

**As Introduced**

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

**H. B. No. 481**

**Representatives McClain, Seitz**

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**A BILL**

To amend sections 135.01, 135.31, and 5747.01 and 1  
to enact section 113.07 of the Revised Code to 2  
require the Treasurer of State to accept bullion 3  
or specie as payment for any debt and to exempt 4  
the capital gain on the sale or exchange of 5  
bullion or specie from state and school district 6  
income taxes. 7

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

**Section 1.** That sections 135.01, 135.31, and 5747.01 be 8  
amended and section 113.07 of the Revised Code be enacted to 9  
read as follows: 10

**Sec. 113.07.** (A) As used in this section: 11

"Allocated bullion or specie" means bullion or specie that 12  
is stored in a secure facility and is specifically segregated, 13  
or allocated, to a particular investor. 14

"Bullion" means refined precious metal, limited to gold or 15  
silver, in any shape or form, with uniform content and purity, 16  
including coins, rounds, bars, ingots, and any other products 17  
that are stamped or imprinted with the weight and purity of the 18  
precious metal that it contains, and that is valued primarily 19

based on its metal content and not on its form and function. 20

"Bullion" does not include gold bullion bars with a minimum 21

purity of less than ninety-nine and one-half per cent, or gold 22

bullion coins with a minimum purity of less than ninety per 23

cent. 24

"Specie" means gold and silver coin that is issued by the 25

United States. 26

"Unallocated bullion or specie" means bullion or specie 27

that is not specifically segregated, or allocated, to a 28

particular investor. 29

(B) The treasurer of state shall accept allocated bullion 30

or specie as payment for any debt, tax, fee, or obligation owed. 31

The treasurer of state shall not accept unallocated bullion or 32

specie, or derivative bullion or specie, as payment for any 33

debt, tax, fee, or obligation owed. 34

(C) The treasurer of state shall keep in the custody of 35

the state treasury an amount of bullion or specie greater than 36

or equal to two per cent of all state funds. The bullion or 37

specie, as a form of public moneys, is subject to the 38

requirements of Chapter 135. of the Revised Code. The treasurer 39

of state shall not keep custody of unallocated bullion or specie 40

or of derivative bullion or specie. 41

(D) The treasurer of state shall adopt rules, under 42

Chapter 119. of the Revised Code, to do all of the following: 43

(1) Govern the acceptance of bullion or specie as payment; 44

(2) Govern the electronic transfer of any electronic 45

representation of actual bullion or specie; 46

(3) Govern the deposit of bullion or specie with a 47

financial institution eligible for such deposits under Chapter 48  
135. of the Revised Code; 49

(4) Any other rules the treasurer of state determines 50  
necessary to implement this section. 51

**Sec. 135.01.** Except as otherwise provided in sections 52  
135.14, 135.143, 135.181, and 135.182 of the Revised Code, as 53  
used in sections 135.01 to 135.21 of the Revised Code: 54

(A) "Active deposit" means a public deposit necessary to 55  
meet current demands on the treasury, and that is deposited in 56  
any of the following: 57

(1) A commercial account that is payable or withdrawable, 58  
in whole or in part, on demand; 59

(2) A negotiable order of withdrawal account as authorized 60  
in the "Consumer Checking Account Equity Act of 1980," 94 Stat. 61  
146, 12 U.S.C.A. 1832(a); 62

(3) A money market deposit account as authorized in the 63  
"Garn-St. Germain Depository Institutions Act of 1982," 96 Stat. 64  
1501, 12 U.S.C. 3503. 65

(B) "Auditor" includes the auditor of state and the 66  
auditor, or officer exercising the functions of an auditor, of 67  
any subdivision. 68

(C) "Capital funds" means the sum of the following: the 69  
par value of the outstanding common capital stock, the par value 70  
of the outstanding preferred capital stock, the aggregate par 71  
value of all outstanding capital notes and debentures, and the 72  
surplus. In the case of an institution having offices in more 73  
than one county, the capital funds of such institution, for the 74  
purposes of sections 135.01 to 135.21 of the Revised Code, 75

relative to the deposit of the public moneys of the subdivisions 76  
in one such county, shall be considered to be that proportion of 77  
the capital funds of the institution that is represented by the 78  
ratio that the deposit liabilities of such institution 79  
originating at the office located in the county bears to the 80  
total deposit liabilities of the institution. 81

(D) "Governing board" means, in the case of the state, the 82  
state board of deposit; in the case of all school districts and 83  
educational service centers except as otherwise provided in this 84  
section, the board of education or governing board of a service 85  
center, and when the case so requires, the board of 86  
commissioners of the sinking fund; in the case of a municipal 87  
corporation, the legislative authority, and when the case so 88  
requires, the board of trustees of the sinking fund; in the case 89  
of a township, the board of township trustees; in the case of a 90  
union or joint institution or enterprise of two or more 91  
subdivisions not having a treasurer, the board of directors or 92  
trustees thereof; and in the case of any other subdivision 93  
electing or appointing a treasurer, the directors, trustees, or 94  
other similar officers of such subdivision. The governing board 95  
of a subdivision electing or appointing a treasurer shall be the 96  
governing board of all other subdivisions for which such 97  
treasurer is authorized by law to act. In the case of a county 98  
school financing district that levies a tax pursuant to section 99  
5705.215 of the Revised Code, the county board of education that 100  
serves as its taxing authority shall operate as a governing 101  
board. Any other county board of education shall operate as a 102  
governing board unless it adopts a resolution designating the 103  
board of county commissioners as the governing board for the 104  
county school district. 105

(E) "Inactive deposit" means a public deposit other than 106

an interim deposit or an active deposit. 107

(F) "Interim deposit" means a deposit of interim moneys. 108  
"Interim moneys" means public moneys in the treasury of any 109  
subdivision after the award of inactive deposits has been made 110  
in accordance with section 135.07 of the Revised Code, which 111  
moneys are in excess of the aggregate amount of the inactive 112  
deposits as estimated by the governing board prior to the period 113  
of designation and which the governing board finds should not be 114  
deposited as active or inactive deposits for the reason that 115  
such moneys will not be needed for immediate use but will be 116  
needed before the end of the period of designation. In the case 117  
of the state treasury, "interim moneys" means public moneys that 118  
are not active deposits and may be invested in accordance with 119  
section 135.143 of the Revised Code. 120

(G) "Permissible rate of interest" means a rate of 121  
interest that all eligible institutions mentioned in section 122  
135.03 of the Revised Code are permitted to pay by law or valid 123  
regulations. 124

(H) "Warrant clearance account" means an account 125  
established by the treasurer of state for either of the 126  
following purposes: 127

~~(a)~~ (1) The deposit of active state moneys for the 128  
purposes of clearing state paper warrants through the banking 129  
system, funding electronic benefit transfer cards, issuing 130  
stored value cards, or otherwise facilitating the settlement of 131  
state obligations; 132

~~(b)~~ (2) The deposit of custodial moneys from an account 133  
held in the custody of the treasurer of state to facilitate 134  
settlement of obligations of the custodial fund. 135

(I) "Public deposit" means public moneys deposited in a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.

(J) "Public depository" means an institution which receives or holds any public deposits.

(K) "Public moneys" means all moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. "Public moneys" includes all such moneys in the form of bullion or specie, and the electronic representation of actual allocated bullion or specie held in a depository account, which may be transferred electronically. "Public moneys of the state" includes all such moneys coming lawfully into the possession of the treasurer of state; and "public moneys of a subdivision" includes all such moneys coming lawfully into the possession of the treasurer of the subdivision.

(L) "Subdivision" means any municipal corporation, except one which has adopted a charter under Article XVIII, Ohio Constitution, and the charter or ordinances of the chartered municipal corporation set forth special provisions respecting the deposit or investment of its public moneys, or any school district or educational service center, a county school financing district, township, municipal or school district sinking fund, special taxing or assessment district, or other district or local authority electing or appointing a treasurer, except a county. In the case of a school district or educational service center, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or

required by law to act as ex officio treasurer, the subdivision 166  
for which such a treasurer has been primarily elected or 167  
appointed shall be considered to be the "subdivision." The term 168  
also includes a union or joint institution or enterprise of two 169  
or more subdivisions, that is not authorized to elect or appoint 170  
a treasurer, and for which no ex officio treasurer is provided 171  
by law. 172

(M) "Treasurer" means, in the case of the state, the 173  
treasurer of state and in the case of any subdivision, the 174  
treasurer, or officer exercising the functions of a treasurer, 175  
of such subdivision. In the case of a board of trustees of the 176  
sinking fund of a municipal corporation, the board of 177  
commissioners of the sinking fund of a school district, or a 178  
board of directors or trustees of any union or joint institution 179  
or enterprise of two or more subdivisions not having a 180  
treasurer, such term means such board of trustees of the sinking 181  
fund, board of commissioners of the sinking fund, or board of 182  
directors or trustees. 183

(N) "Treasury investment board" of a municipal corporation 184  
means the mayor or other chief executive officer, the village 185  
solicitor or city director of law, and the auditor or other 186  
chief fiscal officer. 187

(O) "No-load money market mutual fund" means a no-load 188  
money market mutual fund to which all of the following apply: 189

(1) The fund is registered as an investment company under 190  
the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 191  
80a-1 to 80a-64; 192

(2) The fund has the highest letter or numerical rating 193  
provided by at least one nationally recognized statistical 194

rating organization;	195
(3) The fund does not include any investment in a derivative. As used in division (O) (3) of this section, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in section 135.14 or 135.35 of the Revised Code with a variable interest rate payment, based upon a single interest payment or single index comprised of other investments provided for in division (B) (1) or (2) of section 135.14 of the Revised Code, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.	196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212
(P) "Public depositor" means the state or a subdivision, as applicable, that deposits public moneys in a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.	213 214 215 216
(Q) "Uninsured public deposit" means the portion of a public deposit that is not insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government.	217 218 219 220
<u>(R) "Bullion" has the meaning as in section 113.07 of the Revised Code.</u>	221 222
<u>(S) "Specie" has the meaning as in section 113.07 of the</u>	223



<u>Revised Code.</u>	224
<b>Sec. 135.31.</b> As used in sections 135.31 to 135.40 of the	225
Revised Code:	226
(A) "Active moneys" means an amount of public moneys in	227
public depositories determined to be necessary to meet current	228
demands upon a county treasury, and deposited in any of the	229
following:	230
(1) A commercial account and withdrawable, in whole or in	231
part, on demand;	232
(2) A negotiable order of withdrawal account as authorized	233
in the "Consumer Checking Account Equity Act of 1980," 94 Stat.	234
146, 12 U.S.C.A. 1832(a);	235
(3) A money market deposit account as authorized in the	236
"Garn-St. Germain Depository Institutions Act of 1982," 96 Stat.	237
1501, 12 U.S.C. 3503.	238
(B) "Inactive moneys" means all public moneys in public	239
depositories in excess of the amount determined to be needed as	240
active moneys.	241
(C) "Investing authority" means the treasurer, except as	242
provided in section 135.34 of the Revised Code.	243
(D) "Public deposits" means public moneys deposited in a	244
public depository pursuant to sections 135.31 to 135.40 of the	245
Revised Code.	246
(E) "Public moneys" means all moneys in the treasury of a	247
county or moneys coming lawfully into the possession or custody	248
of the treasurer. <u>"Public moneys" includes all such moneys in</u>	249
<u>the form of bullion or specie, and the electronic representation</u>	250
<u>of actual bullion or specie held in a depository account, which</u>	251

may be transferred electronically. As used in this division, 252  
"bullion" and "specie" have the meanings defined in section 253  
113.07 of the Revised Code. 254

(F) "Treasurer" means the county treasurer. 255

(G) "No-load money market mutual fund" means a no-load 256  
money market mutual fund that is registered as an investment 257  
company under the "Investment Company Act of 1940," 54 Stat. 258  
789, 15 U.S.C.A. 80a-1 to 80a-64, and that has the highest 259  
letter or numerical rating provided by at least one nationally 260  
recognized statistical rating organization. 261

**Sec. 5747.01.** Except as otherwise expressly provided or 262  
clearly appearing from the context, any term used in this 263  
chapter that is not otherwise defined in this section has the 264  
same meaning as when used in a comparable context in the laws of 265  
the United States relating to federal income taxes or if not 266  
used in a comparable context in those laws, has the same meaning 267  
as in section 5733.40 of the Revised Code. Any reference in this 268  
chapter to the Internal Revenue Code includes other laws of the 269  
United States relating to federal income taxes. 270

As used in this chapter: 271

(A) "Adjusted gross income" or "Ohio adjusted gross 272  
income" means federal adjusted gross income, as defined and used 273  
in the Internal Revenue Code, adjusted as provided in this 274  
section: 275

(1) Add interest or dividends on obligations or securities 276  
of any state or of any political subdivision or authority of any 277  
state, other than this state and its subdivisions and 278  
authorities. 279

(2) Add interest or dividends on obligations of any 280

authority, commission, instrumentality, territory, or possession	281
of the United States to the extent that the interest or	282
dividends are exempt from federal income taxes but not from	283
state income taxes.	284
(3) Deduct interest or dividends on obligations of the	285
United States and its territories and possessions or of any	286
authority, commission, or instrumentality of the United States	287
to the extent that the interest or dividends are included in	288
federal adjusted gross income but exempt from state income taxes	289
under the laws of the United States.	290
(4) Deduct disability and survivor's benefits to the	291
extent included in federal adjusted gross income.	292
(5) Deduct the following, to the extent not otherwise	293
deducted or excluded in computing federal or Ohio adjusted gross	294
income:	295
(a) Benefits under Title II of the Social Security Act and	296
tier 1 railroad retirement;	297
(b) Railroad retirement benefits, other than tier 1	298
railroad retirement benefits, to the extent such amounts are	299
exempt from state taxation under federal law.	300
(6) Deduct the amount of wages and salaries, if any, not	301
otherwise allowable as a deduction but that would have been	302
allowable as a deduction in computing federal adjusted gross	303
income for the taxable year, had the work opportunity tax credit	304
allowed and determined under sections 38, 51, and 52 of the	305
Internal Revenue Code not been in effect.	306
(7) Deduct any interest or interest equivalent on public	307
obligations and purchase obligations to the extent that the	308
interest or interest equivalent is included in federal adjusted	309

gross income.	310
(8) Add any loss or deduct any gain resulting from the	311
sale, exchange, or other disposition of public obligations to	312
the extent that the loss has been deducted or the gain has been	313
included in computing federal adjusted gross income.	314
(9) Deduct or add amounts, as provided under section	315
5747.70 of the Revised Code, related to contributions made to or	316
tuition units purchased under a qualified tuition program	317
established pursuant to section 529 of the Internal Revenue	318
Code.	319
(10) (a) Deduct, to the extent not otherwise allowable as a	320
deduction or exclusion in computing federal or Ohio adjusted	321
gross income for the taxable year, the amount the taxpayer paid	322
during the taxable year for medical care insurance and qualified	323
long-term care insurance for the taxpayer, the taxpayer's	324
spouse, and dependents. No deduction for medical care insurance	325
under division (A) (10) (a) of this section shall be allowed	326
either to any taxpayer who is eligible to participate in any	327
subsidized health plan maintained by any employer of the	328
taxpayer or of the taxpayer's spouse, or to any taxpayer who is	329
entitled to, or on application would be entitled to, benefits	330
under part A of Title XVIII of the "Social Security Act," 49	331
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of	332
division (A) (10) (a) of this section, "subsidized health plan"	333
means a health plan for which the employer pays any portion of	334
the plan's cost. The deduction allowed under division (A) (10) (a)	335
of this section shall be the net of any related premium refunds,	336
related premium reimbursements, or related insurance premium	337
dividends received during the taxable year.	338
(b) Deduct, to the extent not otherwise deducted or	339

excluded in computing federal or Ohio adjusted gross income 340  
during the taxable year, the amount the taxpayer paid during the 341  
taxable year, not compensated for by any insurance or otherwise, 342  
for medical care of the taxpayer, the taxpayer's spouse, and 343  
dependents, to the extent the expenses exceed seven and one-half 344  
per cent of the taxpayer's federal adjusted gross income. 345

(c) For purposes of division (A)(10) of this section, 346  
"medical care" has the meaning given in section 213 of the 347  
Internal Revenue Code, subject to the special rules, 348  
limitations, and exclusions set forth therein, and "qualified 349  
long-term care" has the same meaning given in section 7702B(c) 350  
of the Internal Revenue Code. Solely for purposes of division 351  
(A)(10)(a) of this section, "dependent" includes a person who 352  
otherwise would be a "qualifying relative" and thus a 353  
"dependent" under section 152 of the Internal Revenue Code but 354  
for the fact that the person fails to meet the income and 355  
support limitations under section 152(d)(1)(B) and (C) of the 356  
Internal Revenue Code. 357

(11)(a) Deduct any amount included in federal adjusted 358  
gross income solely because the amount represents a 359  
reimbursement or refund of expenses that in any year the 360  
taxpayer had deducted as an itemized deduction pursuant to 361  
section 63 of the Internal Revenue Code and applicable United 362  
States department of the treasury regulations. The deduction 363  
otherwise allowed under division (A)(11)(a) of this section 364  
shall be reduced to the extent the reimbursement is attributable 365  
to an amount the taxpayer deducted under this section in any 366  
taxable year. 367

(b) Add any amount not otherwise included in Ohio adjusted 368  
gross income for any taxable year to the extent that the amount 369

is attributable to the recovery during the taxable year of any 370  
amount deducted or excluded in computing federal or Ohio 371  
adjusted gross income in any taxable year. 372

(12) Deduct any portion of the deduction described in 373  
section 1341(a)(2) of the Internal Revenue Code, for repaying 374  
previously reported income received under a claim of right, that 375  
meets both of the following requirements: 376

(a) It is allowable for repayment of an item that was 377  
included in the taxpayer's adjusted gross income for a prior 378  
taxable year and did not qualify for a credit under division (A) 379  
or (B) of section 5747.05 of the Revised Code for that year; 380

(b) It does not otherwise reduce the taxpayer's adjusted 381  
gross income for the current or any other taxable year. 382

(13) Deduct an amount equal to the deposits made to, and 383  
net investment earnings of, a medical savings account during the 384  
taxable year, in accordance with section 3924.66 of the Revised 385  
Code. The deduction allowed by division (A)(13) of this section 386  
does not apply to medical savings account deposits and earnings 387  
otherwise deducted or excluded for the current or any other 388  
taxable year from the taxpayer's federal adjusted gross income. 389

(14)(a) Add an amount equal to the funds withdrawn from a 390  
medical savings account during the taxable year, and the net 391  
investment earnings on those funds, when the funds withdrawn 392  
were used for any purpose other than to reimburse an account 393  
holder for, or to pay, eligible medical expenses, in accordance 394  
with section 3924.66 of the Revised Code; 395

(b) Add the amounts distributed from a medical savings 396  
account under division (A)(2) of section 3924.68 of the Revised 397  
Code during the taxable year. 398

(15) Add any amount claimed as a credit under section 399  
5747.059 of the Revised Code to the extent that such amount 400  
satisfies either of the following: 401

(a) The amount was deducted or excluded from the 402  
computation of the taxpayer's federal adjusted gross income as 403  
required to be reported for the taxpayer's taxable year under 404  
the Internal Revenue Code; 405

(b) The amount resulted in a reduction of the taxpayer's 406  
federal adjusted gross income as required to be reported for any 407  
of the taxpayer's taxable years under the Internal Revenue Code. 408

(16) Deduct the amount contributed by the taxpayer to an 409  
individual development account program established by a county 410  
department of job and family services pursuant to sections 411  
329.11 to 329.14 of the Revised Code for the purpose of matching 412  
funds deposited by program participants. On request of the tax 413  
commissioner, the taxpayer shall provide any information that, 414  
in the tax commissioner's opinion, is necessary to establish the 415  
amount deducted under division (A)(16) of this section. 416

(17) (a) (i) Subject to divisions (A)(17)(a)(iii), (iv), and 417  
(v) of this section, add five-sixths of the amount of 418  
depreciation expense allowed by subsection (k) of section 168 of 419  
the Internal Revenue Code, including the taxpayer's 420  
proportionate or distributive share of the amount of 421  
depreciation expense allowed by that subsection to a pass- 422  
through entity in which the taxpayer has a direct or indirect 423  
ownership interest. 424

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 425  
of this section, add five-sixths of the amount of qualifying 426  
section 179 depreciation expense, including the taxpayer's 427

proportionate or distributive share of the amount of qualifying 428  
section 179 depreciation expense allowed to any pass-through 429  
entity in which the taxpayer has a direct or indirect ownership 430  
interest. 431

(iii) Subject to division (A) (17) (a) (v) of this section, 432  
for taxable years beginning in 2012 or thereafter, if the 433  
increase in income taxes withheld by the taxpayer is equal to or 434  
greater than ten per cent of income taxes withheld by the 435  
taxpayer during the taxpayer's immediately preceding taxable 436  
year, "two-thirds" shall be substituted for "five-sixths" for 437  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 438

(iv) Subject to division (A) (17) (a) (v) of this section, 439  
for taxable years beginning in 2012 or thereafter, a taxpayer is 440  
not required to add an amount under division (A) (17) of this 441  
section if the increase in income taxes withheld by the taxpayer 442  
and by any pass-through entity in which the taxpayer has a 443  
direct or indirect ownership interest is equal to or greater 444  
than the sum of (I) the amount of qualifying section 179 445  
depreciation expense and (II) the amount of depreciation expense 446  
allowed to the taxpayer by subsection (k) of section 168 of the 447  
Internal Revenue Code, and including the taxpayer's 448  
proportionate or distributive shares of such amounts allowed to 449  
any such pass-through entities. 450

(v) If a taxpayer directly or indirectly incurs a net 451  
operating loss for the taxable year for federal income tax 452  
purposes, to the extent such loss resulted from depreciation 453  
expense allowed by subsection (k) of section 168 of the Internal 454  
Revenue Code and by qualifying section 179 depreciation expense, 455  
"the entire" shall be substituted for "five-sixths of the" for 456  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 457



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

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

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

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

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

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

(ii) "Increase in income taxes withheld" means the amount

by which the amount of income taxes withheld by an employer 487  
during the employer's current taxable year exceeds the amount of 488  
income taxes withheld by that employer during the employer's 489  
immediately preceding taxable year. 490

(iii) "Qualifying section 179 depreciation expense" means 491  
the difference between (I) the amount of depreciation expense 492  
directly or indirectly allowed to a taxpayer under section 179 493  
of the Internal Revised Code, and (II) the amount of 494  
depreciation expense directly or indirectly allowed to the 495  
taxpayer under section 179 of the Internal Revenue Code as that 496  
section existed on December 31, 2002. 497

(18) (a) If the taxpayer was required to add an amount 498  
under division (A) (17) (a) of this section for a taxable year, 499  
deduct one of the following: 500

(i) One-fifth of the amount so added for each of the five 501  
succeeding taxable years if the amount so added was five-sixths 502  
of qualifying section 179 depreciation expense or depreciation 503  
expense allowed by subsection (k) of section 168 of the Internal 504  
Revenue Code; 505

(ii) One-half of the amount so added for each of the two 506  
succeeding taxable years if the amount so added was two-thirds 507  
of such depreciation expense; 508

(iii) One-sixth of the amount so added for each of the six 509  
succeeding taxable years if the entire amount of such 510  
depreciation expense was so added. 511

(b) If the amount deducted under division (A) (18) (a) of 512  
this section is attributable to an add-back allocated under 513  
division (A) (17) (c) of this section, the amount deducted shall 514  
be situated to the same location. Otherwise, the add-back shall 515

be apportioned using the apportionment factors for the taxable 516  
year in which the deduction is taken, subject to one or more of 517  
the four alternative methods of apportionment enumerated in 518  
section 5747.21 of the Revised Code. 519

(c) No deduction is available under division (A) (18) (a) of 520  
this section with regard to any depreciation allowed by section 521  
168(k) of the Internal Revenue Code and by the qualifying 522  
section 179 depreciation expense amount to the extent that such 523  
depreciation results in or increases a federal net operating 524  
loss carryback or carryforward. If no such deduction is 525  
available for a taxable year, the taxpayer may carry forward the 526  
amount not deducted in such taxable year to the next taxable 527  
year and add that amount to any deduction otherwise available 528  
under division (A) (18) (a) of this section for that next taxable 529  
year. The carryforward of amounts not so deducted shall continue 530  
until the entire addition required by division (A) (17) (a) of 531  
this section has been deducted. 532

(19) Deduct, to the extent not otherwise deducted or 533  
excluded in computing federal or Ohio adjusted gross income for 534  
the taxable year, the amount the taxpayer received during the 535  
taxable year as reimbursement for life insurance premiums under 536  
section 5919.31 of the Revised Code. 537

(20) Deduct, to the extent not otherwise deducted or 538  
excluded in computing federal or Ohio adjusted gross income for 539  
the taxable year, the amount the taxpayer received during the 540  
taxable year as a death benefit paid by the adjutant general 541  
under section 5919.33 of the Revised Code. 542

(21) Deduct, to the extent included in federal adjusted 543  
gross income and not otherwise allowable as a deduction or 544  
exclusion in computing federal or Ohio adjusted gross income for 545

the taxable year, military pay and allowances received by the 546  
taxpayer during the taxable year for active duty service in the 547  
United States army, air force, navy, marine corps, or coast 548  
guard or reserve components thereof or the national guard. The 549  
deduction may not be claimed for military pay and allowances 550  
received by the taxpayer while the taxpayer is stationed in this 551  
state. 552

(22) Deduct, to the extent not otherwise allowable as a 553  
deduction or exclusion in computing federal or Ohio adjusted 554  
gross income for the taxable year and not otherwise compensated 555  
for by any other source, the amount of qualified organ donation 556  
expenses incurred by the taxpayer during the taxable year, not 557  
to exceed ten thousand dollars. A taxpayer may deduct qualified 558  
organ donation expenses only once for all taxable years 559  
beginning with taxable years beginning in 2007. 560

For the purposes of division (A) (22) of this section: 561

(a) "Human organ" means all or any portion of a human 562  
liver, pancreas, kidney, intestine, or lung, and any portion of 563  
human bone marrow. 564

(b) "Qualified organ donation expenses" means travel 565  
expenses, lodging expenses, and wages and salary forgone by a 566  
taxpayer in connection with the taxpayer's donation, while 567  
living, of one or more of the taxpayer's human organs to another 568  
human being. 569

(23) Deduct, to the extent not otherwise deducted or 570  
excluded in computing federal or Ohio adjusted gross income for 571  
the taxable year, amounts received by the taxpayer as retired 572  
personnel pay for service in the uniformed services or reserve 573  
components thereof, or the national guard, or received by the 574

surviving spouse or former spouse of such a taxpayer under the 575  
survivor benefit plan on account of such a taxpayer's death. If 576  
the taxpayer receives income on account of retirement paid under 577  
the federal civil service retirement system or federal employees 578  
retirement system, or under any successor retirement program 579  
enacted by the congress of the United States that is established 580  
and maintained for retired employees of the United States 581  
government, and such retirement income is based, in whole or in 582  
part, on credit for the taxpayer's uniformed service, the 583  
deduction allowed under this division shall include only that 584  
portion of such retirement income that is attributable to the 585  
taxpayer's uniformed service, to the extent that portion of such 586  
retirement income is otherwise included in federal adjusted 587  
gross income and is not otherwise deducted under this section. 588  
Any amount deducted under division (A) (23) of this section is 589  
not included in a taxpayer's adjusted gross income for the 590  
purposes of section 5747.055 of the Revised Code. No amount may 591  
be deducted under division (A) (23) of this section on the basis 592  
of which a credit was claimed under section 5747.055 of the 593  
Revised Code. 594

(24) Deduct, to the extent not otherwise deducted or 595  
excluded in computing federal or Ohio adjusted gross income for 596  
the taxable year, the amount the taxpayer received during the 597  
taxable year from the military injury relief fund created in 598  
section 5902.05 of the Revised Code. 599

(25) Deduct, to the extent not otherwise deducted or 600  
excluded in computing federal or Ohio adjusted gross income for 601  
the taxable year, the amount the taxpayer received as a veterans 602  
bonus during the taxable year from the Ohio department of 603  
veterans services as authorized by Section 2r of Article VIII, 604  
Ohio Constitution. 605

(26) Deduct, to the extent not otherwise deducted or 606  
excluded in computing federal or Ohio adjusted gross income for 607  
the taxable year, any income derived from a transfer agreement 608  
or from the enterprise transferred under that agreement under 609  
section 4313.02 of the Revised Code. 610

(27) Deduct, to the extent not otherwise deducted or 611  
excluded in computing federal or Ohio adjusted gross income for 612  
the taxable year, Ohio college opportunity or federal Pell grant 613  
amounts received by the taxpayer or the taxpayer's spouse or 614  
dependent pursuant to section 3333.122 of the Revised Code or 20 615  
U.S.C. 1070a, et seq., and used to pay room or board furnished 616  
by the educational institution for which the grant was awarded 617  
at the institution's facilities, including meal plans 618  
administered by the institution. For the purposes of this 619  
division, receipt of a grant includes the distribution of a 620  
grant directly to an educational institution and the crediting 621  
of the grant to the enrollee's account with the institution. 622

(28) Deduct from the portion of an individual's federal 623  
adjusted gross income that is business income, to the extent not 624  
otherwise deducted or excluded in computing federal adjusted 625  
gross income for the taxable year, one hundred twenty-five 626  
thousand dollars for each spouse if spouses file separate 627  
returns under section 5747.08 of the Revised Code or two hundred 628  
fifty thousand dollars for all other individuals. 629

(29) Deduct, as provided under section 5747.78 of the 630  
Revised Code, contributions to ABLE savings accounts made in 631  
accordance with sections 113.50 to 113.56 of the Revised Code. 632

(30) (a) Deduct, to the extent not otherwise deducted or 633  
excluded in computing federal or Ohio adjusted gross income 634  
during the taxable year, all of the following: 635

(i) Compensation paid to a qualifying employee described 636  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 637  
the extent such compensation is for disaster work conducted in 638  
this state during a disaster response period pursuant to a 639  
qualifying solicitation received by the employee's employer; 640

(ii) Compensation paid to a qualifying employee described 641  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 642  
the extent such compensation is for disaster work conducted in 643  
this state by the employee during the disaster response period 644  
on critical infrastructure owned or used by the employee's 645  
employer; 646

(iii) Income received by an out-of-state disaster business 647  
for disaster work conducted in this state during a disaster 648  
response period, or, if the out-of-state disaster business is a 649  
pass-through entity, a taxpayer's distributive share of the 650  
pass-through entity's income from the business conducting 651  
disaster work in this state during a disaster response period, 652  
if, in either case, the disaster work is conducted pursuant to a 653  
qualifying solicitation received by the business. 654

(b) All terms used in division (A) (30) of this section 655  
have the same meanings as in section 5703.94 of the Revised 656  
Code. 657

(31) For a taxpayer who is a qualifying Ohio educator, 658  
deduct, to the extent not otherwise deducted or excluded in 659  
computing federal or Ohio adjusted gross income for the taxable 660  
year, the lesser of two hundred fifty dollars or the amount of 661  
expenses described in subsections (a) (2) (D) (i) and (ii) of 662  
section 62 of the Internal Revenue Code paid or incurred by the 663  
taxpayer during the taxpayer's taxable year in excess of the 664  
amount the taxpayer is authorized to deduct for that taxable 665

year under subsection (a) (2) (D) of that section. 666

(32) Deduct, to the extent not otherwise deducted or 667  
excluded in computing federal or Ohio adjusted gross income for 668  
the taxable year, amounts received by the taxpayer as a 669  
disability severance payment, computed under 10 U.S.C. 1212, 670  
following discharge or release under honorable conditions from 671  
the armed forces, as defined by 10 U.S.C. 101. 672

(33) Deduct, to the extent not otherwise deducted or 673  
excluded in computing federal adjusted gross income or Ohio 674  
adjusted gross income, amounts not subject to tax due to an 675  
agreement entered into under division (A) (2) of section 5747.05 676  
of the Revised Code. 677

(34) Deduct amounts as provided under section 5747.79 of 678  
the Revised Code related to the taxpayer's qualifying capital 679  
gains and deductible payroll. 680

To the extent a qualifying capital gain described under 681  
division (A) (34) of this section is business income, the 682  
taxpayer shall deduct those gains under this division before 683  
deducting any such gains under division (A) (28) of this section. 684

(35) (a) For taxable years beginning in or after 2026, 685  
deduct, to the extent not otherwise deducted or excluded in 686  
computing federal or Ohio adjusted gross income for the taxable 687  
year: 688

(i) One hundred per cent of the capital gain received by 689  
the taxpayer in the taxable year from a qualifying interest in 690  
an Ohio venture capital operating company attributable to the 691  
company's investments in Ohio businesses during the period for 692  
which the company was an Ohio venture operating company; and 693

(ii) Fifty per cent of the capital gain received by the 694



taxpayer in the taxable year from a qualifying interest in an 695  
Ohio venture capital operating company attributable to the 696  
company's investments in all other businesses during the period 697  
for which the company was an Ohio venture operating company. 698

(b) Add amounts previously deducted by the taxpayer under 699  
division (A) (35) (a) of this section if the director of 700  
development certifies to the tax commissioner that the 701  
requirements for the deduction were not met. 702

(c) All terms used in division (A) (35) of this section 703  
have the same meanings as in section 122.851 of the Revised 704  
Code. 705

(d) To the extent a capital gain described in division (A) 706  
(35) (a) of this section is business income, the taxpayer shall 707  
apply that division before applying division (A) (28) of this 708  
section. 709

(36) Add, to the extent not otherwise included in 710  
computing federal or Ohio adjusted gross income for any taxable 711  
year, the taxpayer's proportionate share of the amount of the 712  
tax levied under section 5747.38 of the Revised Code and paid by 713  
an electing pass-through entity for the taxable year. 714

Notwithstanding any provision of the Revised Code to the 715  
contrary, the portion of the addition required by division (A) 716  
(36) of this section related to the apportioned business income 717  
of the pass-through entity shall be considered business income 718  
under division (B) of this section. Such addition is eligible 719  
for the deduction in division (A) (28) of this section, subject 720  
to the applicable dollar limitations, and the tax rate 721  
prescribed by division (A) (4) (a) of section 5747.02 of the 722  
Revised Code. The taxpayer shall provide, upon request of the 723

tax commissioner, any documentation necessary to verify the 724  
portion of the addition that is business income under this 725  
division. 726

(37) Deduct, to the extent not otherwise deducted or 727  
excluded in computing federal or Ohio adjusted gross income for 728  
the taxable year, amounts delivered to a qualifying institution 729  
pursuant to section 3333.128 of the Revised Code for the benefit 730  
of the taxpayer or the taxpayer's spouse or dependent. 731

(38) Deduct, to the extent not otherwise deducted or 732  
excluded in computing federal or Ohio adjusted gross income for 733  
the taxable year, amounts received under the Ohio adoption grant 734  
program pursuant to section 5101.191 of the Revised Code. 735

(39) Deduct, to the extent included in federal adjusted 736  
gross income, income attributable to amounts provided to a 737  
taxpayer for any of the purposes for which an exclusion would 738  
have been authorized under section 139 of the Internal Revenue 739  
Code if the train derailment near the city of East Palestine on 740  
February 3, 2023, had been a qualified disaster pursuant to that 741  
section, or to compensate for lost business resulting from that 742  
derailment, if such amounts are provided by any of the 743  
following: 744

(a) A federal, state, or local government agency; 745

(b) A railroad company, as that term is defined in section 746  
5727.01 of the Revised Code; 747

(c) Any subsidiary, insurer, or agent of a railroad 748  
company or any related person. 749

Notwithstanding any provision to the contrary, the 750  
derailment is not required to meet the definition of a 751  
"qualified disaster" pursuant to section 139 of the Internal 752

Revenue Code to qualify for the deduction under this section. 753

(40) Deduct, to the extent included in federal adjusted 754  
gross income, income attributable to loan repayments on behalf 755  
of the taxpayer under the rural practice incentive program under 756  
section 3333.135 of the Revised Code. 757

(41) Add any income taxes deducted in computing federal or 758  
Ohio adjusted gross income to the extent the income taxes were 759  
derived from income subject to a tax levied in another state or 760  
the District of Columbia when such tax was enacted for purposes 761  
of complying with internal revenue service notice 2020-75. 762

Notwithstanding any provision of the Revised Code to the 763  
contrary, the portion of the addition required by division (A) 764  
(41) of this section related to the apportioned business income 765  
of the pass-through entity shall be considered business income 766  
under division (B) of this section. Such addition is eligible 767  
for the deduction in division (A) (28) of this section, subject 768  
to the applicable dollar limitations, and the tax rate 769  
prescribed by division (A) (4) (a) of section 5747.02 of the 770  
Revised Code. The taxpayer shall provide, upon request of the 771  
tax commissioner, any documentation necessary to verify the 772  
portion of the addition that is business income under this 773  
division. 774

(42) Deduct amounts contributed to a homeownership savings 775  
account and calculated pursuant to divisions (B) and (C) of 776  
section 5747.85 of the Revised Code. 777

(43) If the taxpayer is the account owner, add the amount 778  
of funds withdrawn from a homeownership savings account not used 779  
for eligible expenses, regardless of who deposited those funds. 780  
As used in division (A) (43) of this section, "homeownership 781

savings account," "account owner," and "eligible expenses" have 782  
the same meanings as in section 5747.85 of the Revised Code. 783

(44) Deduct, to the extent not otherwise deducted or 784  
excluded in computing federal or Ohio adjusted gross income for 785  
the taxable year, capital gains received by the taxpayer from 786  
the sale of bullion or specie, as those terms are defined in 787  
section 113.07 of the Revised Code, including bullion and specie 788  
sold while in the physical possession of a trustee pursuant to 789  
section 408 of the Internal Revenue Code. 790

(B) "Business income" means income, including gain or 791  
loss, arising from transactions, activities, and sources in the 792  
regular course of a trade or business and includes income, gain, 793  
or loss from real property, tangible property, and intangible 794  
property if the acquisition, rental, management, and disposition 795  
of the property constitute integral parts of the regular course 796  
of a trade or business operation. "Business income" includes 797  
income, including gain or loss, from a partial or complete 798  
liquidation of a business, including, but not limited to, gain 799  
or loss from the sale or other disposition of goodwill or the 800  
sale of an equity or ownership interest in a business. 801

As used in this division, the "sale of an equity or 802  
ownership interest in a business" means sales to which either or 803  
both of the following apply: 804

(1) The sale is treated for federal income tax purposes as 805  
the sale of assets. 806

(2) The seller materially participated, as described in 26 807  
C.F.R. 1.469-5T, in the activities of the business during the 808  
taxable year in which the sale occurs or during any of the five 809  
preceding taxable years. 810

(C) "Nonbusiness income" means all income other than 811  
business income and may include, but is not limited to, 812  
compensation, rents and royalties from real or tangible personal 813  
property, capital gains, interest, dividends and distributions, 814  
patent or copyright royalties, or lottery winnings, prizes, and 815  
awards. 816

(D) "Compensation" means any form of remuneration paid to 817  
an employee for personal services. 818

(E) "Fiduciary" means a guardian, trustee, executor, 819  
administrator, receiver, conservator, or any other person acting 820  
in any fiduciary capacity for any individual, trust, or estate. 821

(F) "Fiscal year" means an accounting period of twelve 822  
months ending on the last day of any month other than December. 823

(G) "Individual" means any natural person. 824

(H) "Internal Revenue Code" means the "Internal Revenue 825  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 826

(I) "Resident" means any of the following: 827

(1) An individual who is domiciled in this state, subject 828  
to section 5747.24 of the Revised Code; 829

(2) The estate of a decedent who at the time of death was 830  
domiciled in this state. The domicile tests of section 5747.24 831  
of the Revised Code are not controlling for purposes of division 832  
(I) (2) of this section. 833

(3) A trust that, in whole or part, resides in this state. 834  
If only part of a trust resides in this state, the trust is a 835  
resident only with respect to that part. 836

For the purposes of division (I) (3) of this section: 837

(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. 868

(c) With respect to a trust other than a charitable lead 869  
trust, "qualifying beneficiary" has the same meaning as 870  
"potential current beneficiary" as defined in section 1361(e) (2) 871  
of the Internal Revenue Code, and with respect to a charitable 872  
lead trust "qualifying beneficiary" is any current, future, or 873  
contingent beneficiary, but with respect to any trust 874  
"qualifying beneficiary" excludes a person or a governmental 875  
entity or instrumentality to any of which a contribution would 876  
qualify for the charitable deduction under section 170 of the 877  
Internal Revenue Code. 878

(d) For the purposes of division (I) (3) (a) of this 879  
section, the extent to which a trust consists directly or 880  
indirectly, in whole or in part, of assets, net of any related 881  
liabilities, that were transferred directly or indirectly, in 882  
whole or part, to the trust by any of the sources enumerated in 883  
that division shall be ascertained by multiplying the fair 884  
market value of the trust's assets, net of related liabilities, 885  
by the qualifying ratio, which shall be computed as follows: 886

(i) The first time the trust receives assets, the 887  
numerator of the qualifying ratio is the fair market value of 888  
those assets at that time, net of any related liabilities, from 889  
sources enumerated in division (I) (3) (a) of this section. The 890  
denominator of the qualifying ratio is the fair market value of 891  
all the trust's assets at that time, net of any related 892  
liabilities. 893

(ii) Each subsequent time the trust receives assets, a 894  
revised qualifying ratio shall be computed. The numerator of the 895  
revised qualifying ratio is the sum of (1) the fair market value 896  
of the trust's assets immediately prior to the subsequent 897

transfer, net of any related liabilities, multiplied by the 898  
qualifying ratio last computed without regard to the subsequent 899  
transfer, and (2) the fair market value of the subsequently 900  
transferred assets at the time transferred, net of any related 901  
liabilities, from sources enumerated in division (I) (3) (a) of 902  
this section. The denominator of the revised qualifying ratio is 903  
the fair market value of all the trust's assets immediately 904  
after the subsequent transfer, net of any related liabilities. 905

(iii) Whether a transfer to the trust is by or from any of 906  
the sources enumerated in division (I) (3) (a) of this section 907  
shall be ascertained without regard to the domicile of the 908  
trust's beneficiaries. 909

(e) For the purposes of division (I) (3) (a) (i) of this 910  
section: 911

(i) A trust is described in division (I) (3) (e) (i) of this 912  
section if the trust is a testamentary trust and the testator of 913  
that testamentary trust was domiciled in this state at the time 914  
of the testator's death for purposes of the taxes levied under 915  
Chapter 5731. of the Revised Code. 916

(ii) A trust is described in division (I) (3) (e) (ii) of 917  
this section if the transfer is a qualifying transfer described 918  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 919  
trust is an irrevocable inter vivos trust, and at least one of 920  
the trust's qualifying beneficiaries is domiciled in this state 921  
for purposes of this chapter during all or some portion of the 922  
trust's current taxable year. 923

(f) For the purposes of division (I) (3) (e) (ii) of this 924  
section, a "qualifying transfer" is a transfer of assets, net of 925  
any related liabilities, directly or indirectly to a trust, if 926



the transfer is described in any of the following:	927
(i) The transfer is made to a trust, created by the decedent before the decedent's death and 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.	928 929 930 931 932 933
(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.	934 935 936 937 938 939 940
(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.	941 942 943 944 945 946 947
(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.	948 949 950 951 952
(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	953 954 955

5731. of the Revised Code.	956
(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.	957 958 959 960 961 962
(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.	963 964
(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.	965 966 967 968
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	969 970
(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.	971 972 973 974
(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.	975 976 977 978
(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.	979 980 981 982
(O) "Dependents" means one of the following:	983

(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;	984 985 986
(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.	987 988 989 990 991
(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.	992 993 994 995 996
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	997 998
(1) "Subdivision" means any county, municipal corporation, park district, or township.	999 1000
(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.	1001 1002 1003 1004
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	1005 1006 1007
(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:	1008 1009 1010 1011

(1) Add interest or dividends, net of ordinary, necessary, 1012  
and reasonable expenses not deducted in computing federal 1013  
taxable income, on obligations or securities of any state or of 1014  
any political subdivision or authority of any state, other than 1015  
this state and its subdivisions and authorities, but only to the 1016  
extent that such net amount is not otherwise includible in Ohio 1017  
taxable income and is described in either division (S) (1) (a) or 1018  
(b) of this section: 1019

(a) The net amount is not attributable to the S portion of 1020  
an electing small business trust and has not been distributed to 1021  
beneficiaries for the taxable year; 1022

(b) The net amount is attributable to the S portion of an 1023  
electing small business trust for the taxable year. 1024

(2) Add interest or dividends, net of ordinary, necessary, 1025  
and reasonable expenses not deducted in computing federal 1026  
taxable income, on obligations of any authority, commission, 1027  
instrumentality, territory, or possession of the United States 1028  
to the extent that the interest or dividends are exempt from 1029  
federal income taxes but not from state income taxes, but only 1030  
to the extent that such net amount is not otherwise includible 1031  
in Ohio taxable income and is described in either division (S) 1032  
(1) (a) or (b) of this section; 1033

(3) Add the amount of personal exemption allowed to the 1034  
estate pursuant to section 642(b) of the Internal Revenue Code; 1035

(4) Deduct interest or dividends, net of related expenses 1036  
deducted in computing federal taxable income, on obligations of 1037  
the United States and its territories and possessions or of any 1038  
authority, commission, or instrumentality of the United States 1039  
to the extent that the interest or dividends are exempt from 1040

state taxes under the laws of the United States, but only to the 1041  
extent that such amount is included in federal taxable income 1042  
and is described in either division (S) (1) (a) or (b) of this 1043  
section; 1044

(5) Deduct the amount of wages and salaries, if any, not 1045  
otherwise allowable as a deduction but that would have been 1046  
allowable as a deduction in computing federal taxable income for 1047  
the taxable year, had the work opportunity tax credit allowed 1048  
under sections 38, 51, and 52 of the Internal Revenue Code not 1049  
been in effect, but only to the extent such amount relates 1050  
either to income included in federal taxable income for the 1051  
taxable year or to income of the S portion of an electing small 1052  
business trust for the taxable year; 1053

(6) Deduct any interest or interest equivalent, net of 1054  
related expenses deducted in computing federal taxable income, 1055  
on public obligations and purchase obligations, but only to the 1056  
extent that such net amount relates either to income included in 1057  
federal taxable income for the taxable year or to income of the 1058  
S portion of an electing small business trust for the taxable 1059  
year; 1060

(7) Add any loss or deduct any gain resulting from sale, 1061  
exchange, or other disposition of public obligations to the 1062  
extent that such loss has been deducted or such gain has been 1063  
included in computing either federal taxable income or income of 1064  
the S portion of an electing small business trust for the 1065  
taxable year; 1066

(8) Except in the case of the final return of an estate, 1067  
add any amount deducted by the taxpayer on both its Ohio estate 1068  
tax return pursuant to section 5731.14 of the Revised Code, and 1069  
on its federal income tax return in determining federal taxable 1070

income; 1071

(9) (a) Deduct any amount included in federal taxable 1072  
income solely because the amount represents a reimbursement or 1073  
refund of expenses that in a previous year the decedent had 1074  
deducted as an itemized deduction pursuant to section 63 of the 1075  
Internal Revenue Code and applicable treasury regulations. The 1076  
deduction otherwise allowed under division (S) (9) (a) of this 1077  
section shall be reduced to the extent the reimbursement is 1078  
attributable to an amount the taxpayer or decedent deducted 1079  
under this section in any taxable year. 1080

(b) Add any amount not otherwise included in Ohio taxable 1081  
income for any taxable year to the extent that the amount is 1082  
attributable to the recovery during the taxable year of any 1083  
amount deducted or excluded in computing federal or Ohio taxable 1084  
income in any taxable year, but only to the extent such amount 1085  
has not been distributed to beneficiaries for the taxable year. 1086

(10) Deduct any portion of the deduction described in 1087  
section 1341(a) (2) of the Internal Revenue Code, for repaying 1088  
previously reported income received under a claim of right, that 1089  
meets both of the following requirements: 1090

(a) It is allowable for repayment of an item that was 1091  
included in the taxpayer's taxable income or the decedent's 1092  
adjusted gross income for a prior taxable year and did not 1093  
qualify for a credit under division (A) or (B) of section 1094  
5747.05 of the Revised Code for that year. 1095

(b) It does not otherwise reduce the taxpayer's taxable 1096  
income or the decedent's adjusted gross income for the current 1097  
or any other taxable year. 1098

(11) Add any amount claimed as a credit under section 1099

5747.059 of the Revised Code to the extent that the amount 1100  
satisfies either of the following: 1101

(a) The amount was deducted or excluded from the 1102  
computation of the taxpayer's federal taxable income as required 1103  
to be reported for the taxpayer's taxable year under the 1104  
Internal Revenue Code; 1105

(b) The amount resulted in a reduction in the taxpayer's 1106  
federal taxable income as required to be reported for any of the 1107  
taxpayer's taxable years under the Internal Revenue Code. 1108

(12) Deduct any amount, net of related expenses deducted 1109  
in computing federal taxable income, that a trust is required to 1110  
report as farm income on its federal income tax return, but only 1111  
if the assets of the trust include at least ten acres of land 1112  
satisfying the definition of "land devoted exclusively to 1113  
agricultural use" under section 5713.30 of the Revised Code, 1114  
regardless of whether the land is valued for tax purposes as 1115  
such land under sections 5713.30 to 5713.38 of the Revised Code. 1116  
If the trust is a pass-through entity investor, section 5747.231 1117  
of the Revised Code applies in ascertaining if the trust is 1118  
eligible to claim the deduction provided by division (S) (12) of 1119  
this section in connection with the pass-through entity's farm 1120  
income. 1121

Except for farm income attributable to the S portion of an 1122  
electing small business trust, the deduction provided by 1123  
division (S) (12) of this section is allowed only to the extent 1124  
that the trust has not distributed such farm income. 1125

(13) Add the net amount of income described in section 1126  
641(c) of the Internal Revenue Code to the extent that amount is 1127  
not included in federal taxable income. 1128

(14) Deduct the amount the taxpayer would be required to 1129  
deduct under division (A) (18) of this section if the taxpayer's 1130  
Ohio taxable income ~~were~~was computed in the same manner as an 1131  
individual's Ohio adjusted gross income is computed under this 1132  
section. 1133

(15) Add, to the extent not otherwise included in 1134  
computing taxable income or Ohio taxable income for any taxable 1135  
year, the taxpayer's proportionate share of the amount of the 1136  
tax levied under section 5747.38 of the Revised Code and paid by 1137  
an electing pass-through entity for the taxable year. 1138

(16) Add any income taxes deducted in computing federal 1139  
taxable income or Ohio taxable income to the extent the income 1140  
taxes were derived from income subject to a tax levied in 1141  
another state or the District of Columbia when such tax was 1142  
enacted for purposes of complying with internal revenue service 1143  
notice 2020-75. 1144

(17) Deduct, to the extent included in federal taxable 1145  
income, capital gains received by the trust from the sale of 1146  
physically held bullion or specie, as those terms are defined in 1147  
section 113.07 of the Revised Code, including bullion and specie 1148  
sold while in the physical possession of a trustee pursuant to 1149  
section 408 of the Internal Revenue Code. 1150

(T) "School district income" and "school district income 1151  
tax" have the same meanings as in section 5748.01 of the Revised 1152  
Code. 1153

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1154  
(7) of this section, "public obligations," "purchase 1155  
obligations," and "interest or interest equivalent" have the 1156  
same meanings as in section 5709.76 of the Revised Code. 1157



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

(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.

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

(Y) "Month" means a calendar month.

(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.

(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.

(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:

(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. 1187

(b) The requirements of section 5747.011 of the Revised 1188  
Code are satisfied for the trust's taxable year in which the 1189  
trust recognizes the gain or loss. 1190

Any gain or loss that is not a qualifying trust amount is 1191  
modified business income, qualifying investment income, or 1192  
modified nonbusiness income, as the case may be. 1193

(3) "Modified nonbusiness income" means a trust's Ohio 1194  
taxable income other than modified business income, other than 1195  
the qualifying trust amount, and other than qualifying 1196  
investment income, as defined in section 5747.012 of the Revised 1197  
Code, to the extent such qualifying investment income is not 1198  
otherwise part of modified business income. 1199

(4) "Modified Ohio taxable income" applies only to trusts, 1200  
and means the sum of the amounts described in divisions (AA) (4) 1201  
(a) to (c) of this section: 1202

(a) The fraction, calculated under section 5747.013, and 1203  
applying section 5747.231 of the Revised Code, multiplied by the 1204  
sum of the following amounts: 1205

(i) The trust's modified business income; 1206

(ii) The trust's qualifying investment income, as defined 1207  
in section 5747.012 of the Revised Code, but only to the extent 1208  
the qualifying investment income does not otherwise constitute 1209  
modified business income and does not otherwise constitute a 1210  
qualifying trust amount. 1211

(b) The qualifying trust amount multiplied by a fraction, 1212  
the numerator of which is the sum of the book value of the 1213  
qualifying investee's physical assets in this state on the last 1214

day of the qualifying investee's fiscal or calendar year ending 1215  
immediately prior to the day on which the trust recognizes the 1216  
qualifying trust amount, and the denominator of which is the sum 1217  
of the book value of the qualifying investee's total physical 1218  
assets everywhere on the last day of the qualifying investee's 1219  
fiscal or calendar year ending immediately prior to the day on 1220  
which the trust recognizes the qualifying trust amount. If, for 1221  
a taxable year, the trust recognizes a qualifying trust amount 1222  
with respect to more than one qualifying investee, the amount 1223  
described in division (AA) (4) (b) of this section shall equal the 1224  
sum of the products so computed for each such qualifying 1225  
investee. 1226

(c) (i) With respect to a trust or portion of a trust that 1227  
is a resident as ascertained in accordance with division (I) (3) 1228  
(d) of this section, its modified nonbusiness income. 1229

(ii) With respect to a trust or portion of a trust that is 1230  
not a resident as ascertained in accordance with division (I) (3) 1231  
(d) of this section, the amount of its modified nonbusiness 1232  
income satisfying the descriptions in divisions (B) (2) to (5) of 1233  
section 5747.20 of the Revised Code, except as otherwise 1234  
provided in division (AA) (4) (c) (ii) of this section. With 1235  
respect to a trust or portion of a trust that is not a resident 1236  
as ascertained in accordance with division (I) (3) (d) of this 1237  
section, the trust's portion of modified nonbusiness income 1238  
recognized from the sale, exchange, or other disposition of a 1239  
debt interest in or equity interest in a section 5747.212 1240  
entity, as defined in section 5747.212 of the Revised Code, 1241  
without regard to division (A) of that section, shall not be 1242  
allocated to this state in accordance with section 5747.20 of 1243  
the Revised Code but shall be apportioned to this state in 1244  
accordance with division (B) of section 5747.212 of the Revised 1245

Code without regard to division (A) of that section. 1246

If the allocation and apportionment of a trust's income 1247  
under divisions (AA) (4) (a) and (c) of this section do not fairly 1248  
represent the modified Ohio taxable income of the trust in this 1249  
state, the alternative methods described in division (C) of 1250  
section 5747.21 of the Revised Code may be applied in the manner 1251  
and to the same extent provided in that section. 1252

(5) (a) Except as set forth in division (AA) (5) (b) of this 1253  
section, "qualifying investee" means a person in which a trust 1254  
has an equity or ownership interest, or a person or unit of 1255  
government the debt obligations of either of which are owned by 1256  
a trust. For the purposes of division (AA) (2) (a) of this section 1257  
and for the purpose of computing the fraction described in 1258  
division (AA) (4) (b) of this section, all of the following apply: 1259

(i) If the qualifying investee is a member of a qualifying 1260  
controlled group on the last day of the qualifying investee's 1261  
fiscal or calendar year ending immediately prior to the date on 1262  
which the trust recognizes the gain or loss, then "qualifying 1263  
investee" includes all persons in the qualifying controlled 1264  
group on such last day. 1265

(ii) If the qualifying investee, or if the qualifying 1266  
investee and any members of the qualifying controlled group of 1267  
which the qualifying investee is a member on the last day of the 1268  
qualifying investee's fiscal or calendar year ending immediately 1269  
prior to the date on which the trust recognizes the gain or 1270  
loss, separately or cumulatively own, directly or indirectly, on 1271  
the last day of the qualifying investee's fiscal or calendar 1272  
year ending immediately prior to the date on which the trust 1273  
recognizes the qualifying trust amount, more than fifty per cent 1274  
of the equity of a pass-through entity, then the qualifying 1275

investee and the other members are deemed to own the 1276  
proportionate share of the pass-through entity's physical assets 1277  
which the pass-through entity directly or indirectly owns on the 1278  
last day of the pass-through entity's calendar or fiscal year 1279  
ending within or with the last day of the qualifying investee's 1280  
fiscal or calendar year ending immediately prior to the date on 1281  
which the trust recognizes the qualifying trust amount. 1282

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1283  
section, "upper level pass-through entity" means a pass-through 1284  
entity directly or indirectly owning any equity of another pass- 1285  
through entity, and "lower level pass-through entity" means that 1286  
other pass-through entity. 1287

An upper level pass-through entity, whether or not it is 1288  
also a qualifying investee, is deemed to own, on the last day of 1289  
the upper level pass-through entity's calendar or fiscal year, 1290  
the proportionate share of the lower level pass-through entity's 1291  
physical assets that the lower level pass-through entity 1292  
directly or indirectly owns on the last day of the lower level 1293  
pass-through entity's calendar or fiscal year ending within or 1294  
with the last day of the upper level pass-through entity's 1295  
fiscal or calendar year. If the upper level pass-through entity 1296  
directly and indirectly owns less than fifty per cent of the 1297  
equity of the lower level pass-through entity on each day of the 1298  
upper level pass-through entity's calendar or fiscal year in 1299  
which or with which ends the calendar or fiscal year of the 1300  
lower level pass-through entity and if, based upon clear and 1301  
convincing evidence, complete information about the location and 1302  
cost of the physical assets of the lower pass-through entity is 1303  
not available to the upper level pass-through entity, then 1304  
solely for purposes of ascertaining if a gain or loss 1305  
constitutes a qualifying trust amount, the upper level pass- 1306

through entity shall be deemed as owning no equity of the lower 1307  
level pass-through entity for each day during the upper level 1308  
pass-through entity's calendar or fiscal year in which or with 1309  
which ends the lower level pass-through entity's calendar or 1310  
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1311  
shall be construed to provide for any deduction or exclusion in 1312  
computing any trust's Ohio taxable income. 1313

(b) With respect to a trust that is not a resident for the 1314  
taxable year and with respect to a part of a trust that is not a 1315  
resident for the taxable year, "qualifying investee" for that 1316  
taxable year does not include a C corporation if both of the 1317  
following apply: 1318

(i) During the taxable year the trust or part of the trust 1319  
recognizes a gain or loss from the sale, exchange, or other 1320  
disposition of equity or ownership interests in, or debt 1321  
obligations of, the C corporation. 1322

(ii) Such gain or loss constitutes nonbusiness income. 1323

(6) "Available" means information is such that a person is 1324  
able to learn of the information by the due date plus 1325  
extensions, if any, for filing the return for the taxable year 1326  
in which the trust recognizes the gain or loss. 1327

(BB) "Qualifying controlled group" has the same meaning as 1328  
in section 5733.04 of the Revised Code. 1329

(CC) "Related member" has the same meaning as in section 1330  
5733.042 of the Revised Code. 1331

(DD) (1) For the purposes of division (DD) of this section: 1332

(a) "Qualifying person" means any person other than a 1333  
qualifying corporation. 1334

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

(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;

(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 1364  
election, if timely made, shall be effective on and after 1365  
January 1, 2006, and shall apply for all tax periods and tax 1366  
years until revoked by the trustee of the trust. 1367

(4) A "pre-income tax trust" is a trust that satisfies all 1368  
of the following requirements: 1369

(a) The document or instrument creating the trust was 1370  
executed by the grantor before January 1, 1972; 1371

(b) The trust became irrevocable upon the creation of the 1372  
trust; and 1373

(c) The grantor was domiciled in this state at the time 1374  
the trust was created. 1375

(FF) "Uniformed services" has the same meaning as in 10 1376  
U.S.C. 101. 1377

(GG) "Taxable business income" means the amount by which 1378  
an individual's business income that is included in federal 1379  
adjusted gross income exceeds the amount of business income the 1380  
individual is authorized to deduct under division (A) (28) of 1381  
this section for the taxable year. 1382

(HH) "Employer" does not include a franchisor with respect 1383  
to the franchisor's relationship with a franchisee or an 1384  
employee of a franchisee, unless the franchisor agrees to assume 1385  
that role in writing or a court of competent jurisdiction 1386  
determines that the franchisor exercises a type or degree of 1387  
control over the franchisee or the franchisee's employees that 1388  
is not customarily exercised by a franchisor for the purpose of 1389  
protecting the franchisor's trademark, brand, or both. For 1390  
purposes of this division, "franchisor" and "franchisee" have 1391  
the same meanings as in 16 C.F.R. 436.1. 1392



(II) "Modified adjusted gross income" means Ohio adjusted 1393  
gross income plus any amount deducted under divisions (A) (28) 1394  
and (34) of this section for the taxable year. 1395

(JJ) "Qualifying Ohio educator" means an individual who, 1396  
for a taxable year, qualifies as an eligible educator, as that 1397  
term is defined in section 62 of the Internal Revenue Code, and 1398  
who holds a certificate, license, or permit described in Chapter 1399  
3319. or section 3301.071 of the Revised Code. 1400

**Section 2.** That existing sections 135.01, 135.31, and 1401  
5747.01 of the Revised Code are hereby repealed. 1402

**Section 3.** The amendment by this act of section 5747.01 of 1403  
the Revised Code applies to taxable years ending on or after the 1404  
effective date of this section. 1405