

As Introduced

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H. B. No. 685

Representatives Fischer, Santucci

**Cosponsors: Representatives Ferguson, Lear, Lorenz, Plummer, Williams, Willis,
King, Barhorst, Creech, Swearingen, Gross**

A BILL

To amend section 5747.01 of the Revised Code to 1
allow a state income tax deduction for overtime 2
wages. 3

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

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

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

As used in this chapter: 15

(A) "Adjusted gross income" or "Ohio adjusted gross 16
income" means federal adjusted gross income, as defined and used 17

in the Internal Revenue Code, adjusted as provided in this 18
section: 19

(1) Add interest or dividends on obligations or securities 20
of any state or of any political subdivision or authority of any 21
state, other than this state and its subdivisions and 22
authorities. 23

(2) Add interest or dividends on obligations of any 24
authority, commission, instrumentality, territory, or possession 25
of the United States to the extent that the interest or 26
dividends are exempt from federal income taxes but not from 27
state income taxes. 28

(3) Deduct interest or dividends on obligations of the 29
United States and its territories and possessions or of any 30
authority, commission, or instrumentality of the United States 31
to the extent that the interest or dividends are included in 32
federal adjusted gross income but exempt from state income taxes 33
under the laws of the United States. 34

(4) Deduct disability and survivor's benefits to the 35
extent included in federal adjusted gross income. 36

(5) Deduct the following, to the extent not otherwise 37
deducted or excluded in computing federal or Ohio adjusted gross 38
income: 39

(a) Benefits under Title II of the Social Security Act and 40
tier 1 railroad retirement; 41

(b) Railroad retirement benefits, other than tier 1 42
railroad retirement benefits, to the extent such amounts are 43
exempt from state taxation under federal law. 44

(6) Deduct the amount of wages and salaries, if any, not 45

otherwise allowable as a deduction but that would have been 46
allowable as a deduction in computing federal adjusted gross 47
income for the taxable year, had the work opportunity tax credit 48
allowed and determined under sections 38, 51, and 52 of the 49
Internal Revenue Code not been in effect. 50

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

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

(9) Deduct or add amounts, as provided under section 59
5747.70 of the Revised Code, related to contributions made to or 60
tuition units purchased under a qualified tuition program 61
established pursuant to section 529 of the Internal Revenue 62
Code. 63

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

Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 76
division (A) (10) (a) of this section, "subsidized health plan" 77
means a health plan for which the employer pays any portion of 78
the plan's cost. The deduction allowed under division (A) (10) (a) 79
of this section shall be the net of any related premium refunds, 80
related premium reimbursements, or related insurance premium 81
dividends received during the taxable year. 82

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

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

(11) (a) Deduct any amount included in federal adjusted 102
gross income solely because the amount represents a 103
reimbursement or refund of expenses that in any year the 104
taxpayer had deducted as an itemized deduction pursuant to 105

section 63 of the Internal Revenue Code and applicable United 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 135
investment earnings on those funds, when the funds withdrawn 136
were used for any purpose other than to reimburse an account 137
holder for, or to pay, eligible medical expenses, in accordance 138
with section 3924.66 of the Revised Code; 139

(b) Add the amounts distributed from a medical savings 140
account under division (A) (2) of section 3924.68 of the Revised 141
Code during the taxable year. 142

(15) Add any amount claimed as a credit under section 143
5747.059 of the Revised Code to the extent that such amount 144
satisfies either of the following: 145

(a) The amount was deducted or excluded from the 146
computation of the taxpayer's federal adjusted gross income as 147
required to be reported for the taxpayer's taxable year under 148
the Internal Revenue Code; 149

(b) The amount resulted in a reduction of the taxpayer's 150
federal adjusted gross income as required to be reported for any 151
of the taxpayer's taxable years under the Internal Revenue Code. 152

(16) Deduct the amount contributed by the taxpayer to an 153
individual development account program established by a county 154
department of job and family services pursuant to sections 155
329.11 to 329.14 of the Revised Code for the purpose of matching 156
funds deposited by program participants. On request of the tax 157
commissioner, the taxpayer shall provide any information that, 158
in the tax commissioner's opinion, is necessary to establish the 159
amount deducted under division (A) (16) of this section. 160

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 161
(v) of this section, add five-sixths of the amount of 162
depreciation expense allowed by subsection (k) of section 168 of 163

the Internal Revenue Code, including the taxpayer's 164
proportionate or distributive share of the amount of 165
depreciation expense allowed by that subsection to a pass- 166
through entity in which the taxpayer has a direct or indirect 167
ownership interest. 168

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 169
of this section, add five-sixths of the amount of qualifying 170
section 179 depreciation expense, including the taxpayer's 171
proportionate or distributive share of the amount of qualifying 172
section 179 depreciation expense allowed to any pass-through 173
entity in which the taxpayer has a direct or indirect ownership 174
interest. 175

(iii) Subject to division (A) (17) (a) (v) of this section, 176
for taxable years beginning in 2012 or thereafter, if the 177
increase in income taxes withheld by the taxpayer is equal to or 178
greater than ten per cent of income taxes withheld by the 179
taxpayer during the taxpayer's immediately preceding taxable 180
year, "two-thirds" shall be substituted for "five-sixths" for 181
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 182

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

any such pass-through entities.	194
(v) If a taxpayer directly or indirectly incurs a net	195
operating loss for the taxable year for federal income tax	196
purposes, to the extent such loss resulted from depreciation	197
expense allowed by subsection (k) of section 168 of the Internal	198
Revenue Code and by qualifying section 179 depreciation expense,	199
"the entire" shall be substituted for "five-sixths of the" for	200
the purpose of divisions (A) (17) (a) (i) and (ii) of this section.	201
The tax commissioner, under procedures established by the	202
commissioner, may waive the add-backs related to a pass-through	203
entity if the taxpayer owns, directly or indirectly, less than	204
five per cent of the pass-through entity.	205
(b) Nothing in division (A) (17) of this section shall be	206
construed to adjust or modify the adjusted basis of any asset.	207
(c) To the extent the add-back required under division (A)	208
(17) (a) of this section is attributable to property generating	209
nonbusiness income or loss allocated under section 5747.20 of	210
the Revised Code, the add-back shall be situated to the same	211
location as the nonbusiness income or loss generated by the	212
property for the purpose of determining the credit under	213
division (A) of section 5747.05 of the Revised Code. Otherwise,	214
the add-back shall be apportioned, subject to one or more of the	215
four alternative methods of apportionment enumerated in section	216
5747.21 of the Revised Code.	217
(d) For the purposes of division (A) (17) (a) (v) of this	218
section, net operating loss carryback and carryforward shall not	219
include the allowance of any net operating loss deduction	220
carryback or carryforward to the taxable year to the extent such	221
loss resulted from depreciation allowed by section 168(k) of the	222

Internal Revenue Code and by the qualifying section 179	223
depreciation expense amount.	224
(e) For the purposes of divisions (A) (17) and (18) of this	225
section:	226
(i) "Income taxes withheld" means the total amount	227
withheld and remitted under sections 5747.06 and 5747.07 of the	228
Revised Code by an employer during the employer's taxable year.	229
(ii) "Increase in income taxes withheld" means the amount	230
by which the amount of income taxes withheld by an employer	231
during the employer's current taxable year exceeds the amount of	232
income taxes withheld by that employer during the employer's	233
immediately preceding taxable year.	234
(iii) "Qualifying section 179 depreciation expense" means	235
the difference between (I) the amount of depreciation expense	236
directly or indirectly allowed to a taxpayer under section 179	237
of the Internal Revised Code, and (II) the amount of	238
depreciation expense directly or indirectly allowed to the	239
taxpayer under section 179 of the Internal Revenue Code as that	240
section existed on December 31, 2002.	241
(18) (a) If the taxpayer was required to add an amount	242
under division (A) (17) (a) of this section for a taxable year,	243
deduct one of the following:	244
(i) One-fifth of the amount so added for each of the five	245
succeeding taxable years if the amount so added was five-sixths	246
of qualifying section 179 depreciation expense or depreciation	247
expense allowed by subsection (k) of section 168 of the Internal	248
Revenue Code;	249
(ii) One-half of the amount so added for each of the two	250
succeeding taxable years if the amount so added was two-thirds	251

of such depreciation expense;	252
(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.	253 254 255
(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.	256 257 258 259 260 261 262 263
(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.	264 265 266 267 268 269 270 271 272 273 274 275 276
(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.	277 278 279 280 281

(20) Deduct, to the extent not otherwise deducted or 282
excluded in computing federal or Ohio adjusted gross income for 283
the taxable year, the amount the taxpayer received during the 284
taxable year as a death benefit paid by the adjutant general 285
under section 5919.33 of the Revised Code. 286

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

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

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

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

(b) "Qualified organ donation expenses" means travel 309
expenses, lodging expenses, and wages and salary forgone by a 310

taxpayer in connection with the taxpayer's donation, while 311
living, of one or more of the taxpayer's human organs to another 312
human being. 313

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

(24) Deduct, to the extent not otherwise deducted or 339
excluded in computing federal or Ohio adjusted gross income for 340
the taxable year, the amount the taxpayer received during the 341

taxable year from the military injury relief fund created in 342
section 5902.05 of the Revised Code. 343

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

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

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

(28) Deduct from the portion of an individual's federal 367
adjusted gross income that is business income, to the extent not 368
otherwise deducted or excluded in computing federal adjusted 369
gross income for the taxable year, one hundred twenty-five 370
thousand dollars for each spouse if spouses file separate 371

returns under section 5747.08 of the Revised Code or two hundred 372
fifty thousand dollars for all other individuals. 373

(29) Deduct, as provided under section 5747.78 of the 374
Revised Code, contributions to ABLE savings accounts made in 375
accordance with sections 113.50 to 113.56 of the Revised Code. 376

(30) (a) Deduct, to the extent not otherwise deducted or 377
excluded in computing federal or Ohio adjusted gross income 378
during the taxable year, all of the following: 379

(i) Compensation paid to a qualifying employee described 380
in division (A) (14) (a) of section 5703.94 of the Revised Code to 381
the extent such compensation is for disaster work conducted in 382
this state during a disaster response period pursuant to a 383
qualifying solicitation received by the employee's employer; 384

(ii) Compensation paid to a qualifying employee described 385
in division (A) (14) (b) of section 5703.94 of the Revised Code to 386
the extent such compensation is for disaster work conducted in 387
this state by the employee during the disaster response period 388
on critical infrastructure owned or used by the employee's 389
employer; 390

(iii) Income received by an out-of-state disaster business 391
for disaster work conducted in this state during a disaster 392
response period, or, if the out-of-state disaster business is a 393
pass-through entity, a taxpayer's distributive share of the 394
pass-through entity's income from the business conducting 395
disaster work in this state during a disaster response period, 396
if, in either case, the disaster work is conducted pursuant to a 397
qualifying solicitation received by the business. 398

(b) All terms used in division (A) (30) of this section 399
have the same meanings as in section 5703.94 of the Revised 400

Code. 401

(31) For a taxpayer who is a qualifying Ohio educator, 402
deduct, to the extent not otherwise deducted or excluded in 403
computing federal or Ohio adjusted gross income for the taxable 404
year, the lesser of two hundred fifty dollars or the amount of 405
expenses described in subsections (a)(2)(D)(i) and (ii) of 406
section 62 of the Internal Revenue Code paid or incurred by the 407
taxpayer during the taxpayer's taxable year in excess of the 408
amount the taxpayer is authorized to deduct for that taxable 409
year under subsection (a)(2)(D) of that section. 410

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

(33) Deduct, to the extent not otherwise deducted or 417
excluded in computing federal adjusted gross income or Ohio 418
adjusted gross income, amounts not subject to tax due to an 419
agreement entered into under division (A)(2) of section 5747.05 420
of the Revised Code. 421

(34) Deduct amounts as provided under section 5747.79 of 422
the Revised Code related to the taxpayer's qualifying capital 423
gains and deductible payroll. 424

To the extent a qualifying capital gain described under 425
division (A)(34) of this section is business income, the 426
taxpayer shall deduct those gains under this division before 427
deducting any such gains under division (A)(28) of this section. 428

(35)(a) For taxable years beginning in or after 2026, 429

deduct, to the extent not otherwise deducted or excluded in 430
computing federal or Ohio adjusted gross income for the taxable 431
year: 432

(i) One hundred per cent of the capital gain received by 433
the taxpayer in the taxable year from a qualifying interest in 434
an Ohio venture capital operating company attributable to the 435
company's investments in Ohio businesses during the period for 436
which the company was an Ohio venture operating company; and 437

(ii) Fifty per cent of the capital gain received by the 438
taxpayer in the taxable year from a qualifying interest in an 439
Ohio venture capital operating company attributable to the 440
company's investments in all other businesses during the period 441
for which the company was an Ohio venture operating company. 442

(b) Add amounts previously deducted by the taxpayer under 443
division (A) (35) (a) of this section if the director of 444
development certifies to the tax commissioner that the 445
requirements for the deduction were not met. 446

(c) All terms used in division (A) (35) of this section 447
have the same meanings as in section 122.851 of the Revised 448
Code. 449

(d) To the extent a capital gain described in division (A) 450
(35) (a) of this section is business income, the taxpayer shall 451
apply that division before applying division (A) (28) of this 452
section. 453

(36) Add, to the extent not otherwise included in 454
computing federal or Ohio adjusted gross income for any taxable 455
year, the taxpayer's proportionate share of the amount of the 456
tax levied under section 5747.38 of the Revised Code and paid by 457
an electing pass-through entity for the taxable year. 458

Notwithstanding any provision of the Revised Code to the 459
contrary, the portion of the addition required by division (A) 460
(36) of this section related to the apportioned business income 461
of the pass-through entity shall be considered business income 462
under division (B) of this section. Such addition is eligible 463
for the deduction in division (A) (28) of this section, subject 464
to the applicable dollar limitations, and the tax rate 465
prescribed by division (A) (4) (a) of section 5747.02 of the 466
Revised Code. The taxpayer shall provide, upon request of the 467
tax commissioner, any documentation necessary to verify the 468
portion of the addition that is business income under this 469
division. 470

(37) Deduct, to the extent not otherwise deducted or 471
excluded in computing federal or Ohio adjusted gross income for 472
the taxable year, amounts delivered to a qualifying institution 473
pursuant to section 3333.128 of the Revised Code for the benefit 474
of the taxpayer or the taxpayer's spouse or dependent. 475

(38) Deduct, to the extent not otherwise deducted or 476
excluded in computing federal or Ohio adjusted gross income for 477
the taxable year, amounts received under the Ohio adoption grant 478
program pursuant to section 5101.191 of the Revised Code. 479

(39) Deduct, to the extent included in federal adjusted 480
gross income, income attributable to amounts provided to a 481
taxpayer for any of the purposes for which an exclusion would 482
have been authorized under section 139 of the Internal Revenue 483
Code if the train derailment near the city of East Palestine on 484
February 3, 2023, had been a qualified disaster pursuant to that 485
section, or to compensate for lost business resulting from that 486
derailment, if such amounts are provided by any of the 487
following: 488

(a) A federal, state, or local government agency;	489
(b) A railroad company, as that term is defined in section 5727.01 of the Revised Code;	490 491
(c) Any subsidiary, insurer, or agent of a railroad company or any related person.	492 493
Notwithstanding any provision to the contrary, the derailment is not required to meet the definition of a "qualified disaster" pursuant to section 139 of the Internal Revenue Code to qualify for the deduction under this section.	494 495 496 497
(40) Deduct, to the extent included in federal adjusted gross income, income attributable to loan repayments on behalf of the taxpayer under the rural practice incentive program under section 3333.135 of the Revised Code.	498 499 500 501
(41) Add any income taxes deducted in computing federal or Ohio adjusted gross income to the extent the income taxes were derived from income subject to a tax levied in another state or the District of Columbia when such tax was enacted for purposes of complying with internal revenue service notice 2020-75.	502 503 504 505 506
Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A) (41) of this section related to the apportioned business income of the pass-through entity shall be considered business income under division (B) of this section. Such addition is eligible for the deduction in division (A) (28) of this section, subject to the applicable dollar limitations, and the tax rate prescribed by division (A) (4) (a) of section 5747.02 of the Revised Code. The taxpayer shall provide, upon request of the tax commissioner, any documentation necessary to verify the portion of the addition that is business income under this	507 508 509 510 511 512 513 514 515 516 517

division. 518

(42) Deduct amounts contributed to a homeownership savings 519
account and calculated pursuant to divisions (B) and (C) of 520
section 5747.85 of the Revised Code. 521

(43) If the taxpayer is the account owner, add the amount 522
of funds withdrawn from a homeownership savings account not used 523
for eligible expenses, regardless of who deposited those funds. 524
As used in division (A) (43) of this section, "homeownership 525
savings account," "account owner," and "eligible expenses" have 526
the same meanings as in section 5747.85 of the Revised Code. 527

(44) Deduct, to the extent not otherwise deducted or 528
excluded in computing federal or Ohio adjusted gross income for 529
the taxable year, overtime wages paid in accordance with section 530
4111.03 of the Revised Code or 29 U.S.C. 207. 531

(B) "Business income" means income, including gain or 532
loss, arising from transactions, activities, and sources in the 533
regular course of a trade or business and includes income, gain, 534
or loss from real property, tangible property, and intangible 535
property if the acquisition, rental, management, and disposition 536
of the property constitute integral parts of the regular course 537
of a trade or business operation. "Business income" includes 538
income, including gain or loss, from a partial or complete 539
liquidation of a business, including, but not limited to, gain 540
or loss from the sale or other disposition of goodwill or the 541
sale of an equity or ownership interest in a business. 542

As used in this division, the "sale of an equity or 543
ownership interest in a business" means sales to which either or 544
both of the following apply: 545

(1) The sale is treated for federal income tax purposes as 546

the sale of assets.	547
(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.	548 549 550 551
(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.	552 553 554 555 556 557
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	558 559
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	560 561 562
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	563 564
(G) "Individual" means any natural person.	565
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	566 567
(I) "Resident" means any of the following:	568
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	569 570
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division	571 572 573

(I) (2) of this section.	574
(3) A trust that, in whole or part, resides in this state.	575
If only part of a trust resides in this state, the trust is a	576
resident only with respect to that part.	577
For the purposes of division (I) (3) of this section:	578
(a) A trust resides in this state for the trust's current	579
taxable year to the extent, as described in division (I) (3) (d)	580
of this section, that the trust consists directly or indirectly,	581
in whole or in part, of assets, net of any related liabilities,	582
that were transferred, or caused to be transferred, directly or	583
indirectly, to the trust by any of the following:	584
(i) A person, a court, or a governmental entity or	585
instrumentality on account of the death of a decedent, but only	586
if the trust is described in division (I) (3) (e) (i) or (ii) of	587
this section;	588
(ii) A person who was domiciled in this state for the	589
purposes of this chapter when the person directly or indirectly	590
transferred assets to an irrevocable trust, but only if at least	591
one of the trust's qualifying beneficiaries is domiciled in this	592
state for the purposes of this chapter during all or some	593
portion of the trust's current taxable year;	594
(iii) A person who was domiciled in this state for the	595
purposes of this chapter when the trust document or instrument	596
or part of the trust document or instrument became irrevocable,	597
but only if at least one of the trust's qualifying beneficiaries	598
is a resident domiciled in this state for the purposes of this	599
chapter during all or some portion of the trust's current	600
taxable year. If a trust document or instrument became	601
irrevocable upon the death of a person who at the time of death	602

was domiciled in this state for purposes of this chapter, that 603
person is a person described in division (I) (3) (a) (iii) of this 604
section. 605

(b) A trust is irrevocable to the extent that the 606
transferor is not considered to be the owner of the net assets 607
of the trust under sections 671 to 678 of the Internal Revenue 608
Code. 609

(c) With respect to a trust other than a charitable lead 610
trust, "qualifying beneficiary" has the same meaning as 611
"potential current beneficiary" as defined in section 1361(e) (2) 612
of the Internal Revenue Code, and with respect to a charitable 613
lead trust "qualifying beneficiary" is any current, future, or 614
contingent beneficiary, but with respect to any trust 615
"qualifying beneficiary" excludes a person or a governmental 616
entity or instrumentality to any of which a contribution would 617
qualify for the charitable deduction under section 170 of the 618
Internal Revenue Code. 619

(d) For the purposes of division (I) (3) (a) of this 620
section, the extent to which a trust consists directly or 621
indirectly, in whole or in part, of assets, net of any related 622
liabilities, that were transferred directly or indirectly, in 623
whole or part, to the trust by any of the sources enumerated in 624
that division shall be ascertained by multiplying the fair 625
market value of the trust's assets, net of related liabilities, 626
by the qualifying ratio, which shall be computed as follows: 627

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

all the trust's assets at that time, net of any related 633
liabilities. 634

(ii) Each subsequent time the trust receives assets, a 635
revised qualifying ratio shall be computed. The numerator of the 636
revised qualifying ratio is the sum of (1) the fair market value 637
of the trust's assets immediately prior to the subsequent 638
transfer, net of any related liabilities, multiplied by the 639
qualifying ratio last computed without regard to the subsequent 640
transfer, and (2) the fair market value of the subsequently 641
transferred assets at the time transferred, net of any related 642
liabilities, from sources enumerated in division (I) (3) (a) of 643
this section. The denominator of the revised qualifying ratio is 644
the fair market value of all the trust's assets immediately 645
after the subsequent transfer, net of any related liabilities. 646

(iii) Whether a transfer to the trust is by or from any of 647
the sources enumerated in division (I) (3) (a) of this section 648
shall be ascertained without regard to the domicile of the 649
trust's beneficiaries. 650

(e) For the purposes of division (I) (3) (a) (i) of this 651
section: 652

(i) A trust is described in division (I) (3) (e) (i) of this 653
section if the trust is a testamentary trust and the testator of 654
that testamentary trust was domiciled in this state at the time 655
of the testator's death for purposes of the taxes levied under 656
Chapter 5731. of the Revised Code. 657

(ii) A trust is described in division (I) (3) (e) (ii) of 658
this section if the transfer is a qualifying transfer described 659
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 660
trust is an irrevocable inter vivos trust, and at least one of 661

the trust's qualifying beneficiaries is domiciled in this state 662
for purposes of this chapter during all or some portion of the 663
trust's current taxable year. 664

(f) For the purposes of division (I)(3)(e)(ii) of this 665
section, a "qualifying transfer" is a transfer of assets, net of 666
any related liabilities, directly or indirectly to a trust, if 667
the transfer is described in any of the following: 668

(i) The transfer is made to a trust, created by the 669
decedent before the decedent's death and while the decedent was 670
domiciled in this state for the purposes of this chapter, and, 671
prior to the death of the decedent, the trust became irrevocable 672
while the decedent was domiciled in this state for the purposes 673
of this chapter. 674

(ii) The transfer is made to a trust to which the 675
decedent, prior to the decedent's death, had directly or 676
indirectly transferred assets, net of any related liabilities, 677
while the decedent was domiciled in this state for the purposes 678
of this chapter, and prior to the death of the decedent the 679
trust became irrevocable while the decedent was domiciled in 680
this state for the purposes of this chapter. 681

(iii) The transfer is made on account of a contractual 682
relationship existing directly or indirectly between the 683
transferor and either the decedent or the estate of the decedent 684
at any time prior to the date of the decedent's death, and the 685
decedent was domiciled in this state at the time of death for 686
purposes of the taxes levied under Chapter 5731. of the Revised 687
Code. 688

(iv) The transfer is made to a trust on account of a 689
contractual relationship existing directly or indirectly between 690

the transferor and another person who at the time of the 691
decedent's death was domiciled in this state for purposes of 692
this chapter. 693

(v) The transfer is made to a trust on account of the will 694
of a testator who was domiciled in this state at the time of the 695
testator's death for purposes of the taxes levied under Chapter 696
5731. of the Revised Code. 697

(vi) The transfer is made to a trust created by or caused 698
to be created by a court, and the trust was directly or 699
indirectly created in connection with or as a result of the 700
death of an individual who, for purposes of the taxes levied 701
under Chapter 5731. of the Revised Code, was domiciled in this 702
state at the time of the individual's death. 703

(g) The tax commissioner may adopt rules to ascertain the 704
part of a trust residing in this state. 705

(J) "Nonresident" means an individual or estate that is 706
not a resident. An individual who is a resident for only part of 707
a taxable year is a nonresident for the remainder of that 708
taxable year. 709

(K) "Pass-through entity" has the same meaning as in 710
section 5733.04 of the Revised Code. 711

(L) "Return" means the notifications and reports required 712
to be filed pursuant to this chapter for the purpose of 713
reporting the tax due and includes declarations of estimated tax 714
when so required. 715

(M) "Taxable year" means the calendar year or the 716
taxpayer's fiscal year ending during the calendar year, or 717
fractional part thereof, upon which the adjusted gross income is 718
calculated pursuant to this chapter. 719

(N) "Taxpayer" means any person subject to the tax imposed	720
by section 5747.02 of the Revised Code or any pass-through	721
entity that makes the election under division (D) of section	722
5747.08 of the Revised Code.	723
(O) "Dependents" means one of the following:	724
(1) For taxable years beginning on or after January 1,	725
2018, and before January 1, 2026, dependents as defined in the	726
Internal Revenue Code;	727
(2) For all other taxable years, dependents as defined in	728
the Internal Revenue Code and as claimed in the taxpayer's	729
federal income tax return for the taxable year or which the	730
taxpayer would have been permitted to claim had the taxpayer	731
filed a federal income tax return.	732
(P) "Principal county of employment" means, in the case of	733
a nonresident, the county within the state in which a taxpayer	734
performs services for an employer or, if those services are	735
performed in more than one county, the county in which the major	736
portion of the services are performed.	737
(Q) As used in sections 5747.50 to 5747.55 of the Revised	738
Code:	739
(1) "Subdivision" means any county, municipal corporation,	740
park district, or township.	741
(2) "Essential local government purposes" includes all	742
functions that any subdivision is required by general law to	743
exercise, including like functions that are exercised under a	744
charter adopted pursuant to the Ohio Constitution.	745
(R) "Overpayment" means any amount already paid that	746
exceeds the figure determined to be the correct amount of the	747

tax.	748
(S) "Taxable income" or "Ohio taxable income" applies only	749
to estates and trusts, and means federal taxable income, as	750
defined and used in the Internal Revenue Code, adjusted as	751
follows:	752
(1) Add interest or dividends, net of ordinary, necessary,	753
and reasonable expenses not deducted in computing federal	754
taxable income, on obligations or securities of any state or of	755
any political subdivision or authority of any state, other than	756
this state and its subdivisions and authorities, but only to the	757
extent that such net amount is not otherwise includible in Ohio	758
taxable income and is described in either division (S) (1) (a) or	759
(b) of this section:	760
(a) The net amount is not attributable to the S portion of	761
an electing small business trust and has not been distributed to	762
beneficiaries for the taxable year;	763
(b) The net amount is attributable to the S portion of an	764
electing small business trust for the taxable year.	765
(2) Add interest or dividends, net of ordinary, necessary,	766
and reasonable expenses not deducted in computing federal	767
taxable income, on obligations of any authority, commission,	768
instrumentality, territory, or possession of the United States	769
to the extent that the interest or dividends are exempt from	770
federal income taxes but not from state income taxes, but only	771
to the extent that such net amount is not otherwise includible	772
in Ohio taxable income and is described in either division (S)	773
(1) (a) or (b) of this section;	774
(3) Add the amount of personal exemption allowed to the	775
estate pursuant to section 642(b) of the Internal Revenue Code;	776

(4) Deduct interest or dividends, net of related expenses 777
deducted in computing federal taxable income, on obligations of 778
the United States and its territories and possessions or of any 779
authority, commission, or instrumentality of the United States 780
to the extent that the interest or dividends are exempt from 781
state taxes under the laws of the United States, but only to the 782
extent that such amount is included in federal taxable income 783
and is described in either division (S)(1)(a) or (b) of this 784
section; 785

(5) Deduct the amount of wages and salaries, if any, not 786
otherwise allowable as a deduction but that would have been 787
allowable as a deduction in computing federal taxable income for 788
the taxable year, had the work opportunity tax credit allowed 789
under sections 38, 51, and 52 of the Internal Revenue Code not 790
been in effect, but only to the extent such amount relates 791
either to income included in federal taxable income for the 792
taxable year or to income of the S portion of an electing small 793
business trust for the taxable year; 794

(6) Deduct any interest or interest equivalent, net of 795
related expenses deducted in computing federal taxable income, 796
on public obligations and purchase obligations, but only to the 797
extent that such net amount relates either to income included in 798
federal taxable income for the taxable year or to income of the 799
S portion of an electing small business trust for the taxable 800
year; 801

(7) Add any loss or deduct any gain resulting from sale, 802
exchange, or other disposition of public obligations to the 803
extent that such loss has been deducted or such gain has been 804
included in computing either federal taxable income or income of 805
the S portion of an electing small business trust for the 806

taxable year; 807

(8) Except in the case of the final return of an estate, 808
add any amount deducted by the taxpayer on both its Ohio estate 809
tax return pursuant to section 5731.14 of the Revised Code, and 810
on its federal income tax return in determining federal taxable 811
income; 812

(9) (a) Deduct any amount included in federal taxable 813
income solely because the amount represents a reimbursement or 814
refund of expenses that in a previous year the decedent had 815
deducted as an itemized deduction pursuant to section 63 of the 816
Internal Revenue Code and applicable treasury regulations. The 817
deduction otherwise allowed under division (S) (9) (a) of this 818
section shall be reduced to the extent the reimbursement is 819
attributable to an amount the taxpayer or decedent deducted 820
under this section in any taxable year. 821

(b) Add any amount not otherwise included in Ohio taxable 822
income for any taxable year to the extent that the amount is 823
attributable to the recovery during the taxable year of any 824
amount deducted or excluded in computing federal or Ohio taxable 825
income in any taxable year, but only to the extent such amount 826
has not been distributed to beneficiaries for the taxable year. 827

(10) Deduct any portion of the deduction described in 828
section 1341(a) (2) of the Internal Revenue Code, for repaying 829
previously reported income received under a claim of right, that 830
meets both of the following requirements: 831

(a) It is allowable for repayment of an item that was 832
included in the taxpayer's taxable income or the decedent's 833
adjusted gross income for a prior taxable year and did not 834
qualify for a credit under division (A) or (B) of section 835

5747.05 of the Revised Code for that year. 836

(b) It does not otherwise reduce the taxpayer's taxable 837
income or the decedent's adjusted gross income for the current 838
or any other taxable year. 839

(11) Add any amount claimed as a credit under section 840
5747.059 of the Revised Code to the extent that the amount 841
satisfies either of the following: 842

(a) The amount was deducted or excluded from the 843
computation of the taxpayer's federal taxable income as required 844
to be reported for the taxpayer's taxable year under the 845
Internal Revenue Code; 846

(b) The amount resulted in a reduction in the taxpayer's 847
federal taxable income as required to be reported for any of the 848
taxpayer's taxable years under the Internal Revenue Code. 849

(12) Deduct any amount, net of related expenses deducted 850
in computing federal taxable income, that a trust is required to 851
report as farm income on its federal income tax return, but only 852
if the assets of the trust include at least ten acres of land 853
satisfying the definition of "land devoted exclusively to 854
agricultural use" under section 5713.30 of the Revised Code, 855
regardless of whether the land is valued for tax purposes as 856
such land under sections 5713.30 to 5713.38 of the Revised Code. 857
If the trust is a pass-through entity investor, section 5747.231 858
of the Revised Code applies in ascertaining if the trust is 859
eligible to claim the deduction provided by division (S)(12) of 860
this section in connection with the pass-through entity's farm 861
income. 862

Except for farm income attributable to the S portion of an 863
electing small business trust, the deduction provided by 864

division (S) (12) of this section is allowed only to the extent 865
that the trust has not distributed such farm income. 866

(13) Add the net amount of income described in section 867
641(c) of the Internal Revenue Code to the extent that amount is 868
not included in federal taxable income. 869

(14) Deduct the amount the taxpayer would be required to 870
deduct under division (A) (18) of this section if the taxpayer's 871
Ohio taxable income ~~were~~ was computed in the same manner as an 872
individual's Ohio adjusted gross income is computed under this 873
section. 874

(15) Add, to the extent not otherwise included in 875
computing taxable income or Ohio taxable income for any taxable 876
year, the taxpayer's proportionate share of the amount of the 877
tax levied under section 5747.38 of the Revised Code and paid by 878
an electing pass-through entity for the taxable year. 879

(16) Add any income taxes deducted in computing federal 880
taxable income or Ohio taxable income to the extent the income 881
taxes were derived from income subject to a tax levied in 882
another state or the District of Columbia when such tax was 883
enacted for purposes of complying with internal revenue service 884
notice 2020-75. 885

(T) "School district income" and "school district income 886
tax" have the same meanings as in section 5748.01 of the Revised 887
Code. 888

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 889
(7) of this section, "public obligations," "purchase 890
obligations," and "interest or interest equivalent" have the 891
same meanings as in section 5709.76 of the Revised Code. 892

(V) "Limited liability company" means any limited 893

liability company formed under former Chapter 1705. of the 894
Revised Code as that chapter existed prior to February 11, 2022, 895
Chapter 1706. of the Revised Code, or the laws of any other 896
state. 897

(W) "Pass-through entity investor" means any person who, 898
during any portion of a taxable year of a pass-through entity, 899
is a partner, member, shareholder, or equity investor in that 900
pass-through entity. 901

(X) "Banking day" has the same meaning as in section 902
1304.01 of the Revised Code. 903

(Y) "Month" means a calendar month. 904

(Z) "Quarter" means the first three months, the second 905
three months, the third three months, or the last three months 906
of the taxpayer's taxable year. 907

(AA) (1) "Modified business income" means the business 908
income included in a trust's Ohio taxable income after such 909
taxable income is first reduced by the qualifying trust amount, 910
if any. 911

(2) "Qualifying trust amount" of a trust means capital 912
gains and losses from the sale, exchange, or other disposition 913
of equity or ownership interests in, or debt obligations of, a 914
qualifying investee to the extent included in the trust's Ohio 915
taxable income, but only if the following requirements are 916
satisfied: 917

(a) The book value of the qualifying investee's physical 918
assets in this state and everywhere, as of the last day of the 919
qualifying investee's fiscal or calendar year ending immediately 920
prior to the date on which the trust recognizes the gain or 921
loss, is available to the trust. 922

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

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

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

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

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

(i) The trust's modified business income;

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

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the

qualifying trust amount, and the denominator of which is the sum 952
of the book value of the qualifying investee's total physical 953
assets everywhere on the last day of the qualifying investee's 954
fiscal or calendar year ending immediately prior to the day on 955
which the trust recognizes the qualifying trust amount. If, for 956
a taxable year, the trust recognizes a qualifying trust amount 957
with respect to more than one qualifying investee, the amount 958
described in division (AA) (4) (b) of this section shall equal the 959
sum of the products so computed for each such qualifying 960
investee. 961

(c) (i) With respect to a trust or portion of a trust that 962
is a resident as ascertained in accordance with division (I) (3) 963
(d) of this section, its modified nonbusiness income. 964

(ii) With respect to a trust or portion of a trust that is 965
not a resident as ascertained in accordance with division (I) (3) 966
(d) of this section, the amount of its modified nonbusiness 967
income satisfying the descriptions in divisions (B) (2) to (5) of 968
section 5747.20 of the Revised Code, except as otherwise 969
provided in division (AA) (4) (c) (ii) of this section. With 970
respect to a trust or portion of a trust that is not a resident 971
as ascertained in accordance with division (I) (3) (d) of this 972
section, the trust's portion of modified nonbusiness income 973
recognized from the sale, exchange, or other disposition of a 974
debt interest in or equity interest in a section 5747.212 975
entity, as defined in section 5747.212 of the Revised Code, 976
without regard to division (A) of that section, shall not be 977
allocated to this state in accordance with section 5747.20 of 978
the Revised Code but shall be apportioned to this state in 979
accordance with division (B) of section 5747.212 of the Revised 980
Code without regard to division (A) of that section. 981

If the allocation and apportionment of a trust's income 982
under divisions (AA) (4) (a) and (c) of this section do not fairly 983
represent the modified Ohio taxable income of the trust in this 984
state, the alternative methods described in division (C) of 985
section 5747.21 of the Revised Code may be applied in the manner 986
and to the same extent provided in that section. 987

(5) (a) Except as set forth in division (AA) (5) (b) of this 988
section, "qualifying investee" means a person in which a trust 989
has an equity or ownership interest, or a person or unit of 990
government the debt obligations of either of which are owned by 991
a trust. For the purposes of division (AA) (2) (a) of this section 992
and for the purpose of computing the fraction described in 993
division (AA) (4) (b) of this section, all of the following apply: 994

(i) If the qualifying investee is a member of a qualifying 995
controlled group on the last day of the qualifying investee's 996
fiscal or calendar year ending immediately prior to the date on 997
which the trust recognizes the gain or loss, then "qualifying 998
investee" includes all persons in the qualifying controlled 999
group on such last day. 1000

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

proportionate share of the pass-through entity's physical assets 1012
which the pass-through entity directly or indirectly owns on the 1013
last day of the pass-through entity's calendar or fiscal year 1014
ending within or with the last day of the qualifying investee's 1015
fiscal or calendar year ending immediately prior to the date on 1016
which the trust recognizes the qualifying trust amount. 1017

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1018
section, "upper level pass-through entity" means a pass-through 1019
entity directly or indirectly owning any equity of another pass- 1020
through entity, and "lower level pass-through entity" means that 1021
other pass-through entity. 1022

An upper level pass-through entity, whether or not it is 1023
also a qualifying investee, is deemed to own, on the last day of 1024
the upper level pass-through entity's calendar or fiscal year, 1025
the proportionate share of the lower level pass-through entity's 1026
physical assets that the lower level pass-through entity 1027
directly or indirectly owns on the last day of the lower level 1028
pass-through entity's calendar or fiscal year ending within or 1029
with the last day of the upper level pass-through entity's 1030
fiscal or calendar year. If the upper level pass-through entity 1031
directly and indirectly owns less than fifty per cent of the 1032
equity of the lower level pass-through entity on each day of the 1033
upper level pass-through entity's calendar or fiscal year in 1034
which or with which ends the calendar or fiscal year of the 1035
lower level pass-through entity and if, based upon clear and 1036
convincing evidence, complete information about the location and 1037
cost of the physical assets of the lower pass-through entity is 1038
not available to the upper level pass-through entity, then 1039
solely for purposes of ascertaining if a gain or loss 1040
constitutes a qualifying trust amount, the upper level pass- 1041
through entity shall be deemed as owning no equity of the lower 1042

level pass-through entity for each day during the upper level 1043
pass-through entity's calendar or fiscal year in which or with 1044
which ends the lower level pass-through entity's calendar or 1045
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1046
shall be construed to provide for any deduction or exclusion in 1047
computing any trust's Ohio taxable income. 1048

(b) With respect to a trust that is not a resident for the 1049
taxable year and with respect to a part of a trust that is not a 1050
resident for the taxable year, "qualifying investee" for that 1051
taxable year does not include a C corporation if both of the 1052
following apply: 1053

(i) During the taxable year the trust or part of the trust 1054
recognizes a gain or loss from the sale, exchange, or other 1055
disposition of equity or ownership interests in, or debt 1056
obligations of, the C corporation. 1057

(ii) Such gain or loss constitutes nonbusiness income. 1058

(6) "Available" means information is such that a person is 1059
able to learn of the information by the due date plus 1060
extensions, if any, for filing the return for the taxable year 1061
in which the trust recognizes the gain or loss. 1062

(BB) "Qualifying controlled group" has the same meaning as 1063
in section 5733.04 of the Revised Code. 1064

(CC) "Related member" has the same meaning as in section 1065
5733.042 of the Revised Code. 1066

(DD) (1) For the purposes of division (DD) of this section: 1067

(a) "Qualifying person" means any person other than a 1068
qualifying corporation. 1069

(b) "Qualifying corporation" means any person classified 1070

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

election, if timely made, shall be effective on and after 1100
January 1, 2006, and shall apply for all tax periods and tax 1101
years until revoked by the trustee of the trust. 1102

(4) A "pre-income tax trust" is a trust that satisfies all 1103
of the following requirements: 1104

(a) The document or instrument creating the trust was 1105
executed by the grantor before January 1, 1972; 1106

(b) The trust became irrevocable upon the creation of the 1107
trust; and 1108

(c) The grantor was domiciled in this state at the time 1109
the trust was created. 1110

(FF) "Uniformed services" has the same meaning as in 10 1111
U.S.C. 101. 1112

(GG) "Taxable business income" means the amount by which 1113
an individual's business income that is included in federal 1114
adjusted gross income exceeds the amount of business income the 1115
individual is authorized to deduct under division (A) (28) of 1116
this section for the taxable year. 1117

(HH) "Employer" does not include a franchisor with respect 1118
to the franchisor's relationship with a franchisee or an 1119
employee of a franchisee, unless the franchisor agrees to assume 1120
that role in writing or a court of competent jurisdiction 1121
determines that the franchisor exercises a type or degree of 1122
control over the franchisee or the franchisee's employees that 1123
is not customarily exercised by a franchisor for the purpose of 1124
protecting the franchisor's trademark, brand, or both. For 1125
purposes of this division, "franchisor" and "franchisee" have 1126
the same meanings as in 16 C.F.R. 436.1. 1127

(II) "Modified adjusted gross income" means Ohio adjusted 1128
gross income plus any amount deducted under divisions (A) (28), 1129
~~and (34), and (44)~~ of this section for the taxable year. 1130

(JJ) "Qualifying Ohio educator" means an individual who, 1131
for a taxable year, qualifies as an eligible educator, as that 1132
term is defined in section 62 of the Internal Revenue Code, and 1133
who holds a certificate, license, or permit described in Chapter 1134
3319. or section 3301.071 of the Revised Code. 1135

Section 2. That existing section 5747.01 of the Revised 1136
Code is hereby repealed. 1137

Section 3. The amendment by this act of section 5747.01 of 1138
the Revised Code applies to taxable years ending on or after the 1139
effective date of this section. 1140