death and while the decedent was 545  
domiciled in this state for the purposes of this chapter, and, 546  
prior to the death of the decedent, the trust became irrevocable 547  
while the decedent was domiciled in this state for the purposes 548

of this chapter.	549
(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.	550 551 552 553 554 555 556
(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.	557 558 559 560 561 562 563
(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.	564 565 566 567 568
(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.	569 570 571 572
(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this	573 574 575 576 577

state at the time of the individual's death.	578
(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.	579 580
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	581 582 583 584
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	585 586
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	587 588 589 590
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	591 592 593 594
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.	595 596 597 598
(O) "Dependents" means one of the following:	599
(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;	600 601 602
(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the	603 604 605

taxpayer would have been permitted to claim had the taxpayer 606  
filed a federal income tax return. 607

(P) "Principal county of employment" means, in the case of 608  
a nonresident, the county within the state in which a taxpayer 609  
performs services for an employer or, if those services are 610  
performed in more than one county, the county in which the major 611  
portion of the services are performed. 612

(Q) As used in sections 5747.50 to 5747.55 of the Revised 613  
Code: 614

(1) "Subdivision" means any county, municipal corporation, 615  
park district, or township. 616

(2) "Essential local government purposes" includes all 617  
functions that any subdivision is required by general law to 618  
exercise, including like functions that are exercised under a 619  
charter adopted pursuant to the Ohio Constitution. 620

(R) "Overpayment" means any amount already paid that 621  
exceeds the figure determined to be the correct amount of the 622  
tax. 623

(S) "Taxable income" or "Ohio taxable income" applies only 624  
to estates and trusts, and means federal taxable income, as 625  
defined and used in the Internal Revenue Code, adjusted as 626  
follows: 627

(1) Add interest or dividends, net of ordinary, necessary, 628  
and reasonable expenses not deducted in computing federal 629  
taxable income, on obligations or securities of any state or of 630  
any political subdivision or authority of any state, other than 631  
this state and its subdivisions and authorities, but only to the 632  
extent that such net amount is not otherwise includible in Ohio 633  
taxable income and is described in either division (S) (1) (a) or 634

(b) of this section: 635

(a) The net amount is not attributable to the S portion of 636  
an electing small business trust and has not been distributed to 637  
beneficiaries for the taxable year; 638

(b) The net amount is attributable to the S portion of an 639  
electing small business trust for the taxable year. 640

(2) Add interest or dividends, net of ordinary, necessary, 641  
and reasonable expenses not deducted in computing federal 642  
taxable income, on obligations of any authority, commission, 643  
instrumentality, territory, or possession of the United States 644  
to the extent that the interest or dividends are exempt from 645  
federal income taxes but not from state income taxes, but only 646  
to the extent that such net amount is not otherwise includible 647  
in Ohio taxable income and is described in either division (S) 648  
(1) (a) or (b) of this section; 649

(3) Add the amount of personal exemption allowed to the 650  
estate pursuant to section 642(b) of the Internal Revenue Code; 651

(4) Deduct interest or dividends, net of related expenses 652  
deducted in computing federal taxable income, on obligations of 653  
the United States and its territories and possessions or of any 654  
authority, commission, or instrumentality of the United States 655  
to the extent that the interest or dividends are exempt from 656  
state taxes under the laws of the United States, but only to the 657  
extent that such amount is included in federal taxable income 658  
and is described in either division (S) (1) (a) or (b) of this 659  
section; 660

(5) Deduct the amount of wages and salaries, if any, not 661  
otherwise allowable as a deduction but that would have been 662  
allowable as a deduction in computing federal taxable income for 663

the taxable year, had the targeted jobs credit allowed under 664  
sections 38, 51, and 52 of the Internal Revenue Code not been in 665  
effect, but only to the extent such amount relates either to 666  
income included in federal taxable income for the taxable year 667  
or to income of the S portion of an electing small business 668  
trust for the taxable year; 669

(6) Deduct any interest or interest equivalent, net of 670  
related expenses deducted in computing federal taxable income, 671  
on public obligations and purchase obligations, but only to the 672  
extent that such net amount relates either to income included in 673  
federal taxable income for the taxable year or to income of the 674  
S portion of an electing small business trust for the taxable 675  
year; 676

(7) Add any loss or deduct any gain resulting from sale, 677  
exchange, or other disposition of public obligations to the 678  
extent that such loss has been deducted or such gain has been 679  
included in computing either federal taxable income or income of 680  
the S portion of an electing small business trust for the 681  
taxable year; 682

(8) Except in the case of the final return of an estate, 683  
add any amount deducted by the taxpayer on both its Ohio estate 684  
tax return pursuant to section 5731.14 of the Revised Code, and 685  
on its federal income tax return in determining federal taxable 686  
income; 687

(9) (a) Deduct any amount included in federal taxable 688  
income solely because the amount represents a reimbursement or 689  
refund of expenses that in a previous year the decedent had 690  
deducted as an itemized deduction pursuant to section 63 of the 691  
Internal Revenue Code and applicable treasury regulations. The 692  
deduction otherwise allowed under division (S) (9) (a) of this 693



section shall be reduced to the extent the reimbursement is 694  
attributable to an amount the taxpayer or decedent deducted 695  
under this section in any taxable year. 696

(b) Add any amount not otherwise included in Ohio taxable 697  
income for any taxable year to the extent that the amount is 698  
attributable to the recovery during the taxable year of any 699  
amount deducted or excluded in computing federal or Ohio taxable 700  
income in any taxable year, but only to the extent such amount 701  
has not been distributed to beneficiaries for the taxable year. 702

(10) Deduct any portion of the deduction described in 703  
section 1341(a)(2) of the Internal Revenue Code, for repaying 704  
previously reported income received under a claim of right, that 705  
meets both of the following requirements: 706

(a) It is allowable for repayment of an item that was 707  
included in the taxpayer's taxable income or the decedent's 708  
adjusted gross income for a prior taxable year and did not 709  
qualify for a credit under division (A) or (B) of section 710  
5747.05 of the Revised Code for that year. 711

(b) It does not otherwise reduce the taxpayer's taxable 712  
income or the decedent's adjusted gross income for the current 713  
or any other taxable year. 714

(11) Add any amount claimed as a credit under section 715  
5747.059 of the Revised Code to the extent that the amount 716  
satisfies either of the following: 717

(a) The amount was deducted or excluded from the 718  
computation of the taxpayer's federal taxable income as required 719  
to be reported for the taxpayer's taxable year under the 720  
Internal Revenue Code; 721

(b) The amount resulted in a reduction in the taxpayer's 722

federal taxable income as required to be reported for any of the 723  
taxpayer's taxable years under the Internal Revenue Code. 724

(12) Deduct any amount, net of related expenses deducted 725  
in computing federal taxable income, that a trust is required to 726  
report as farm income on its federal income tax return, but only 727  
if the assets of the trust include at least ten acres of land 728  
satisfying the definition of "land devoted exclusively to 729  
agricultural use" under section 5713.30 of the Revised Code, 730  
regardless of whether the land is valued for tax purposes as 731  
such land under sections 5713.30 to 5713.38 of the Revised Code. 732  
If the trust is a pass-through entity investor, section 5747.231 733  
of the Revised Code applies in ascertaining if the trust is 734  
eligible to claim the deduction provided by division (S)(12) of 735  
this section in connection with the pass-through entity's farm 736  
income. 737

Except for farm income attributable to the S portion of an 738  
electing small business trust, the deduction provided by 739  
division (S)(12) of this section is allowed only to the extent 740  
that the trust has not distributed such farm income. 741

(13) Add the net amount of income described in section 742  
641(c) of the Internal Revenue Code to the extent that amount is 743  
not included in federal taxable income. 744

(14) Add or deduct the amount the taxpayer would be 745  
required to add or deduct under division (A)(17) or (18) of this 746  
section if the taxpayer's Ohio taxable income were computed in 747  
the same manner as an individual's Ohio adjusted gross income is 748  
computed under this section. 749

(T) "School district income" and "school district income 750  
tax" have the same meanings as in section 5748.01 of the Revised 751

Code.	752
(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.	753 754 755 756
(V) "Limited liability company" means any limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state.	757 758 759
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	760 761 762 763
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	764 765
(Y) "Month" means a calendar month.	766
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	767 768 769
(AA) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	770 771 772 773
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	774 775 776 777 778 779

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

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

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

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

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

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

(i) The trust's modified business income;

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

(b) The qualifying trust amount multiplied by a fraction, 809  
the numerator of which is the sum of the book value of the 810  
qualifying investee's physical assets in this state on the last 811  
day of the qualifying investee's fiscal or calendar year ending 812  
immediately prior to the day on which the trust recognizes the 813  
qualifying trust amount, and the denominator of which is the sum 814  
of the book value of the qualifying investee's total physical 815  
assets everywhere on the last day of the qualifying investee's 816  
fiscal or calendar year ending immediately prior to the day on 817  
which the trust recognizes the qualifying trust amount. If, for 818  
a taxable year, the trust recognizes a qualifying trust amount 819  
with respect to more than one qualifying investee, the amount 820  
described in division (AA) (4) (b) of this section shall equal the 821  
sum of the products so computed for each such qualifying 822  
investee. 823

(c) (i) With respect to a trust or portion of a trust that 824  
is a resident as ascertained in accordance with division (I) (3) 825  
(d) of this section, its modified nonbusiness income. 826

(ii) With respect to a trust or portion of a trust that is 827  
not a resident as ascertained in accordance with division (I) (3) 828  
(d) of this section, the amount of its modified nonbusiness 829  
income satisfying the descriptions in divisions (B) (2) to (5) of 830  
section 5747.20 of the Revised Code, except as otherwise 831  
provided in division (AA) (4) (c) (ii) of this section. With 832  
respect to a trust or portion of a trust that is not a resident 833  
as ascertained in accordance with division (I) (3) (d) of this 834  
section, the trust's portion of modified nonbusiness income 835  
recognized from the sale, exchange, or other disposition of a 836  
debt interest in or equity interest in a section 5747.212 837  
entity, as defined in section 5747.212 of the Revised Code, 838  
without regard to division (A) of that section, shall not be 839

allocated to this state in accordance with section 5747.20 of 840  
the Revised Code but shall be apportioned to this state in 841  
accordance with division (B) of section 5747.212 of the Revised 842  
Code without regard to division (A) of that section. 843

If the allocation and apportionment of a trust's income 844  
under divisions (AA) (4) (a) and (c) of this section do not fairly 845  
represent the modified Ohio taxable income of the trust in this 846  
state, the alternative methods described in division (C) of 847  
section 5747.21 of the Revised Code may be applied in the manner 848  
and to the same extent provided in that section. 849

(5) (a) Except as set forth in division (AA) (5) (b) of this 850  
section, "qualifying investee" means a person in which a trust 851  
has an equity or ownership interest, or a person or unit of 852  
government the debt obligations of either of which are owned by 853  
a trust. For the purposes of division (AA) (2) (a) of this section 854  
and for the purpose of computing the fraction described in 855  
division (AA) (4) (b) of this section, all of the following apply: 856

(i) If the qualifying investee is a member of a qualifying 857  
controlled group on the last day of the qualifying investee's 858  
fiscal or calendar year ending immediately prior to the date on 859  
which the trust recognizes the gain or loss, then "qualifying 860  
investee" includes all persons in the qualifying controlled 861  
group on such last day. 862

(ii) If the qualifying investee, or if the qualifying 863  
investee and any members of the qualifying controlled group of 864  
which the qualifying investee is a member on the last day of the 865  
qualifying investee's fiscal or calendar year ending immediately 866  
prior to the date on which the trust recognizes the gain or 867  
loss, separately or cumulatively own, directly or indirectly, on 868  
the last day of the qualifying investee's fiscal or calendar 869

year ending immediately prior to the date on which the trust 870  
recognizes the qualifying trust amount, more than fifty per cent 871  
of the equity of a pass-through entity, then the qualifying 872  
investee and the other members are deemed to own the 873  
proportionate share of the pass-through entity's physical assets 874  
which the pass-through entity directly or indirectly owns on the 875  
last day of the pass-through entity's calendar or fiscal year 876  
ending within or with the last day of the qualifying investee's 877  
fiscal or calendar year ending immediately prior to the date on 878  
which the trust recognizes the qualifying trust amount. 879

(iii) For the purposes of division (AA) (5) (a) (iii) of this 880  
section, "upper level pass-through entity" means a pass-through 881  
entity directly or indirectly owning any equity of another pass- 882  
through entity, and "lower level pass-through entity" means that 883  
other pass-through entity. 884

An upper level pass-through entity, whether or not it is 885  
also a qualifying investee, is deemed to own, on the last day of 886  
the upper level pass-through entity's calendar or fiscal year, 887  
the proportionate share of the lower level pass-through entity's 888  
physical assets that the lower level pass-through entity 889  
directly or indirectly owns on the last day of the lower level 890  
pass-through entity's calendar or fiscal year ending within or 891  
with the last day of the upper level pass-through entity's 892  
fiscal or calendar year. If the upper level pass-through entity 893  
directly and indirectly owns less than fifty per cent of the 894  
equity of the lower level pass-through entity on each day of the 895  
upper level pass-through entity's calendar or fiscal year in 896  
which or with which ends the calendar or fiscal year of the 897  
lower level pass-through entity and if, based upon clear and 898  
convincing evidence, complete information about the location and 899  
cost of the physical assets of the lower pass-through entity is 900

not available to the upper level pass-through entity, then 901  
solely for purposes of ascertaining if a gain or loss 902  
constitutes a qualifying trust amount, the upper level pass- 903  
through entity shall be deemed as owning no equity of the lower 904  
level pass-through entity for each day during the upper level 905  
pass-through entity's calendar or fiscal year in which or with 906  
which ends the lower level pass-through entity's calendar or 907  
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 908  
shall be construed to provide for any deduction or exclusion in 909  
computing any trust's Ohio taxable income. 910

(b) With respect to a trust that is not a resident for the 911  
taxable year and with respect to a part of a trust that is not a 912  
resident for the taxable year, "qualifying investee" for that 913  
taxable year does not include a C corporation if both of the 914  
following apply: 915

(i) During the taxable year the trust or part of the trust 916  
recognizes a gain or loss from the sale, exchange, or other 917  
disposition of equity or ownership interests in, or debt 918  
obligations of, the C corporation. 919

(ii) Such gain or loss constitutes nonbusiness income. 920

(6) "Available" means information is such that a person is 921  
able to learn of the information by the due date plus 922  
extensions, if any, for filing the return for the taxable year 923  
in which the trust recognizes the gain or loss. 924

(BB) "Qualifying controlled group" has the same meaning as 925  
in section 5733.04 of the Revised Code. 926

(CC) "Related member" has the same meaning as in section 927  
5733.042 of the Revised Code. 928

(DD) (1) For the purposes of division (DD) of this section: 929



(a) "Qualifying person" means any person other than a qualifying corporation.	930 931
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	932 933 934
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	935 936 937 938
(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.	939 940 941 942 943
(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.	944 945 946
(EE) For purposes of this chapter and Chapter 5751. of the Revised Code:	947 948
(1) "Trust" does not include a qualified pre-income tax trust.	949 950
(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.	951 952 953
(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	954 955 956 957

controls, directly, indirectly, or constructively through 958  
related interests, five per cent or more of the ownership or 959  
equity interests. The trustee shall notify the tax commissioner 960  
in writing of the election on or before April 15, 2006. The 961  
election, if timely made, shall be effective on and after 962  
January 1, 2006, and shall apply for all tax periods and tax 963  
years until revoked by the trustee of the trust. 964

(4) A "pre-income tax trust" is a trust that satisfies all 965  
of the following requirements: 966

(a) The document or instrument creating the trust was 967  
executed by the grantor before January 1, 1972; 968

(b) The trust became irrevocable upon the creation of the 969  
trust; and 970

(c) The grantor was domiciled in this state at the time 971  
the trust was created. 972

(FF) "Uniformed services" has the same meaning as in 10 973  
U.S.C. 101. 974

(GG) "Taxable business income" means the amount by which 975  
an individual's business income that is included in federal 976  
adjusted gross income exceeds the amount of business income the 977  
individual is authorized to deduct under division ~~(A) (31)~~ (A) 978  
(28) of this section for the taxable year. 979

(HH) "Employer" does not include a franchisor with respect 980  
to the franchisor's relationship with a franchisee or an 981  
employee of a franchisee, unless the franchisor agrees to assume 982  
that role in writing or a court of competent jurisdiction 983  
determines that the franchisor exercises a type or degree of 984  
control over the franchisee or the franchisee's employees that 985  
is not customarily exercised by a franchisor for the purpose of 986

protecting the franchisor's trademark, brand, or both. For 987  
purposes of this division, "franchisor" and "franchisee" have 988  
the same meanings as in 16 C.F.R. 436.1. 989

(II) "Modified adjusted gross income" means Ohio adjusted 990  
gross income plus any amount deducted under division (A) (28) of 991  
this section for the taxable year. 992

(JJ) "Qualifying Ohio educator" means an individual who, 993  
for a taxable year, qualifies as an eligible educator, as that 994  
term is defined in section 62 of the Internal Revenue Code, and 995  
who holds a certificate, license, or permit described in Chapter 996  
3319. or section 3301.071 of the Revised Code. 997

**Sec. 5747.10.** (A) As used in this section: 998

(1) "Audited partnership" means a partnership subject to 999  
an examination by the internal revenue service pursuant to 1000  
subchapter C, chapter 63, subtitle F of the Internal Revenue 1001  
Code resulting in a federal adjustment. 1002

(2) (a) "Direct investor" means a partner or other investor 1003  
that holds a direct interest in a pass-through entity. 1004

(b) "Indirect investor" means a partner or other investor 1005  
that holds an interest in a pass-through entity that itself 1006  
holds an interest, directly or through another indirect partner 1007  
or other investor, in a pass-through entity. 1008

(3) "Exempt partner" means a partner that is neither a 1009  
pass-through entity nor a person subject to the tax imposed by 1010  
section 5747.02 of the Revised Code. 1011

(4) "Federal adjustment" means a change to an item or 1012  
amount required to be determined under the Internal Revenue Code 1013  
that directly or indirectly affects a taxpayer's aggregate tax 1014

liability under section 5747.02 or Chapter 5748. of the Revised 1015  
Code and that results from an action or examination by the 1016  
internal revenue service, or from the filing of an amended 1017  
federal tax return, a claim for a federal tax refund, or an 1018  
administrative adjustment request filed by a partnership under 1019  
section 6227 of the Internal Revenue Code. 1020

(5) "Federal adjustments return" means the form or other 1021  
document prescribed by the tax commissioner for use by a 1022  
taxpayer in reporting final federal adjustments. 1023

(6) "State partnership representative" means either of the 1024  
following: 1025

(a) The person who served as the partnership's 1026  
representative for federal income tax purposes, pursuant to 1027  
section 6223(a) of the Internal Revenue Code, during the 1028  
corresponding federal partnership audit; 1029

(b) The person designated, on a form prescribed by the tax 1030  
commissioner, to serve as the partnership's representative 1031  
during the state partnership audit. The commissioner may 1032  
establish reasonable qualifications and procedures for a person 1033  
to be designated as a state partnership representative under 1034  
this division. 1035

(7) A federal adjustment is "final" or "agreed to or 1036  
finally determined for federal income tax purposes" on any of 1037  
the following: 1038

(a) The day after which the period for appeal of a federal 1039  
assessment has expired; 1040

(b) The date on a refund check issued by the internal 1041  
revenue service; or 1042

(c) For agreements required to be signed by the internal revenue service and the taxpayer or audited partnership, the date on which the last party signed the agreement.

(B) (1) If any of the facts, figures, computations, or attachments required in a taxpayer's annual return to determine the tax charged by this chapter or Chapter 5748. of the Revised Code must be altered as the result of a final federal adjustment, and the federal adjustment is not required to be reported under division (C) of this section, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than ninety days after the federal adjustment has been agreed to or finally determined for federal income tax purposes.

(2) "One hundred eighty" shall be substituted for "ninety" in divisions (B) (1) and (E) (1) of this section if, for any taxable year, the final federal adjustment results from taxes paid by the taxpayer on an amount described in division ~~(A) (34)~~ (A) (32) of section 5747.01 of the Revised Code.

(C) Except for adjustments required to be reported for federal purposes pursuant to section 6225(a) (2) of the Internal Revenue Code and adjustments that are taken into account on a federal amended return or similar report filed pursuant to section 6225(c) (2) of the Internal Revenue Code, partnerships and partners shall report final federal adjustments and make payments as required under division (C) of this section.

(1) With respect to an action required or permitted to be taken by a partnership under this section, and any petition for reassessment or appeal to the board of tax appeals or any court with respect to such an action, the state partnership representative shall have the sole authority to act on behalf of

the audited partnership, and the partnership's direct and indirect investors shall be bound by those actions. 1073  
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(2) Unless an audited partnership makes the election under division (C) (3) of this section: 1075  
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(a) The audited partnership, through its state partnership representative, shall do all of the following within ninety days after the federal adjustment is final: 1077  
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(i) File a federal adjustments return with the tax commissioner, including a copy of the notifications provided under division (C) (2) (a) (ii) of this section; 1080  
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(ii) Notify each of its direct investors, on a form prescribed by the commissioner, of the investor's distributive share of the final federal adjustments; 1083  
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(iii) File an amended tax return on behalf of its nonresident direct investors and pay any additional tax that would have been due under sections 5733.41 and 5747.41, or division (D) of section 5747.08, of the Revised Code with respect to those direct investors had the final federal adjustments been reported properly on the original filing. 1086  
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(b) Each direct investor that is subject to the tax imposed by section 5747.02 of the Revised Code shall file an original or amended tax return to include the investor's distributive share of the adjustments reported to the direct investor under division (C) (2) (a) of this section, and pay any additional tax due, within ninety days after the audited partnership files its federal adjustments return with the commissioner. 1092  
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(c) (i) Each direct and indirect investor of an audited partnership that is a pass-through entity and all investors in 1100  
1101

such a pass-through entity that are subject to the filing and 1102  
payment requirements of Chapters 5733. and 5747. of the Revised 1103  
Code are subject to the reporting and payment requirements of 1104  
division (C) (2) or, upon a timely election, division (C) (3) of 1105  
this section. 1106

(ii) Such direct and indirect investors shall make the 1107  
required returns and payments within ninety days after the 1108  
deadline for filing and furnishing statements under section 1109  
6226(b) (4) of the Internal Revenue Code and applicable treasury 1110  
regulations. 1111

(3) If an audited partnership makes the election under 1112  
this division, the audited partnership, through its state 1113  
partnership representative, shall do all of the following within 1114  
ninety days after all federal adjustments are final: 1115

(a) File a federal adjustments return with the tax 1116  
commissioner indicating the partnership has made the election 1117  
under division (C) (3) of this section; 1118

(b) Pay the amount of combined additional tax due under 1119  
division (D) (2) of this section, calculated by multiplying the 1120  
highest rate of tax set forth in section 5747.02 of the Revised 1121  
Code by the sum of the following: 1122

(i) The distributive shares of the final federal 1123  
adjustments that are allocable or apportionable to this state of 1124  
each investor who is a nonresident taxpayer or pass-through 1125  
entity; 1126

(ii) The distributive share of the final federal 1127  
adjustments for each investor who is a resident taxpayer. 1128

(c) Notify each of its direct investors, on a form 1129  
prescribed by the commissioner, of the investor's distributive 1130

share of the final federal adjustments and the amount paid on 1131  
their behalf pursuant to division (C) (3) (b) of this section. 1132

(4) (a) A direct investor of an audited partnership is not 1133  
required to file an amended return or pay tax otherwise due 1134  
under section 5747.02 of the Revised Code if the audited 1135  
partnership properly reports and pays the tax under division (C) 1136  
(3) of this section. 1137

(b) (i) Nothing in division (C) of this section precludes a 1138  
direct or indirect investor in the audited partnership from 1139  
filing a return to report the investor's share of the final 1140  
federal adjustments. Such an investor who files a return and 1141  
reports the income related to the final federal adjustments is 1142  
entitled to a refundable credit for taxes paid by the audited 1143  
partnership under division (C) (3) (b) of this section. The credit 1144  
shall be computed and claimed in the same manner as the credit 1145  
allowed under division (I) of section 5747.08 of the Revised 1146  
Code. 1147

(ii) Notwithstanding division (C) (4) (b) (i) of this 1148  
section, an exempt partner, whether a direct or indirect 1149  
investor, may file an application for refund of its 1150  
proportionate share of the amounts erroneously paid by the 1151  
audited partnership pursuant to division (C) (3) (b) of this 1152  
section on the exempt partner's behalf. 1153

(5) Upon request by an audited partnership, the tax 1154  
commissioner may agree, in writing, to allow an alternative 1155  
method of reporting and payment than required by ~~divisions~~ 1156  
division (C) (2) or (3) of this section. The request must be 1157  
submitted to the commissioner in writing before the applicable 1158  
deadline for filing a return under division (C) (2) (a) or (3) of 1159  
this section. The commissioner's decision on whether to enter 1160



into an agreement under this division is not subject to further 1161  
administrative review or appeal. 1162

(6) Nothing in division (C) of this section precludes 1163  
either of the following: 1164

(a) A resident taxpayer from filing a return to claim the 1165  
credit under division (B) of section 5747.05 or division (D) (2) 1166  
of section 5747.02 of the Revised Code based upon any amounts 1167  
paid by the audited partnership on such investor's behalf to 1168  
another state. 1169

(b) The tax commissioner from issuing an assessment under 1170  
this chapter against any direct or indirect investor for taxes 1171  
due from the investor if an audited partnership, or direct and 1172  
indirect investor of an audited partnership that is a pass- 1173  
through entity, fails to timely file any return or remit any 1174  
payment required by this section or underreports income or 1175  
underpays tax on behalf of an indirect investor who is a 1176  
resident taxpayer. 1177

(D) In the case of an underpayment, and unless otherwise 1178  
agreed to in writing by the tax commissioner: 1179

(1) The taxpayer's amended return shall be accompanied by 1180  
payment of any combined additional tax due together with 1181  
interest thereon. An amended return required by this section is 1182  
a return subject to assessment under section 5747.13 of the 1183  
Revised Code for the purpose of assessing any additional tax due 1184  
under this section, together with any applicable penalty and 1185  
interest. It shall not reopen those facts, figures, 1186  
computations, or attachments from a previously filed return no 1187  
longer subject to assessment that are not affected, either 1188  
directly or indirectly, by the final federal adjustment to the 1189

taxpayer's federal income tax return. 1190

(2) The audited partnership's federal adjustments return 1191  
shall be accompanied by payment of any combined additional tax 1192  
due together with interest thereon. The federal adjustments 1193  
return required by this section is a return subject to 1194  
assessment under section 5747.13 of the Revised Code for the 1195  
purpose of assessing any additional tax due under this section, 1196  
together with any applicable penalty and interest. It shall not 1197  
reopen those facts, figures, computations, or attachments from a 1198  
previously filed return no longer subject to assessment that are 1199  
not affected, either directly or indirectly, by the final 1200  
federal adjustment. 1201

(3) The tax commissioner may accept estimated payments of 1202  
the tax arising from pending federal adjustments before the date 1203  
for filing a federal adjustments return. The commissioner may 1204  
adopt rules for the payment of such estimated taxes. 1205

(E) In the case of an overpayment, and unless otherwise 1206  
agreed to in writing by the tax commissioner: 1207

(1) A taxpayer may file an application for refund under 1208  
this division within the ninety-day period prescribed for filing 1209  
the amended return even if it is filed beyond the period 1210  
prescribed in section 5747.11 of the Revised Code if it 1211  
otherwise conforms to the requirements of such section. An 1212  
application filed under this division shall claim refund of 1213  
overpayments resulting from alterations to only those facts, 1214  
figures, computations, or attachments required in the taxpayer's 1215  
annual return that are affected, either directly or indirectly, 1216  
by the final federal adjustment to the taxpayer's federal income 1217  
tax return unless it is also filed within the time prescribed in 1218  
section 5747.11 of the Revised Code. It shall not reopen those 1219

facts, figures, computations, or attachments that are not 1220  
affected, either directly or indirectly, by the adjustment to 1221  
the taxpayer's federal income tax return. 1222

(2) (a) Except as otherwise provided in division (E) (2) (b) 1223  
of this section, an audited partnership may file an application 1224  
for a refund under this division within the ninety-day period 1225  
prescribed for filing the federal adjustments return, even if it 1226  
is filed beyond the period prescribed by section 5747.11 of the 1227  
Revised Code, if it otherwise conforms to the requirements of 1228  
that section. An application filed under this division may claim 1229  
a refund of overpayments resulting only from final federal 1230  
adjustments unless it is also filed within the time prescribed 1231  
by section 5747.11 of the Revised Code. It shall not reopen 1232  
those facts, figures, computations, or attachments that are not 1233  
affected, either directly or indirectly, by the federal 1234  
adjustment. 1235

(b) An audited partnership may not file an application for 1236  
refund under division (E) of this section based on final federal 1237  
adjustments described in section 6225(a) (2) of the Internal 1238  
Revenue Code. 1239

(3) Any refund granted to a pass-through entity filing an 1240  
application for refund under division (E) of this section shall 1241  
be reduced by amounts previously claimed as a credit under 1242  
section 5747.059 or division (I) of section 5747.08 of the 1243  
Revised Code by the pass-through entity's direct or indirect 1244  
investors. 1245

(F) Excluding the deadline in division (C) (2) (c) (ii) of 1246  
this section, an audited partnership, or a direct or indirect 1247  
investor of an audited partnership that is a pass-through 1248  
entity, may automatically extend the deadline for reporting, 1249

payments, and refunds under this section by sixty days if the 1250  
entity has ten thousand or more direct investors and notifies 1251  
the commissioner of such extension, in writing, before the 1252  
unextended deadline. 1253

**Sec. 5747.70.** (A) In computing Ohio adjusted gross income, 1254  
a deduction from federal adjusted gross income is allowed to a 1255  
~~contributor for the amount contributed during the taxable year~~ 1256  
~~taxpayer who contributes to a variable college savings program~~ 1257  
~~account and to a purchaser of or purchases tuition units under~~ 1258  
~~the Ohio college savings program created by Chapter 3334. of the~~ 1259  
~~Revised Code~~ a qualified tuition program established in 1260  
accordance with section 529 of the Internal Revenue Code. The 1261  
amount of the deduction shall equal the amount contributed or 1262  
purchased during the taxable year to the extent that the amounts 1263  
of such contributions and purchases were not deducted in 1264  
determining the contributor's or purchaser's federal adjusted 1265  
gross income for the taxable year. The combined amount of 1266  
contributions and purchases deducted in any taxable year by a 1267  
taxpayer or the taxpayer and the taxpayer's spouse, regardless 1268  
of whether the taxpayer and the taxpayer's spouse file separate 1269  
returns or a joint return, is limited to four thousand dollars 1270  
for each beneficiary for whom contributions or purchases are 1271  
made. If the combined annual contributions and purchases for a 1272  
beneficiary exceed four thousand dollars, the excess may be 1273  
carried forward and deducted in future taxable years until the 1274  
contributions and purchases have been fully deducted. 1275

(B) In computing Ohio adjusted gross income, a deduction 1276  
from federal adjusted gross income is allowed for: 1277

(1) Income related to tuition units and contributions that 1278  
as of the end of the taxable year have not been refunded 1279

pursuant to the termination of a qualified tuition program 1280  
payment contract or ~~variable college savings program~~ account 1281  
~~under section 3334.10 of the Revised Code,~~ to the extent that 1282  
such income is included in federal adjusted gross income. 1283

(2) The excess of the total purchase price of tuition 1284  
units refunded during the taxable year pursuant to the 1285  
termination of a qualified tuition program payment contract 1286  
~~under section 3334.10 of the Revised Code~~ over the amount of the 1287  
refund, to the extent the amount of the excess was not deducted 1288  
in determining federal adjusted gross income. Division (B) (2) of 1289  
this section applies only to units for which no deduction was 1290  
allowable under division (A) of this section. 1291

(C) In computing Ohio adjusted gross income, there shall 1292  
be added to federal adjusted gross income the amount of loss 1293  
related to tuition units and contributions that as of the end of 1294  
the taxable year have not been refunded pursuant to the 1295  
termination of a qualified tuition program payment contract or 1296  
~~variable college savings program~~ account ~~under section 3334.10~~ 1297  
~~of the Revised Code,~~ to the extent that such loss was deducted 1298  
in determining federal adjusted gross income. 1299

(D) For taxable years in which distributions or refunds 1300  
are made under a qualified tuition ~~payment or variable college~~ 1301  
~~savings program~~ contract program for any reason other than 1302  
payment of higher education expenses, or the beneficiary's 1303  
death, disability, or receipt of a scholarship as described in 1304  
section 3334.10 of the Revised Code: 1305

(1) If the distribution or refund is paid to the purchaser 1306  
or contributor or beneficiary, any portion of the distribution 1307  
or refund not included in the recipient's federal adjusted gross 1308  
income shall be added to the recipient's federal adjusted gross 1309

income in determining the recipient's Ohio adjusted gross 1310  
income, except that the amount added shall not exceed amounts 1311  
previously deducted under division (A) of this section less any 1312  
amounts added under division (D) (1) of this section in a prior 1313  
taxable year. 1314

(2) If amounts paid by a purchaser or contributor on or 1315  
after January 1, 2000, are distributed or refunded to someone 1316  
other than the purchaser or contributor or beneficiary, the 1317  
amount of the payment not included in the recipient's federal 1318  
adjusted gross income, less any amounts added under division (D) 1319  
of this section in a prior taxable year, shall be added to the 1320  
recipient's federal adjusted gross income in determining the 1321  
recipient's Ohio adjusted gross income. 1322

**Section 2.** That existing sections 5747.01, 5747.10, and 1323  
5747.70 of the Revised Code are hereby repealed. 1324

**Section 3.** The amendment by this act of section 5747.70 of 1325  
the Revised Code applies to taxable years beginning on or after 1326  
January 1, 2021. 1327

Nothing in this act limits the ability of a taxpayer whose 1328  
combined contributions to an Ohio variable college savings 1329  
program account and purchases of tuition units under the Ohio 1330  
college savings program for a beneficiary exceeded four thousand 1331  
dollars in a taxable year beginning before January 1, 2021, from 1332  
carrying forward and deducting the excess in taxable years 1333  
beginning on or after January 1, 2021. 1334

**Section 4.** Section 5747.01 of the Revised Code is 1335  
presented in this act as a composite of the section as amended 1336  
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 1337  
General Assembly. The General Assembly, applying the principle 1338

stated in division (B) of section 1.52 of the Revised Code that 1339  
amendments are to be harmonized if reasonably capable of 1340  
simultaneous operation, finds that the composite is the 1341  
resulting version of the section in effect prior to the 1342  
effective date of the section as presented in this act. 1343

**Section 5.** Pursuant to division (G) of section 5703.95 of 1344  
the Revised Code, which states that any bill introduced in the 1345  
House of Representatives or the Senate that proposes to enact or 1346  
modify one or more tax expenditures should include a statement 1347  
explaining the objectives of the tax expenditure or its 1348  
modification and the sponsor's intent in proposing the tax 1349  
expenditure or its modification: 1350

The objective of this act is to provide the same tax 1351  
benefit to all families saving for college in Ohio. Currently, 1352  
only families investing in Ohio's 529 college savings plan 1353  
receive the \$4,000 deduction against their taxable income. The 1354  
underlying goal is to encourage all Ohio taxpayers to invest in 1355  
a 529 college savings account to plan for the cost of going to 1356  
college. This act extends the same tax benefit to all Ohio 1357  
families paying state income taxes regardless of whether they 1358  
invest in Ohio's plan or another state's plan that may be a 1359  
better option for their family needs. This act also provides 1360  
competition for Ohio's college savings plan to ensure families 1361  
investing in Ohio's plan obtain the highest possible return on 1362  
their investment at the lowest possible cost associated with the 1363  
plan. 1364