

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 399

Representatives Brown, Lampton

A BILL

To amend section 5747.01 and to enact section 1
5747.74 of the Revised Code to modify the 2
existing income tax credit for organ donors and 3
to create an income tax credit for employers 4
that provide paid leave to organ donors. 5

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

Section 1. That section 5747.01 be amended and section 6
5747.74 of the Revised Code be enacted to read as follows: 7

Sec. 5747.01. Except as otherwise expressly provided or 8
clearly appearing from the context, any term used in this 9
chapter that is not otherwise defined in this section has the 10
same meaning as when used in a comparable context in the laws of 11
the United States relating to federal income taxes or if not 12
used in a comparable context in those laws, has the same meaning 13
as in section 5733.40 of the Revised Code. Any reference in this 14
chapter to the Internal Revenue Code includes other laws of the 15
United States relating to federal income taxes. 16

As used in this chapter: 17

(A) "Adjusted gross income" or "Ohio adjusted gross 18
income" means federal adjusted gross income, as defined and used 19

in the Internal Revenue Code, adjusted as provided in this 20
section: 21

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

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

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

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

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

(a) Benefits under Title II of the Social Security Act and 42
tier 1 railroad retirement; 43

(b) Railroad retirement benefits, other than tier 1 44
railroad retirement benefits, to the extent such amounts are 45
exempt from state taxation under federal law. 46

(6) Deduct the amount of wages and salaries, if any, not 47

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

(7) Deduct any interest or interest equivalent on public 53
obligations and purchase obligations to the extent that the 54
interest or interest equivalent is included in federal adjusted 55
gross income. 56

(8) Add any loss or deduct any gain resulting from the 57
sale, exchange, or other disposition of public obligations to 58
the extent that the loss has been deducted or the gain has been 59
included in computing federal adjusted gross income. 60

(9) Deduct or add amounts, as provided under section 61
5747.70 of the Revised Code, related to contributions made to or 62
tuition units purchased under a qualified tuition program 63
established pursuant to section 529 of the Internal Revenue 64
Code. 65

(10) (a) Deduct, to the extent not otherwise allowable as a 66
deduction or exclusion in computing federal or Ohio adjusted 67
gross income for the taxable year, the amount the taxpayer paid 68
during the taxable year for medical care insurance and qualified 69
long-term care insurance for the taxpayer, the taxpayer's 70
spouse, and dependents. No deduction for medical care insurance 71
under division (A) (10) (a) of this section shall be allowed 72
either to any taxpayer who is eligible to participate in any 73
subsidized health plan maintained by any employer of the 74
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 75
entitled to, or on application would be entitled to, benefits 76
under part A of Title XVIII of the "Social Security Act," 49 77

Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 78
division (A)(10)(a) of this section, "subsidized health plan" 79
means a health plan for which the employer pays any portion of 80
the plan's cost. The deduction allowed under division (A)(10)(a) 81
of this section shall be the net of any related premium refunds, 82
related premium reimbursements, or related insurance premium 83
dividends received during the taxable year. 84

(b) Deduct, to the extent not otherwise deducted or 85
excluded in computing federal or Ohio adjusted gross income 86
during the taxable year, the amount the taxpayer paid during the 87
taxable year, not compensated for by any insurance or otherwise, 88
for medical care of the taxpayer, the taxpayer's spouse, and 89
dependents, to the extent the expenses exceed seven and one-half 90
per cent of the taxpayer's federal adjusted gross income. 91

(c) For purposes of division (A)(10) of this section, 92
"medical care" has the meaning given in section 213 of the 93
Internal Revenue Code, subject to the special rules, 94
limitations, and exclusions set forth therein, and "qualified 95
long-term care" has the same meaning given in section 7702B(c) 96
of the Internal Revenue Code. Solely for purposes of division 97
(A)(10)(a) of this section, "dependent" includes a person who 98
otherwise would be a "qualifying relative" and thus a 99
"dependent" under section 152 of the Internal Revenue Code but 100
for the fact that the person fails to meet the income and 101
support limitations under section 152(d)(1)(B) and (C) of the 102
Internal Revenue Code. 103

(11) (a) Deduct any amount included in federal adjusted 104
gross income solely because the amount represents a 105
reimbursement or refund of expenses that in any year the 106
taxpayer had deducted as an itemized deduction pursuant to 107

section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A) (11) (a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

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

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

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

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

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

(14) (a) Add an amount equal to the funds withdrawn from a

medical savings account during the taxable year, and the net 137
investment earnings on those funds, when the funds withdrawn 138
were used for any purpose other than to reimburse an account 139
holder for, or to pay, eligible medical expenses, in accordance 140
with section 3924.66 of the Revised Code; 141

(b) Add the amounts distributed from a medical savings 142
account under division (A) (2) of section 3924.68 of the Revised 143
Code during the taxable year. 144

(15) Add any amount claimed as a credit under section 145
5747.059 of the Revised Code to the extent that such amount 146
satisfies either of the following: 147

(a) The amount was deducted or excluded from the 148
computation of the taxpayer's federal adjusted gross income as 149
required to be reported for the taxpayer's taxable year under 150
the Internal Revenue Code; 151

(b) The amount resulted in a reduction of the taxpayer's 152
federal adjusted gross income as required to be reported for any 153
of the taxpayer's taxable years under the Internal Revenue Code. 154

(16) Deduct the amount contributed by the taxpayer to an 155
individual development account program established by a county 156
department of job and family services pursuant to sections 157
329.11 to 329.14 of the Revised Code for the purpose of matching 158
funds deposited by program participants. On request of the tax 159
commissioner, the taxpayer shall provide any information that, 160
in the tax commissioner's opinion, is necessary to establish the 161
amount deducted under division (A) (16) of this section. 162

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 163
(v) of this section, add five-sixths of the amount of 164
depreciation expense allowed by subsection (k) of section 168 of 165

the Internal Revenue Code, including the taxpayer's 166
proportionate or distributive share of the amount of 167
depreciation expense allowed by that subsection to a pass- 168
through entity in which the taxpayer has a direct or indirect 169
ownership interest. 170

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 171
of this section, add five-sixths of the amount of qualifying 172
section 179 depreciation expense, including the taxpayer's 173
proportionate or distributive share of the amount of qualifying 174
section 179 depreciation expense allowed to any pass-through 175
entity in which the taxpayer has a direct or indirect ownership 176
interest. 177

(iii) Subject to division (A) (17) (a) (v) of this section, 178
for taxable years beginning in 2012 or thereafter, if the 179
increase in income taxes withheld by the taxpayer is equal to or 180
greater than ten per cent of income taxes withheld by the 181
taxpayer during the taxpayer's immediately preceding taxable 182
year, "two-thirds" shall be substituted for "five-sixths" for 183
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 184

(iv) Subject to division (A) (17) (a) (v) of this section, 185
for taxable years beginning in 2012 or thereafter, a taxpayer is 186
not required to add an amount under division (A) (17) of this 187
section if the increase in income taxes withheld by the taxpayer 188
and by any pass-through entity in which the taxpayer has a 189
direct or indirect ownership interest is equal to or greater 190
than the sum of (I) the amount of qualifying section 179 191
depreciation expense and (II) the amount of depreciation expense 192
allowed to the taxpayer by subsection (k) of section 168 of the 193
Internal Revenue Code, and including the taxpayer's 194
proportionate or distributive shares of such amounts allowed to 195

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| any such pass-through entities. | 196 |
| (v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A) (17) (a) (i) and (ii) of this section. | 197 198 199 200 201 202 203 |
| The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity. | 204 205 206 207 |
| (b) Nothing in division (A) (17) of this section shall be construed to adjust or modify the adjusted basis of any asset. | 208 209 |
| (c) To the extent the add-back required under division (A) (17) (a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code. | 210 211 212 213 214 215 216 217 218 219 |
| (d) For the purposes of division (A) (17) (a) (v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the | 220 221 222 223 224 |

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| Internal Revenue Code and by the qualifying section 179 | 225 |
| depreciation expense amount. | 226 |
| (e) For the purposes of divisions (A) (17) and (18) of this | 227 |
| section: | 228 |
| (i) "Income taxes withheld" means the total amount | 229 |
| withheld and remitted under sections 5747.06 and 5747.07 of the | 230 |
| Revised Code by an employer during the employer's taxable year. | 231 |
| (ii) "Increase in income taxes withheld" means the amount | 232 |
| by which the amount of income taxes withheld by an employer | 233 |
| during the employer's current taxable year exceeds the amount of | 234 |
| income taxes withheld by that employer during the employer's | 235 |
| immediately preceding taxable year. | 236 |
| (iii) "Qualifying section 179 depreciation expense" means | 237 |
| the difference between (I) the amount of depreciation expense | 238 |
| directly or indirectly allowed to a taxpayer under section 179 | 239 |
| of the Internal Revised Code, and (II) the amount of | 240 |
| depreciation expense directly or indirectly allowed to the | 241 |
| taxpayer under section 179 of the Internal Revenue Code as that | 242 |
| section existed on December 31, 2002. | 243 |
| (18) (a) If the taxpayer was required to add an amount | 244 |
| under division (A) (17) (a) of this section for a taxable year, | 245 |
| deduct one of the following: | 246 |
| (i) One-fifth of the amount so added for each of the five | 247 |
| succeeding taxable years if the amount so added was five-sixths | 248 |
| of qualifying section 179 depreciation expense or depreciation | 249 |
| expense allowed by subsection (k) of section 168 of the Internal | 250 |
| Revenue Code; | 251 |
| (ii) One-half of the amount so added for each of the two | 252 |
| succeeding taxable years if the amount so added was two-thirds | 253 |

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| of such depreciation expense; | 254 |
| (iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added. | 255 256 257 |
| (b) If the amount deducted under division (A) (18) (a) of this section is attributable to an add-back allocated under division (A) (17) (c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code. | 258 259 260 261 262 263 264 265 |
| (c) No deduction is available under division (A) (18) (a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A) (18) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A) (17) (a) of this section has been deducted. | 266 267 268 269 270 271 272 273 274 275 276 277 278 |
| (19) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code. | 279 280 281 282 283 |

(20) Deduct, to the extent not otherwise deducted or 284
excluded in computing federal or Ohio adjusted gross income for 285
the taxable year, the amount the taxpayer received during the 286
taxable year as a death benefit paid by the adjutant general 287
under section 5919.33 of the Revised Code. 288

(21) Deduct, to the extent included in federal adjusted 289
gross income and not otherwise allowable as a deduction or 290
exclusion in computing federal or Ohio adjusted gross income for 291
the taxable year, military pay and allowances received by the 292
taxpayer during the taxable year for active duty service in the 293
United States army, air force, navy, marine corps, or coast 294
guard or reserve components thereof or the national guard. The 295
deduction may not be claimed for military pay and allowances 296
received by the taxpayer while the taxpayer is stationed in this 297
state. 298

(22) Deduct, to the extent not otherwise allowable as a 299
deduction or exclusion in computing federal or Ohio adjusted 300
gross income for the taxable year ~~and not otherwise compensated~~ 301
~~for by any other source, the amount of qualified organ donation~~ 302
~~expenses incurred by the taxpayer during the taxable year, not~~ 303
~~to exceed ten thousand dollars for any taxpayer who, while~~ 304
living, donated all or part of such person's liver, pancreas, 305
kidney, intestine, lung, or bone marrow during the taxable year 306
in accordance with the "National Organ Transplant Act," 42 307
U.S.C. 273, et seq. A taxpayer may deduct qualified organ 308
~~donation expenses only once for all taxable years beginning with~~ 309
~~taxable years beginning in 2007.~~ 310

~~For the purposes of division (A) (22) of this section:~~ 311

~~(a) "Human organ" means all or any portion of a human~~ 312
~~liver, pancreas, kidney, intestine, or lung, and any portion of~~ 313

~~human bone marrow.~~ 314

~~(b) "Qualified organ donation expenses" means travel 315
expenses, lodging expenses, and wages and salary forgone by a 316
taxpayer in connection with the taxpayer's donation, while 317
living, of one or more of the taxpayer's human organs to another 318
human being.~~ 319

(23) Deduct, to the extent not otherwise deducted or 320
excluded in computing federal or Ohio adjusted gross income for 321
the taxable year, amounts received by the taxpayer as retired 322
personnel pay for service in the uniformed services or reserve 323
components thereof, or the national guard, or received by the 324
surviving spouse or former spouse of such a taxpayer under the 325
survivor benefit plan on account of such a taxpayer's death. If 326
the taxpayer receives income on account of retirement paid under 327
the federal civil service retirement system or federal employees 328
retirement system, or under any successor retirement program 329
enacted by the congress of the United States that is established 330
and maintained for retired employees of the United States 331
government, and such retirement income is based, in whole or in 332
part, on credit for the taxpayer's uniformed service, the 333
deduction allowed under this division shall include only that 334
portion of such retirement income that is attributable to the 335
taxpayer's uniformed service, to the extent that portion of such 336
retirement income is otherwise included in federal adjusted 337
gross income and is not otherwise deducted under this section. 338
Any amount deducted under division (A) (23) of this section is 339
not included in a taxpayer's adjusted gross income for the 340
purposes of section 5747.055 of the Revised Code. No amount may 341
be deducted under division (A) (23) of this section on the basis 342
of which a credit was claimed under section 5747.055 of the 343
Revised Code. 344

(24) Deduct, to the extent not otherwise deducted or 345
excluded in computing federal or Ohio adjusted gross income for 346
the taxable year, the amount the taxpayer received during the 347
taxable year from the military injury relief fund created in 348
section 5902.05 of the Revised Code. 349

(25) Deduct, to the extent not otherwise deducted or 350
excluded in computing federal or Ohio adjusted gross income for 351
the taxable year, the amount the taxpayer received as a veterans 352
bonus during the taxable year from the Ohio department of 353
veterans services as authorized by Section 2r of Article VIII, 354
Ohio Constitution. 355

(26) Deduct, to the extent not otherwise deducted or 356
excluded in computing federal or Ohio adjusted gross income for 357
the taxable year, any income derived from a transfer agreement 358
or from the enterprise transferred under that agreement under 359
section 4313.02 of the Revised Code. 360

(27) Deduct, to the extent not otherwise deducted or 361
excluded in computing federal or Ohio adjusted gross income for 362
the taxable year, Ohio college opportunity or federal Pell grant 363
amounts received by the taxpayer or the taxpayer's spouse or 364
dependent pursuant to section 3333.122 of the Revised Code or 20 365
U.S.C. 1070a, et seq., and used to pay room or board furnished 366
by the educational institution for which the grant was awarded 367
at the institution's facilities, including meal plans 368
administered by the institution. For the purposes of this 369
division, receipt of a grant includes the distribution of a 370
grant directly to an educational institution and the crediting 371
of the grant to the enrollee's account with the institution. 372

(28) Deduct from the portion of an individual's federal 373
adjusted gross income that is business income, to the extent not 374

otherwise deducted or excluded in computing federal adjusted 375
gross income for the taxable year, one hundred twenty-five 376
thousand dollars for each spouse if spouses file separate 377
returns under section 5747.08 of the Revised Code or two hundred 378
fifty thousand dollars for all other individuals. 379

(29) Deduct, as provided under section 5747.78 of the 380
Revised Code, contributions to ABLE savings accounts made in 381
accordance with sections 113.50 to 113.56 of the Revised Code. 382

(30) (a) Deduct, to the extent not otherwise deducted or 383
excluded in computing federal or Ohio adjusted gross income 384
during the taxable year, all of the following: 385

(i) Compensation paid to a qualifying employee described 386
in division (A) (14) (a) of section 5703.94 of the Revised Code to 387
the extent such compensation is for disaster work conducted in 388
this state during a disaster response period pursuant to a 389
qualifying solicitation received by the employee's employer; 390

(ii) Compensation paid to a qualifying employee described 391
in division (A) (14) (b) of section 5703.94 of the Revised Code to 392
the extent such compensation is for disaster work conducted in 393
this state by the employee during the disaster response period 394
on critical infrastructure owned or used by the employee's 395
employer; 396

(iii) Income received by an out-of-state disaster business 397
for disaster work conducted in this state during a disaster 398
response period, or, if the out-of-state disaster business is a 399
pass-through entity, a taxpayer's distributive share of the 400
pass-through entity's income from the business conducting 401
disaster work in this state during a disaster response period, 402
if, in either case, the disaster work is conducted pursuant to a 403

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| qualifying solicitation received by the business. | 404 |
| (b) All terms used in division (A) (30) of this section | 405 |
| have the same meanings as in section 5703.94 of the Revised | 406 |
| Code. | 407 |
| (31) For a taxpayer who is a qualifying Ohio educator, | 408 |
| deduct, to the extent not otherwise deducted or excluded in | 409 |
| computing federal or Ohio adjusted gross income for the taxable | 410 |
| year, the lesser of two hundred fifty dollars or the amount of | 411 |
| expenses described in subsections (a) (2) (D) (i) and (ii) of | 412 |
| section 62 of the Internal Revenue Code paid or incurred by the | 413 |
| taxpayer during the taxpayer's taxable year in excess of the | 414 |
| amount the taxpayer is authorized to deduct for that taxable | 415 |
| year under subsection (a) (2) (D) of that section. | 416 |
| (32) Deduct, to the extent not otherwise deducted or | 417 |
| excluded in computing federal or Ohio adjusted gross income for | 418 |
| the taxable year, amounts received by the taxpayer as a | 419 |
| disability severance payment, computed under 10 U.S.C. 1212, | 420 |
| following discharge or release under honorable conditions from | 421 |
| the armed forces, as defined by 10 U.S.C. 101. | 422 |
| (33) Deduct, to the extent not otherwise deducted or | 423 |
| excluded in computing federal adjusted gross income or Ohio | 424 |
| adjusted gross income, amounts not subject to tax due to an | 425 |
| agreement entered into under division (A) (2) of section 5747.05 | 426 |
| of the Revised Code. | 427 |
| (34) Deduct amounts as provided under section 5747.79 of | 428 |
| the Revised Code related to the taxpayer's qualifying capital | 429 |
| gains and deductible payroll. | 430 |
| To the extent a qualifying capital gain described under | 431 |
| division (A) (34) of this section is business income, the | 432 |

taxpayer shall deduct those gains under this division before 433
deducting any such gains under division (A) (28) of this section. 434

(35) (a) For taxable years beginning in or after 2026, 435
deduct, to the extent not otherwise deducted or excluded in 436
computing federal or Ohio adjusted gross income for the taxable 437
year: 438

(i) One hundred per cent of the capital gain received by 439
the taxpayer in the taxable year from a qualifying interest in 440
an Ohio venture capital operating company attributable to the 441
company's investments in Ohio businesses during the period for 442
which the company was an Ohio venture operating company; and 443

(ii) Fifty per cent of the capital gain received by the 444
taxpayer in the taxable year from a qualifying interest in an 445
Ohio venture capital operating company attributable to the 446
company's investments in all other businesses during the period 447
for which the company was an Ohio venture operating company. 448

(b) Add amounts previously deducted by the taxpayer under 449
division (A) (35) (a) of this section if the director of 450
development certifies to the tax commissioner that the 451
requirements for the deduction were not met. 452

(c) All terms used in division (A) (35) of this section 453
have the same meanings as in section 122.851 of the Revised 454
Code. 455

(d) To the extent a capital gain described in division (A) 456
(35) (a) of this section is business income, the taxpayer shall 457
apply that division before applying division (A) (28) of this 458
section. 459

(36) Add, to the extent not otherwise included in 460
computing federal or Ohio adjusted gross income for any taxable 461

year, the taxpayer's proportionate share of the amount of the 462
tax levied under section 5747.38 of the Revised Code and paid by 463
an electing pass-through entity for the taxable year. 464

Notwithstanding any provision of the Revised Code to the 465
contrary, the portion of the addition required by division (A) 466
(36) of this section related to the apportioned business income 467
of the pass-through entity shall be considered business income 468
under division (B) of this section. Such addition is eligible 469
for the deduction in division (A) (28) of this section, subject 470
to the applicable dollar limitations, and the tax rate 471
prescribed by division (A) (4) (a) of section 5747.02 of the 472
Revised Code. The taxpayer shall provide, upon request of the 473
tax commissioner, any documentation necessary to verify the 474
portion of the addition that is business income under this 475
division. 476

(37) Deduct, to the extent not otherwise deducted or 477
excluded in computing federal or Ohio adjusted gross income for 478
the taxable year, amounts delivered to a qualifying institution 479
pursuant to section 3333.128 of the Revised Code for the benefit 480
of the taxpayer or the taxpayer's spouse or dependent. 481

(38) Deduct, to the extent not otherwise deducted or 482
excluded in computing federal or Ohio adjusted gross income for 483
the taxable year, amounts received under the Ohio adoption grant 484
program pursuant to section 5101.191 of the Revised Code. 485

(39) Deduct, to the extent included in federal adjusted 486
gross income, income attributable to amounts provided to a 487
taxpayer for any of the purposes for which a deduction is 488
authorized under section 139 of the Internal Revenue Code, 489
assuming that the train derailment near the city of East 490
Palestine on February 3, 2023, is a qualified disaster pursuant 491

to that section, or to compensate for lost business resulting 492
from that derailment, if such amounts are provided by any of the 493
following: 494

(a) A federal, state, or local government agency; 495

(b) A railroad company, as that term is defined in section 496
5727.01 of the Revised Code; 497

(c) Any subsidiary, insurer, or agent of a railroad 498
company or any related person. 499

(40) Deduct, to the extent included in federal adjusted 500
gross income, income attributable to loan repayments on behalf 501
of the taxpayer under the rural practice incentive program under 502
section 3333.135 of the Revised Code. 503

(41) Add any income taxes deducted in computing federal or 504
Ohio adjusted gross income to the extent the income taxes were 505
derived from income subject to a tax levied in another state or 506
the District of Columbia when such tax was enacted for purposes 507
of complying with internal revenue service notice 2020-75. 508

Notwithstanding any provision of the Revised Code to the 509
contrary, the portion of the addition required by division (A) 510
(41) of this section related to the apportioned business income 511
of the pass-through entity shall be considered business income 512
under division (B) of this section. Such addition is eligible 513
for the deduction in division (A)(28) of this section, subject 514
to the applicable dollar limitations, and the tax rate 515
prescribed by division (A)(4)(a) of section 5747.02 of the 516
Revised Code. The taxpayer shall provide, upon request of the 517
tax commissioner, any documentation necessary to verify the 518
portion of the addition that is business income under this 519
division. 520

(42) Deduct amounts contributed to a homeownership savings account and calculated pursuant to divisions (B) and (C) of section 5747.85 of the Revised Code. 521
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(43) If the taxpayer is the account owner, add the amount of funds withdrawn from a homeownership savings account not used for eligible expenses, regardless of who deposited those funds. As used in division (A) (43) of this section, "homeownership savings account," "account owner," and "eligible expenses" have the same meanings as in section 5747.85 of the Revised Code. 524
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(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill or the sale of an equity or ownership interest in a business. 530
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As used in this division, the "sale of an equity or ownership interest in a business" means sales to which either or both of the following apply: 541
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(1) The sale is treated for federal income tax purposes as the sale of assets. 544
545

(2) The seller materially participated, as described in 26 C.F.R. 1.469-5T, in the activities of the business during the taxable year in which the sale occurs or during any of the five preceding taxable years. 546
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(C) "Nonbusiness income" means all income other than 550
business income and may include, but is not limited to, 551
compensation, rents and royalties from real or tangible personal 552
property, capital gains, interest, dividends and distributions, 553
patent or copyright royalties, or lottery winnings, prizes, and 554
awards. 555

(D) "Compensation" means any form of remuneration paid to 556
an employee for personal services. 557

(E) "Fiduciary" means a guardian, trustee, executor, 558
administrator, receiver, conservator, or any other person acting 559
in any fiduciary capacity for any individual, trust, or estate. 560

(F) "Fiscal year" means an accounting period of twelve 561
months ending on the last day of any month other than December. 562

(G) "Individual" means any natural person. 563

(H) "Internal Revenue Code" means the "Internal Revenue 564
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 565

(I) "Resident" means any of the following: 566

(1) An individual who is domiciled in this state, subject 567
to section 5747.24 of the Revised Code; 568

(2) The estate of a decedent who at the time of death was 569
domiciled in this state. The domicile tests of section 5747.24 570
of the Revised Code are not controlling for purposes of division 571
(I) (2) of this section. 572

(3) A trust that, in whole or part, resides in this state. 573
If only part of a trust resides in this state, the trust is a 574
resident only with respect to that part. 575

For the purposes of division (I) (3) of this section: 576

(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:

(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;

(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;

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

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

Code. 607

(c) With respect to a trust other than a charitable lead 608
trust, "qualifying beneficiary" has the same meaning as 609
"potential current beneficiary" as defined in section 1361(e) (2) 610
of the Internal Revenue Code, and with respect to a charitable 611
lead trust "qualifying beneficiary" is any current, future, or 612
contingent beneficiary, but with respect to any trust 613
"qualifying beneficiary" excludes a person or a governmental 614
entity or instrumentality to any of which a contribution would 615
qualify for the charitable deduction under section 170 of the 616
Internal Revenue Code. 617

(d) For the purposes of division (I) (3) (a) of this 618
section, the extent to which a trust consists directly or 619
indirectly, in whole or in part, of assets, net of any related 620
liabilities, that were transferred directly or indirectly, in 621
whole or part, to the trust by any of the sources enumerated in 622
that division shall be ascertained by multiplying the fair 623
market value of the trust's assets, net of related liabilities, 624
by the qualifying ratio, which shall be computed as follows: 625

(i) The first time the trust receives assets, the 626
numerator of the qualifying ratio is the fair market value of 627
those assets at that time, net of any related liabilities, from 628
sources enumerated in division (I) (3) (a) of this section. The 629
denominator of the qualifying ratio is the fair market value of 630
all the trust's assets at that time, net of any related 631
liabilities. 632

(ii) Each subsequent time the trust receives assets, a 633
revised qualifying ratio shall be computed. The numerator of the 634
revised qualifying ratio is the sum of (1) the fair market value 635
of the trust's assets immediately prior to the subsequent 636

transfer, net of any related liabilities, multiplied by the 637
qualifying ratio last computed without regard to the subsequent 638
transfer, and (2) the fair market value of the subsequently 639
transferred assets at the time transferred, net of any related 640
liabilities, from sources enumerated in division (I) (3) (a) of 641
this section. The denominator of the revised qualifying ratio is 642
the fair market value of all the trust's assets immediately 643
after the subsequent transfer, net of any related liabilities. 644

(iii) Whether a transfer to the trust is by or from any of 645
the sources enumerated in division (I) (3) (a) of this section 646
shall be ascertained without regard to the domicile of the 647
trust's beneficiaries. 648

(e) For the purposes of division (I) (3) (a) (i) of this 649
section: 650

(i) A trust is described in division (I) (3) (e) (i) of this 651
section if the trust is a testamentary trust and the testator of 652
that testamentary trust was domiciled in this state at the time 653
of the testator's death for purposes of the taxes levied under 654
Chapter 5731. of the Revised Code. 655

(ii) A trust is described in division (I) (3) (e) (ii) of 656
this section if the transfer is a qualifying transfer described 657
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 658
trust is an irrevocable inter vivos trust, and at least one of 659
the trust's qualifying beneficiaries is domiciled in this state 660
for purposes of this chapter during all or some portion of the 661
trust's current taxable year. 662

(f) For the purposes of division (I) (3) (e) (ii) of this 663
section, a "qualifying transfer" is a transfer of assets, net of 664
any related liabilities, directly or indirectly to a trust, if 665

the transfer is described in any of the following: 666

(i) The transfer is made to a trust, created by the 667
decedent before the decedent's death and while the decedent was 668
domiciled in this state for the purposes of this chapter, and, 669
prior to the death of the decedent, the trust became irrevocable 670
while the decedent was domiciled in this state for the purposes 671
of this chapter. 672

(ii) The transfer is made to a trust to which the 673
decedent, prior to the decedent's death, had directly or 674
indirectly transferred assets, net of any related liabilities, 675
while the decedent was domiciled in this state for the purposes 676
of this chapter, and prior to the death of the decedent the 677
trust became irrevocable while the decedent was domiciled in 678
this state for the purposes of this chapter. 679

(iii) The transfer is made on account of a contractual 680
relationship existing directly or indirectly between the 681
transferor and either the decedent or the estate of the decedent 682
at any time prior to the date of the decedent's death, and the 683
decedent was domiciled in this state at the time of death for 684
purposes of the taxes levied under Chapter 5731. of the Revised 685
Code. 686

(iv) The transfer is made to a trust on account of a 687
contractual relationship existing directly or indirectly between 688
the transferor and another person who at the time of the 689
decedent's death was domiciled in this state for purposes of 690
this chapter. 691

(v) The transfer is made to a trust on account of the will 692
of a testator who was domiciled in this state at the time of the 693
testator's death for purposes of the taxes levied under Chapter 694

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| 5731. of the Revised Code. | 695 |
| (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 state at the time of the individual's death. | 696 697 698 699 700 701 |
| (g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state. | 702 703 |
| (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. | 704 705 706 707 |
| (K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. | 708 709 |
| (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. | 710 711 712 713 |
| (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. | 714 715 716 717 |
| (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. | 718 719 720 721 |
| (O) "Dependents" means one of the following: | 722 |

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|---|---------------------------------|
| (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code; | 723 724 725 |
| (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 taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return. | 726 727 728 729 730 |
| (P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed. | 731 732 733 734 735 |
| (Q) As used in sections 5747.50 to 5747.55 of the Revised Code: | 736 737 |
| (1) "Subdivision" means any county, municipal corporation, park district, or township. | 738 739 |
| (2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution. | 740 741 742 743 |
| (R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax. | 744 745 746 |
| (S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows: | 747 748 749 750 |

(1) Add interest or dividends, net of ordinary, necessary, 751
and reasonable expenses not deducted in computing federal 752
taxable income, on obligations or securities of any state or of 753
any political subdivision or authority of any state, other than 754
this state and its subdivisions and authorities, but only to the 755
extent that such net amount is not otherwise includible in Ohio 756
taxable income and is described in either division (S) (1) (a) or 757
(b) of this section: 758

(a) The net amount is not attributable to the S portion of 759
an electing small business trust and has not been distributed to 760
beneficiaries for the taxable year; 761

(b) The net amount is attributable to the S portion of an 762
electing small business trust for the taxable year. 763

(2) Add interest or dividends, net of ordinary, necessary, 764
and reasonable expenses not deducted in computing federal 765
taxable income, on obligations of any authority, commission, 766
instrumentality, territory, or possession of the United States 767
to the extent that the interest or dividends are exempt from 768
federal income taxes but not from state income taxes, but only 769
to the extent that such net amount is not otherwise includible 770
in Ohio taxable income and is described in either division (S) 771
(1) (a) or (b) of this section; 772

(3) Add the amount of personal exemption allowed to the 773
estate pursuant to section 642(b) of the Internal Revenue Code; 774

(4) Deduct interest or dividends, net of related expenses 775
deducted in computing federal taxable income, on obligations of 776
the United States and its territories and possessions or of any 777
authority, commission, or instrumentality of the United States 778
to the extent that the interest or dividends are exempt from 779

state taxes under the laws of the United States, but only to the 780
extent that such amount is included in federal taxable income 781
and is described in either division (S) (1) (a) or (b) of this 782
section; 783

(5) Deduct the amount of wages and salaries, if any, not 784
otherwise allowable as a deduction but that would have been 785
allowable as a deduction in computing federal taxable income for 786
the taxable year, had the work opportunity tax credit allowed 787
under sections 38, 51, and 52 of the Internal Revenue Code not 788
been in effect, but only to the extent such amount relates 789
either to income included in federal taxable income for the 790
taxable year or to income of the S portion of an electing small 791
business trust for the taxable year; 792

(6) Deduct any interest or interest equivalent, net of 793
related expenses deducted in computing federal taxable income, 794
on public obligations and purchase obligations, but only to the 795
extent that such net amount relates either to income included in 796
federal taxable income for the taxable year or to income of the 797
S portion of an electing small business trust for the taxable 798
year; 799

(7) Add any loss or deduct any gain resulting from sale, 800
exchange, or other disposition of public obligations to the 801
extent that such loss has been deducted or such gain has been 802
included in computing either federal taxable income or income of 803
the S portion of an electing small business trust for the 804
taxable year; 805

(8) Except in the case of the final return of an estate, 806
add any amount deducted by the taxpayer on both its Ohio estate 807
tax return pursuant to section 5731.14 of the Revised Code, and 808
on its federal income tax return in determining federal taxable 809

income; 810

(9) (a) Deduct any amount included in federal taxable 811
income solely because the amount represents a reimbursement or 812
refund of expenses that in a previous year the decedent had 813
deducted as an itemized deduction pursuant to section 63 of the 814
Internal Revenue Code and applicable treasury regulations. The 815
deduction otherwise allowed under division (S) (9) (a) of this 816
section shall be reduced to the extent the reimbursement is 817
attributable to an amount the taxpayer or decedent deducted 818
under this section in any taxable year. 819

(b) Add any amount not otherwise included in Ohio taxable 820
income for any taxable year to the extent that the amount is 821
attributable to the recovery during the taxable year of any 822
amount deducted or excluded in computing federal or Ohio taxable 823
income in any taxable year, but only to the extent such amount 824
has not been distributed to beneficiaries for the taxable year. 825

(10) Deduct any portion of the deduction described in 826
section 1341(a) (2) of the Internal Revenue Code, for repaying 827
previously reported income received under a claim of right, that 828
meets both of the following requirements: 829

(a) It is allowable for repayment of an item that was 830
included in the taxpayer's taxable income or the decedent's 831
adjusted gross income for a prior taxable year and did not 832
qualify for a credit under division (A) or (B) of section 833
5747.05 of the Revised Code for that year. 834

(b) It does not otherwise reduce the taxpayer's taxable 835
income or the decedent's adjusted gross income for the current 836
or any other taxable year. 837

(11) Add any amount claimed as a credit under section 838

5747.059 of the Revised Code to the extent that the amount 839
satisfies either of the following: 840

(a) The amount was deducted or excluded from the 841
computation of the taxpayer's federal taxable income as required 842
to be reported for the taxpayer's taxable year under the 843
Internal Revenue Code; 844

(b) The amount resulted in a reduction in the taxpayer's 845
federal taxable income as required to be reported for any of the 846
taxpayer's taxable years under the Internal Revenue Code. 847

(12) Deduct any amount, net of related expenses deducted 848
in computing federal taxable income, that a trust is required to 849
report as farm income on its federal income tax return, but only 850
if the assets of the trust include at least ten acres of land 851
satisfying the definition of "land devoted exclusively to 852
agricultural use" under section 5713.30 of the Revised Code, 853
regardless of whether the land is valued for tax purposes as 854
such land under sections 5713.30 to 5713.38 of the Revised Code. 855
If the trust is a pass-through entity investor, section 5747.231 856
of the Revised Code applies in ascertaining if the trust is 857
eligible to claim the deduction provided by division (S)(12) of 858
this section in connection with the pass-through entity's farm 859
income. 860

Except for farm income attributable to the S portion of an 861
electing small business trust, the deduction provided by 862
division (S)(12) of this section is allowed only to the extent 863
that the trust has not distributed such farm income. 864

(13) Add the net amount of income described in section 865
641(c) of the Internal Revenue Code to the extent that amount is 866
not included in federal taxable income. 867

(14) Deduct the amount the taxpayer would be required to 868
deduct under division (A) (18) of this section if the taxpayer's 869
Ohio taxable income were computed in the same manner as an 870
individual's Ohio adjusted gross income is computed under this 871
section. 872

(15) Add, to the extent not otherwise included in 873
computing taxable income or Ohio taxable income for any taxable 874
year, the taxpayer's proportionate share of the amount of the 875
tax levied under section 5747.38 of the Revised Code and paid by 876
an electing pass-through entity for the taxable year. 877

(16) Add any income taxes deducted in computing federal 878
taxable income or Ohio taxable income to the extent the income 879
taxes were derived from income subject to a tax levied in 880
another state or the District of Columbia when such tax was 881
enacted for purposes of complying with internal revenue service 882
notice 2020-75. 883

(T) "School district income" and "school district income 884
tax" have the same meanings as in section 5748.01 of the Revised 885
Code. 886

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 887
(7) of this section, "public obligations," "purchase 888
obligations," and "interest or interest equivalent" have the 889
same meanings as in section 5709.76 of the Revised Code. 890

(V) "Limited liability company" means any limited 891
liability company formed under former Chapter 1705. of the 892
Revised Code as that chapter existed prior to February 11, 2022, 893
Chapter 1706. of the Revised Code, or the laws of any other 894
state. 895

(W) "Pass-through entity investor" means any person who, 896

during any portion of a taxable year of a pass-through entity, 897
is a partner, member, shareholder, or equity investor in that 898
pass-through entity. 899

(X) "Banking day" has the same meaning as in section 900
1304.01 of the Revised Code. 901

(Y) "Month" means a calendar month. 902

(Z) "Quarter" means the first three months, the second 903
three months, the third three months, or the last three months 904
of the taxpayer's taxable year. 905

(AA) (1) "Modified business income" means the business 906
income included in a trust's Ohio taxable income after such 907
taxable income is first reduced by the qualifying trust amount, 908
if any. 909

(2) "Qualifying trust amount" of a trust means capital 910
gains and losses from the sale, exchange, or other disposition 911
of equity or ownership interests in, or debt obligations of, a 912
qualifying investee to the extent included in the trust's Ohio 913
taxable income, but only if the following requirements are 914
satisfied: 915

(a) The book value of the qualifying investee's physical 916
assets in this state and everywhere, as of the last day of the 917
qualifying investee's fiscal or calendar year ending immediately 918
prior to the date on which the trust recognizes the gain or 919
loss, is available to the trust. 920

(b) The requirements of section 5747.011 of the Revised 921
Code are satisfied for the trust's taxable year in which the 922
trust recognizes the gain or loss. 923

Any gain or loss that is not a qualifying trust amount is 924

modified business income, qualifying investment income, or 925
modified nonbusiness income, as the case may be. 926

(3) "Modified nonbusiness income" means a trust's Ohio 927
taxable income other than modified business income, other than 928
the qualifying trust amount, and other than qualifying 929
investment income, as defined in section 5747.012 of the Revised 930
Code, to the extent such qualifying investment income is not 931
otherwise part of modified business income. 932

(4) "Modified Ohio taxable income" applies only to trusts, 933
and means the sum of the amounts described in divisions (AA) (4) 934
(a) to (c) of this section: 935

(a) The fraction, calculated under section 5747.013, and 936
applying section 5747.231 of the Revised Code, multiplied by the 937
sum of the following amounts: 938

(i) The trust's modified business income; 939

(ii) The trust's qualifying investment income, as defined 940
in section 5747.012 of the Revised Code, but only to the extent 941
the qualifying investment income does not otherwise constitute 942
modified business income and does not otherwise constitute a 943
qualifying trust amount. 944

(b) The qualifying trust amount multiplied by a fraction, 945
the numerator of which is the sum of the book value of the 946
qualifying investee's physical assets in this state on the last 947
day of the qualifying investee's fiscal or calendar year ending 948
immediately prior to the day on which the trust recognizes the 949
qualifying trust amount, and the denominator of which is the sum 950
of the book value of the qualifying investee's total physical 951
assets everywhere on the last day of the qualifying investee's 952
fiscal or calendar year ending immediately prior to the day on 953

which the trust recognizes the qualifying trust amount. If, for 954
a taxable year, the trust recognizes a qualifying trust amount 955
with respect to more than one qualifying investee, the amount 956
described in division (AA) (4) (b) of this section shall equal the 957
sum of the products so computed for each such qualifying 958
investee. 959

(c) (i) With respect to a trust or portion of a trust that 960
is a resident as ascertained in accordance with division (I) (3) 961
(d) of this section, its modified nonbusiness income. 962

(ii) With respect to a trust or portion of a trust that is 963
not a resident as ascertained in accordance with division (I) (3) 964
(d) of this section, the amount of its modified nonbusiness 965
income satisfying the descriptions in divisions (B) (2) to (5) of 966
section 5747.20 of the Revised Code, except as otherwise 967
provided in division (AA) (4) (c) (ii) of this section. With 968
respect to a trust or portion of a trust that is not a resident 969
as ascertained in accordance with division (I) (3) (d) of this 970
section, the trust's portion of modified nonbusiness income 971
recognized from the sale, exchange, or other disposition of a 972
debt interest in or equity interest in a section 5747.212 973
entity, as defined in section 5747.212 of the Revised Code, 974
without regard to division (A) of that section, shall not be 975
allocated to this state in accordance with section 5747.20 of 976
the Revised Code but shall be apportioned to this state in 977
accordance with division (B) of section 5747.212 of the Revised 978
Code without regard to division (A) of that section. 979

If the allocation and apportionment of a trust's income 980
under divisions (AA) (4) (a) and (c) of this section do not fairly 981
represent the modified Ohio taxable income of the trust in this 982
state, the alternative methods described in division (C) of 983

section 5747.21 of the Revised Code may be applied in the manner 984
and to the same extent provided in that section. 985

(5) (a) Except as set forth in division (AA) (5) (b) of this 986
section, "qualifying investee" means a person in which a trust 987
has an equity or ownership interest, or a person or unit of 988
government the debt obligations of either of which are owned by 989
a trust. For the purposes of division (AA) (2) (a) of this section 990
and for the purpose of computing the fraction described in 991
division (AA) (4) (b) of this section, all of the following apply: 992

(i) If the qualifying investee is a member of a qualifying 993
controlled group on the last day of the qualifying investee's 994
fiscal or calendar year ending immediately prior to the date on 995
which the trust recognizes the gain or loss, then "qualifying 996
investee" includes all persons in the qualifying controlled 997
group on such last day. 998

(ii) If the qualifying investee, or if the qualifying 999
investee and any members of the qualifying controlled group of 1000
which the qualifying investee is a member on the last day of the 1001
qualifying investee's fiscal or calendar year ending immediately 1002
prior to the date on which the trust recognizes the gain or 1003
loss, separately or cumulatively own, directly or indirectly, on 1004
the last day of the qualifying investee's fiscal or calendar 1005
year ending immediately prior to the date on which the trust 1006
recognizes the qualifying trust amount, more than fifty per cent 1007
of the equity of a pass-through entity, then the qualifying 1008
investee and the other members are deemed to own the 1009
proportionate share of the pass-through entity's physical assets 1010
which the pass-through entity directly or indirectly owns on the 1011
last day of the pass-through entity's calendar or fiscal year 1012
ending within or with the last day of the qualifying investee's 1013

fiscal or calendar year ending immediately prior to the date on 1014
which the trust recognizes the qualifying trust amount. 1015

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1016
section, "upper level pass-through entity" means a pass-through 1017
entity directly or indirectly owning any equity of another pass- 1018
through entity, and "lower level pass-through entity" means that 1019
other pass-through entity. 1020

An upper level pass-through entity, whether or not it is 1021
also a qualifying investee, is deemed to own, on the last day of 1022
the upper level pass-through entity's calendar or fiscal year, 1023
the proportionate share of the lower level pass-through entity's 1024
physical assets that the lower level pass-through entity 1025
directly or indirectly owns on the last day of the lower level 1026
pass-through entity's calendar or fiscal year ending within or 1027
with the last day of the upper level pass-through entity's 1028
fiscal or calendar year. If the upper level pass-through entity 1029
directly and indirectly owns less than fifty per cent of the 1030
equity of the lower level pass-through entity on each day of the 1031
upper level pass-through entity's calendar or fiscal year in 1032
which or with which ends the calendar or fiscal year of the 1033
lower level pass-through entity and if, based upon clear and 1034
convincing evidence, complete information about the location and 1035
cost of the physical assets of the lower pass-through entity is 1036
not available to the upper level pass-through entity, then 1037
solely for purposes of ascertaining if a gain or loss 1038
constitutes a qualifying trust amount, the upper level pass- 1039
through entity shall be deemed as owning no equity of the lower 1040
level pass-through entity for each day during the upper level 1041
pass-through entity's calendar or fiscal year in which or with 1042
which ends the lower level pass-through entity's calendar or 1043
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1044

shall be construed to provide for any deduction or exclusion in 1045
computing any trust's Ohio taxable income. 1046

(b) With respect to a trust that is not a resident for the 1047
taxable year and with respect to a part of a trust that is not a 1048
resident for the taxable year, "qualifying investee" for that 1049
taxable year does not include a C corporation if both of the 1050
following apply: 1051

(i) During the taxable year the trust or part of the trust 1052
recognizes a gain or loss from the sale, exchange, or other 1053
disposition of equity or ownership interests in, or debt 1054
obligations of, the C corporation. 1055

(ii) Such gain or loss constitutes nonbusiness income. 1056

(6) "Available" means information is such that a person is 1057
able to learn of the information by the due date plus 1058
extensions, if any, for filing the return for the taxable year 1059
in which the trust recognizes the gain or loss. 1060

(BB) "Qualifying controlled group" has the same meaning as 1061
in section 5733.04 of the Revised Code. 1062

(CC) "Related member" has the same meaning as in section 1063
5733.042 of the Revised Code. 1064

(DD) (1) For the purposes of division (DD) of this section: 1065

(a) "Qualifying person" means any person other than a 1066
qualifying corporation. 1067

(b) "Qualifying corporation" means any person classified 1068
for federal income tax purposes as an association taxable as a 1069
corporation, except either of the following: 1070

(i) A corporation that has made an election under 1071

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;

(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.

(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.

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

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

(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.

(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.

(4) A "pre-income tax trust" is a trust that satisfies all 1101
of the following requirements: 1102

(a) The document or instrument creating the trust was 1103
executed by the grantor before January 1, 1972; 1104

(b) The trust became irrevocable upon the creation of the 1105
trust; and 1106

(c) The grantor was domiciled in this state at the time 1107
the trust was created. 1108

(FF) "Uniformed services" has the same meaning as in 10 1109
U.S.C. 101. 1110

(GG) "Taxable business income" means the amount by which 1111
an individual's business income that is included in federal 1112
adjusted gross income exceeds the amount of business income the 1113
individual is authorized to deduct under division (A) (28) of 1114
this section for the taxable year. 1115

(HH) "Employer" does not include a franchisor with respect 1116
to the franchisor's relationship with a franchisee or an 1117
employee of a franchisee, unless the franchisor agrees to assume 1118
that role in writing or a court of competent jurisdiction 1119
determines that the franchisor exercises a type or degree of 1120
control over the franchisee or the franchisee's employees that 1121
is not customarily exercised by a franchisor for the purpose of 1122
protecting the franchisor's trademark, brand, or both. For 1123
purposes of this division, "franchisor" and "franchisee" have 1124
the same meanings as in 16 C.F.R. 436.1. 1125

(II) "Modified adjusted gross income" means Ohio adjusted 1126
gross income plus any amount deducted under divisions (A) (28) 1127
and (34) of this section for the taxable year. 1128

(JJ) "Qualifying Ohio educator" means an individual who, 1129
for a taxable year, qualifies as an eligible educator, as that 1130
term is defined in section 62 of the Internal Revenue Code, and 1131
who holds a certificate, license, or permit described in Chapter 1132
3319. or section 3301.071 of the Revised Code. 1133

Sec. 5747.74. (A) As used in this section: 1134

(1) "Employee donor" means an employee who, while living, 1135
donates all or part of such person's liver, pancreas, kidney, 1136
intestine, lung, or bone marrow in accordance with the "National 1137
Organ Transplant Act," 42 U.S.C. 273, et seq. 1138

(2) "Qualifying employer" means a taxpayer or a pass- 1139
through entity who is registered and authorized to use the e- 1140
verify federal employment verification program jointly 1141
administered by the United States department of homeland 1142
security and the social security administration under 8 U.S.C. 1143
1324a, or any of its successor programs. 1144

(3) "Donation leave benefits" means compensation paid to 1145
an employee donor while the employee is on leave for a period 1146
that is medically necessary for such employee to recover from 1147
the employee's living donation, provided that the compensation 1148
is equal to the compensation the employee would have received if 1149
the employee had worked for the qualifying employer in the 1150
employee's job for that period. 1151

(B) (1) There is hereby allowed a nonrefundable credit 1152
against a taxpayer's aggregate tax liability for a taxpayer who 1153
is a qualifying employer, or who owns a direct or indirect 1154
interest in a qualifying employer, that paid donation leave 1155
benefits to an employee donor. The total credit available with 1156
respect to an employee donor for each living donation shall 1157

equal the lesser of the amount of donation leave benefits paid 1158
to the employee or three hundred dollars for each day of 1159
donation leave benefits paid, provided that the credit shall not 1160
be allowed for more than thirty days of donation leave benefits 1161
paid. 1162

In the case of a taxpayer who is a qualifying employer, 1163
the credit shall be claimed for the taxable year in which the 1164
donation leave benefits are paid. If a taxpayer holds a direct 1165
or indirect equity interest in a qualifying employer that paid 1166
donation leave benefits, the taxpayer shall claim the taxpayer's 1167
distributive or proportionate share of the credit for the 1168
taxpayer's taxable year that includes the last day of the 1169
entity's taxable year. 1170

The total amount of donation leave benefits paid by a 1171
qualifying employer and eligible for the credit allowed under 1172
this section per taxable year shall not exceed fifty four 1173
thousand dollars. 1174

(C) The credit shall be claimed in the order required 1175
under section 5747.98 of the Revised Code. Any credit amount in 1176
excess of the aggregate amount of tax due under section 5747.02 1177
of the Revised Code, after allowing for any other credits 1178
preceding the credit in that order, may be carried forward for 1179
three taxable years, but the amount of the excess credit allowed 1180
in any such year shall be deducted from the balance carried 1181
forward to the next year. 1182

(D) On or before September 1, 2025, and on the first day 1183
of each September thereafter, the tax commissioner shall issue a 1184
report regarding the credit authorized under this section to the 1185
chairpersons of the standing committees of the house of 1186
representatives and senate that deal primarily with taxation. 1187

The report shall include the following statistics for the 1188
preceding taxable year: 1189

(1) The total number of taxpayers that claimed a credit 1190
under this section; 1191

(2) The total number of employee donors and days on which 1192
donation leave benefits were paid; 1193

(3) The total value of all credits earned and all credits 1194
claimed during that taxable year. 1195

(E) The tax commissioner may require a taxpayer to furnish 1196
any information necessary to support a claim for a credit under 1197
this section, including pay stubs for the employee donor or a 1198
signed attestation from the employee donor providing the date of 1199
the donation and the period of time for which leave from work 1200
was prescribed as medically necessary. The commissioner may 1201
promulgate any rules necessary to administer this section. 1202

Section 2. That existing section 5747.01 of the Revised 1203
Code is hereby repealed. 1204

Section 3. The amendment or enactment by this act of 1205
sections 5747.01 and 5747.74 of the Revised Code applies to 1206
taxable years beginning on or after January 1, 2024. 1207