

As Introduced

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Representative Lorenz

**Cosponsors: Representatives Fischer, Johnson, Williams, Brennan, Klopfenstein,
Dean**

To amend sections 718.01, 5747.01, and 5748.01 of 1
the Revised Code to exempt tips from state, 2
municipal, and school district income taxes. 3

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

Section 1. That sections 718.01, 5747.01, and 5748.01 of 4
the Revised Code be amended to read as follows: 5

Sec. 718.01. Any term used in this chapter that is not 6
otherwise defined in this chapter has the same meaning as when 7
used in a comparable context in laws of the United States 8
relating to federal income taxation or in Title LVII of the 9
Revised Code, unless a different meaning is clearly required. 10
Except as provided in section 718.81 of the Revised Code, if a 11
term used in this chapter that is not otherwise defined in this 12
chapter is used in a comparable context in both the laws of the 13
United States relating to federal income tax and in Title LVII 14
of the Revised Code and the use is not consistent, then the use 15
of the term in the laws of the United States relating to federal 16
income tax shall control over the use of the term in Title LVII 17
of the Revised Code. 18

Except as otherwise provided in section 718.81 of the 19

Revised Code, as used in this chapter:	20
(A) (1) "Municipal taxable income" means the following:	21
(a) For a person other than an individual, income	22
apportioned or sitused to the municipal corporation under	23
section 718.02 of the Revised Code, as applicable, reduced by	24
any pre-2017 net operating loss carryforward available to the	25
person for the municipal corporation.	26
(b) (i) For an individual who is a resident of a municipal	27
corporation other than a qualified municipal corporation, income	28
reduced by exempt income to the extent otherwise included in	29
income, then reduced as provided in division (A) (2) of this	30
section, and further reduced by any pre-2017 net operating loss	31
carryforward available to the individual for the municipal	32
corporation.	33
(ii) For an individual who is a resident of a qualified	34
municipal corporation, Ohio adjusted gross income reduced by	35
income exempted, and increased by deductions excluded, by the	36
qualified municipal corporation from the qualified municipal	37
corporation's tax. If a qualified municipal corporation, on or	38
before December 31, 2013, exempts income earned by individuals	39
who are not residents of the qualified municipal corporation and	40
net profit of persons that are not wholly located within the	41
qualified municipal corporation, such individual or person shall	42
have no municipal taxable income for the purposes of the tax	43
levied by the qualified municipal corporation and may be	44
exempted by the qualified municipal corporation from the	45
requirements of section 718.03 of the Revised Code.	46
(c) For an individual who is a nonresident of a municipal	47
corporation, income reduced by exempt income to the extent	48

otherwise included in income and then, as applicable, 49
apportioned or situated to the municipal corporation under 50
section 718.02 of the Revised Code, then reduced as provided in 51
division (A) (2) of this section, and further reduced by any 52
pre-2017 net operating loss carryforward available to the 53
individual for the municipal corporation. 54

(2) In computing the municipal taxable income of a 55
taxpayer who is an individual, the taxpayer may subtract, as 56
provided in division (A) (1) (b) (i) or (c) of this section, the 57
amount of the individual's employee business expenses reported 58
on the individual's form 2106 that the individual deducted for 59
federal income tax purposes for the taxable year, subject to the 60
limitation imposed by section 67 of the Internal Revenue Code. 61
For the municipal corporation in which the taxpayer is a 62
resident, the taxpayer may deduct all such expenses allowed for 63
federal income tax purposes. For a municipal corporation in 64
which the taxpayer is not a resident, the taxpayer may deduct 65
such expenses only to the extent the expenses are related to the 66
taxpayer's performance of personal services in that nonresident 67
municipal corporation. 68

(B) "Income" means the following: 69

(1) (a) For residents, all income, salaries, qualifying 70
wages, commissions, and other compensation from whatever source 71
earned or received by the resident, including the resident's 72
distributive share of the net profit of pass-through entities 73
owned directly or indirectly by the resident and any net profit 74
of the resident, except as provided in division (D) (5) of this 75
section. 76

(b) For the purposes of division (B) (1) (a) of this 77
section: 78

(i) Any net operating loss of the resident incurred in the 79
taxable year and the resident's distributive share of any net 80
operating loss generated in the same taxable year and 81
attributable to the resident's ownership interest in a pass- 82
through entity shall be allowed as a deduction, for that taxable 83
year and the following five taxable years, against any other net 84
profit of the resident or the resident's distributive share of 85
any net profit attributable to the resident's ownership interest 86
in a pass-through entity until fully utilized, subject to 87
division (B) (1) (d) of this section; 88

(ii) The resident's distributive share of the net profit 89
of each pass-through entity owned directly or indirectly by the 90
resident shall be calculated without regard to any net operating 91
loss that is carried forward by that entity from a prior taxable 92
year and applied to reduce the entity's net profit for the 93
current taxable year. 94

(c) Division (B) (1) (b) of this section does not apply with 95
respect to any net profit or net operating loss attributable to 96
an ownership interest in an S corporation unless shareholders' 97
distributive shares of net profits from S corporations are 98
subject to tax in the municipal corporation as provided in 99
division (C) (14) (b) or (c) of this section. 100

(d) Any amount of a net operating loss used to reduce a 101
taxpayer's net profit for a taxable year shall reduce the amount 102
of net operating loss that may be carried forward to any 103
subsequent year for use by that taxpayer. In no event shall the 104
cumulative deductions for all taxable years with respect to a 105
taxpayer's net operating loss exceed the original amount of that 106
net operating loss available to that taxpayer. 107

(2) In the case of nonresidents, all income, salaries, 108

qualifying wages, commissions, and other compensation from 109
whatever source earned or received by the nonresident for work 110
done, services performed or rendered, or activities conducted in 111
the municipal corporation, including any net profit of the 112
nonresident, but excluding the nonresident's distributive share 113
of the net profit or loss of only pass-through entities owned 114
directly or indirectly by the nonresident. 115

(3) For taxpayers that are not individuals, net profit of 116
the taxpayer; 117

(4) Lottery, sweepstakes, gambling and sports winnings, 118
winnings from games of chance, and prizes and awards. If the 119
taxpayer is a professional gambler for federal income tax 120
purposes, the taxpayer may deduct related wagering losses and 121
expenses to the extent authorized under the Internal Revenue 122
Code and claimed against such winnings. 123

(C) "Exempt income" means all of the following: 124

(1) The military pay or allowances of members of the armed 125
forces of the United States or members of their reserve 126
components, including the national guard of any state; 127

(2) (a) Except as provided in division (C) (2) (b) of this 128
section, intangible income; 129

(b) A municipal corporation that taxed any type of 130
intangible income on March 29, 1988, pursuant to Section 3 of 131
S.B. 238 of the 116th general assembly, may continue to tax that 132
type of income if a majority of the electors of the municipal 133
corporation voting on the question of whether to permit the 134
taxation of that type of intangible income after 1988 voted in 135
favor thereof at an election held on November 8, 1988. 136

(3) Social security benefits, railroad retirement 137

benefits, unemployment compensation, pensions, retirement 138
benefit payments, payments from annuities, and similar payments 139
made to an employee or to the beneficiary of an employee under a 140
retirement program or plan, disability payments received from 141
private industry or local, state, or federal governments or from 142
charitable, religious or educational organizations, and the 143
proceeds of sickness, accident, or liability insurance policies. 144
As used in division (C) (3) of this section, "unemployment 145
compensation" does not include supplemental unemployment 146
compensation described in section 3402(o) (2) of the Internal 147
Revenue Code. 148

(4) The income of religious, fraternal, charitable, 149
scientific, literary, or educational institutions to the extent 150
such income is derived from tax-exempt real estate, tax-exempt 151
tangible or intangible property, or tax-exempt activities. 152

(5) Compensation paid under section 3501.28 or 3501.36 of 153
the Revised Code to a person serving as a precinct election 154
official to the extent that such compensation does not exceed 155
one thousand dollars for the taxable year. Such compensation in 156
excess of one thousand dollars for the taxable year may be 157
subject to taxation by a municipal corporation. A municipal 158
corporation shall not require the payer of such compensation to 159
withhold any tax from that compensation. 160

(6) Dues, contributions, and similar payments received by 161
charitable, religious, educational, or literary organizations or 162
labor unions, lodges, and similar organizations; 163

(7) Alimony and child support received; 164

(8) Compensation for personal injuries or for damages to 165
property from insurance proceeds or otherwise, excluding 166

compensation paid for lost salaries or wages or compensation 167
from punitive damages; 168

(9) Income of a public utility when that public utility is 169
subject to the tax levied under section 5727.24 or 5727.30 of 170
the Revised Code. Division (C) (9) of this section does not apply 171
for purposes of Chapter 5745. of the Revised Code. 172

(10) Gains from involuntary conversions, interest on 173
federal obligations, items of income subject to a tax levied by 174
the state and that a municipal corporation is specifically 175
prohibited by law from taxing, and income of a decedent's estate 176
during the period of administration except such income from the 177
operation of a trade or business; 178

(11) Compensation or allowances excluded from federal 179
gross income under section 107 of the Internal Revenue Code; 180

(12) Employee compensation that is not qualifying wages as 181
defined in division (R) of this section; 182

(13) Compensation paid to a person employed within the 183
boundaries of a United States air force base under the 184
jurisdiction of the United States air force that is used for the 185
housing of members of the United States air force and is a 186
center for air force operations, unless the person is subject to 187
taxation because of residence or domicile. If the compensation 188
is subject to taxation because of residence or domicile, tax on 189
such income shall be payable only to the municipal corporation 190
of residence or domicile. 191

(14) (a) Except as provided in division (C) (14) (b) or (c) 192
of this section, an S corporation shareholder's distributive 193
share of net profits of the S corporation, other than any part 194
of the distributive share of net profits that represents wages 195

as defined in section 3121(a) of the Internal Revenue Code or 196
net earnings from self-employment as defined in section 1402(a) 197
of the Internal Revenue Code. 198

(b) If, pursuant to division (H) of former section 718.01 199
of the Revised Code as it existed before March 11, 2004, a 200
majority of the electors of a municipal corporation voted in 201
favor of the question at an election held on November 4, 2003, 202
the municipal corporation may continue after 2002 to tax an S 203
corporation shareholder's distributive share of net profits of 204
an S corporation. 205

(c) If, on December 6, 2002, a municipal corporation was 206
imposing, assessing, and collecting a tax on an S corporation 207
shareholder's distributive share of net profits of the S 208
corporation to the extent the distributive share would be 209
allocated or apportioned to this state under divisions (B) (1) 210
and (2) of section 5733.05 of the Revised Code if the S 211
corporation were a corporation subject to taxes imposed under 212
Chapter 5733. of the Revised Code, the municipal corporation may 213
continue to impose the tax on such distributive shares to the 214
extent such shares would be so allocated or apportioned to this 215
state only until December 31, 2004, unless a majority of the 216
electors of the municipal corporation voting on the question of 217
continuing to tax such shares after that date voted in favor of 218
that question at an election held November 2, 2004. If a 219
majority of those electors voted in favor of the question, the 220
municipal corporation may continue after December 31, 2004, to 221
impose the tax on such distributive shares only to the extent 222
such shares would be so allocated or apportioned to this state. 223

(d) A municipal corporation shall be deemed to have 224
elected to tax S corporation shareholders' distributive shares 225

of net profits of the S corporation in the hands of the 226
shareholders if a majority of the electors of a municipal 227
corporation voted in favor of a question at an election held 228
under division (C) (14) (b) or (c) of this section. The municipal 229
corporation shall specify by resolution or ordinance that the 230
tax applies to the distributive share of a shareholder of an S 231
corporation in the hands of the shareholder of the S 232
corporation. 233

(15) The income of individuals under eighteen years of 234
age. 235

(16) (a) Except as provided in divisions (C) (16) (b), (c), 236
and (d) of this section, qualifying wages described in division 237
(B) (1) or (E) of section 718.011 of the Revised Code to the 238
extent the qualifying wages are not subject to withholding for 239
the municipal corporation under either of those divisions. 240

(b) The exemption provided in division (C) (16) (a) of this 241
section does not apply with respect to the municipal corporation 242
in which the employee resided at the time the employee earned 243
the qualifying wages. 244

(c) The exemption provided in division (C) (16) (a) of this 245
section does not apply to qualifying wages that an employer 246
elects to withhold under division (D) (2) of section 718.011 of 247
the Revised Code. 248

(d) The exemption provided in division (C) (16) (a) of this 249
section does not apply to qualifying wages if both of the 250
following conditions apply: 251

(i) For qualifying wages described in division (B) (1) of 252
section 718.011 of the Revised Code, the employee's employer 253
withholds and remits tax on the qualifying wages to the 254

municipal corporation in which the employee's principal place of
work is situated, or, for qualifying wages described in division
(E) of section 718.011 of the Revised Code, the employee's
employer withholds and remits tax on the qualifying wages to the
municipal corporation in which the employer's fixed location is
located;

(ii) The employee receives a refund of the tax described
in division (C)(16)(d)(i) of this section on the basis of the
employee not performing services in that municipal corporation.

(17)(a) Except as provided in division (C)(17)(b) or (c)
of this section, compensation that is not qualifying wages paid
to a nonresident individual for personal services performed in
the municipal corporation on not more than twenty days in a
taxable year.

(b) The exemption provided in division (C)(17)(a) of this
section does not apply under either of the following
circumstances:

(i) The individual's base of operation is located in the
municipal corporation.

(ii) The individual is a professional athlete,
professional entertainer, or public figure, and the compensation
is paid for the performance of services in the individual's
capacity as a professional athlete, professional entertainer, or
public figure. For purposes of division (C)(17)(b)(ii) of this
section, "professional athlete," "professional entertainer," and
"public figure" have the same meanings as in section 718.011 of
the Revised Code.

(c) Compensation to which division (C)(17) of this section
applies shall be treated as earned or received at the

individual's base of operation. If the individual does not have 284
a base of operation, the compensation shall be treated as earned 285
or received where the individual is domiciled. 286

(d) For purposes of division (C)(17) of this section, 287
"base of operation" means the location where an individual owns 288
or rents an office, storefront, or similar facility to which the 289
individual regularly reports and at which the individual 290
regularly performs personal services for compensation. 291

(18) Compensation paid to a person for personal services 292
performed for a political subdivision on property owned by the 293
political subdivision, regardless of whether the compensation is 294
received by an employee of the subdivision or another person 295
performing services for the subdivision under a contract with 296
the subdivision, if the property on which services are performed 297
is annexed to a municipal corporation pursuant to section 298
709.023 of the Revised Code on or after March 27, 2013, unless 299
the person is subject to such taxation because of residence. If 300
the compensation is subject to taxation because of residence, 301
municipal income tax shall be payable only to the municipal 302
corporation of residence. 303

(19) In the case of a tax administered, collected, and 304
enforced by a municipal corporation pursuant to an agreement 305
with the board of directors of a joint economic development 306
district under section 715.72 of the Revised Code, the net 307
profits of a business, and the income of the employees of that 308
business, exempted from the tax under division (Q) of that 309
section. 310

(20) All of the following: 311

(a) Income derived from disaster work conducted in this 312

state by an out-of-state disaster business during a disaster 313
response period pursuant to a qualifying solicitation received 314
by the business; 315

(b) Income of a qualifying employee described in division 316
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 317
such income is derived from disaster work conducted in this 318
state by the employee during a disaster response period pursuant 319
to a qualifying solicitation received by the employee's 320
employer; 321

(c) Income of a qualifying employee described in division 322
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 323
such income is derived from disaster work conducted in this 324
state by the employee during a disaster response period on 325
critical infrastructure owned or used by the employee's 326
employer. 327

(21) Tips. 328

(22) Income the taxation of which is prohibited by the 329
constitution or laws of the United States. 330

Any item of income that is exempt income of a pass-through 331
entity under division (C) of this section is exempt income of 332
each owner of the pass-through entity to the extent of that 333
owner's distributive or proportionate share of that item of the 334
entity's income. 335

(D) (1) "Net profit" for a person who is an individual 336
means the individual's net profit required to be reported on 337
schedule C, schedule E, or schedule F reduced by any net 338
operating loss carried forward. For the purposes of division (D) 339
(1) of this section, the net operating loss carried forward 340
shall be calculated and deducted in the same manner as provided 341

in division (D) (3) of this section. 342

(2) "Net profit" for a person other than an individual 343
means adjusted federal taxable income reduced by any net 344
operating loss incurred by the person in a taxable year 345
beginning on or after January 1, 2017, subject to the 346
limitations of division (D) (3) of this section. 347

(3) (a) The amount of such net operating loss shall be 348
deducted from net profit to the extent necessary to reduce 349
municipal taxable income to zero, with any remaining unused 350
portion of the net operating loss carried forward to not more 351
than five consecutive taxable years following the taxable year 352
in which the loss was incurred, but in no case for more years 353
than necessary for the deduction to be fully utilized. 354

(b) No person shall use the deduction allowed by division 355
(D) (3) of this section to offset qualifying wages. 356

(c) (i) For taxable years beginning in 2018, 2019, 2020, 357
2021, or 2022, a person may not deduct, for purposes of an 358
income tax levied by a municipal corporation that levies an 359
income tax before January 1, 2016, more than fifty per cent of 360
the amount of the deduction otherwise allowed by division (D) (3) 361
of this section. 362

(ii) For taxable years beginning in 2023 or thereafter, a 363
person may deduct, for purposes of an income tax levied by a 364
municipal corporation that levies an income tax before January 365
1, 2016, the full amount allowed by division (D) (3) of this 366
section without regard to the limitation of division (D) (3) (c) 367
(i) of this section. 368

(d) Any pre-2017 net operating loss carryforward deduction 369
that is available may be utilized before a taxpayer may deduct 370

any amount pursuant to division (D) (3) of this section. 371

(e) Nothing in division (D) (3) (c) (i) of this section 372
precludes a person from carrying forward, for use with respect 373
to any return filed for a taxable year beginning after 2018, any 374
amount of net operating loss that was not fully utilized by 375
operation of division (D) (3) (c) (i) of this section. To the 376
extent that an amount of net operating loss that was not fully 377
utilized in one or more taxable years by operation of division 378
(D) (3) (c) (i) of this section is carried forward for use with 379
respect to a return filed for a taxable year beginning in 2019, 380
2020, 2021, or 2022, the limitation described in division (D) (3) 381
(c) (i) of this section shall apply to the amount carried 382
forward. 383

(4) For the purposes of this chapter, and notwithstanding 384
division (D) (2) of this section, net profit of a disregarded 385
entity shall not be taxable as against that disregarded entity, 386
but shall instead be included in the net profit of the owner of 387
the disregarded entity. 388

(5) For the purposes of this chapter, and notwithstanding 389
any other provision of this chapter, the net profit of a 390
publicly traded partnership that makes the election described in 391
division (D) (5) of this section shall be taxed as if the 392
partnership were a C corporation, and shall not be treated as 393
the net profit or income of any owner of the partnership. 394

A publicly traded partnership that is treated as a 395
partnership for federal income tax purposes and that is subject 396
to tax on its net profits in one or more municipal corporations 397
in this state may elect to be treated as a C corporation for 398
municipal income tax purposes. The publicly traded partnership 399
shall make the election in every municipal corporation in which 400

the partnership is subject to taxation on its net profits. The 401
election shall be made on the annual tax return filed in each 402
such municipal corporation. The publicly traded partnership 403
shall not be required to file the election with any municipal 404
corporation in which the partnership is not subject to taxation 405
on its net profits, but division (D)(5) of this section applies 406
to all municipal corporations in which an individual owner of 407
the partnership resides. 408

(E) "Adjusted federal taxable income," for a person 409
required to file as a C corporation, or for a person that has 410
elected to be taxed as a C corporation under division (D)(5) of 411
this section, means a C corporation's federal taxable income 412
before net operating losses and special deductions as determined 413
under the Internal Revenue Code, adjusted as follows: 414

(1) Deduct intangible income to the extent included in 415
federal taxable income. The deduction shall be allowed 416
regardless of whether the intangible income relates to assets 417
used in a trade or business or assets held for the production of 418
income. 419

(2) Add an amount equal to five per cent of intangible 420
income deducted under division (E)(1) of this section, but 421
excluding that portion of intangible income directly related to 422
the sale, exchange, or other disposition of property described 423
in section 1221 of the Internal Revenue Code; 424

(3) Add any losses allowed as a deduction in the 425
computation of federal taxable income if the losses directly 426
relate to the sale, exchange, or other disposition of an asset 427
described in section 1221 or 1231 of the Internal Revenue Code; 428

(4) (a) Except as provided in division (E)(4)(b) of this 429

section, deduct income and gain included in federal taxable 430
income to the extent the income and gain directly relate to the 431
sale, exchange, or other disposition of an asset described in 432
section 1221 or 1231 of the Internal Revenue Code; 433

(b) Division (E)(4)(a) of this section does not apply to 434
the extent the income or gain is income or gain described in 435
section 1245 or 1250 of the Internal Revenue Code. 436

(5) Add taxes on or measured by net income allowed as a 437
deduction in the computation of federal taxable income; 438

(6) In the case of a real estate investment trust or 439
regulated investment company, add all amounts with respect to 440
dividends to, distributions to, or amounts set aside for or 441
credited to the benefit of investors and allowed as a deduction 442
in the computation of federal taxable income; 443

(7) Deduct, to the extent not otherwise deducted or 444
excluded in computing federal taxable income, any income derived 445
from a transfer agreement or from the enterprise transferred 446
under that agreement under section 4313.02 of the Revised Code; 447

(8) Deduct exempt income to the extent not otherwise 448
deducted or excluded in computing adjusted federal taxable 449
income. 450

(9) Deduct any net profit of a pass-through entity owned 451
directly or indirectly by the taxpayer and included in the 452
taxpayer's federal taxable income unless an affiliated group of 453
corporations includes that net profit in the group's federal 454
taxable income in accordance with division (E)(3)(b) of section 455
718.06 of the Revised Code. 456

(10) Add any loss incurred by a pass-through entity owned 457
directly or indirectly by the taxpayer and included in the 458

taxpayer's federal taxable income unless an affiliated group of 459
corporations includes that loss in the group's federal taxable 460
income in accordance with division (E) (3) (b) of section 718.06 461
of the Revised Code. 462

If the taxpayer is not a C corporation, is not a 463
disregarded entity that has made the election described in 464
division (L) (2) of this section, is not a publicly traded 465
partnership that has made the election described in division (D) 466
(5) of this section, and is not an individual, the taxpayer 467
shall compute adjusted federal taxable income under this section 468
as if the taxpayer were a C corporation, except guaranteed 469
payments and other similar amounts paid or accrued to a partner, 470
former partner, shareholder, former shareholder, member, or 471
former member shall not be allowed as a deductible expense 472
unless such payments are a pension or retirement benefit payment 473
paid to a retired partner, retired shareholder, or retired 474
member or are in consideration for the use of capital and 475
treated as payment of interest under section 469 of the Internal 476
Revenue Code or United States treasury regulations. Amounts paid 477
or accrued to a qualified self-employed retirement plan with 478
respect to a partner, former partner, shareholder, former 479
shareholder, member, or former member of the taxpayer, amounts 480
paid or accrued to or for health insurance for a partner, former 481
partner, shareholder, former shareholder, member, or former 482
member, and amounts paid or accrued to or for life insurance for 483
a partner, former partner, shareholder, former shareholder, 484
member, or former member shall not be allowed as a deduction. 485

Nothing in division (E) of this section shall be construed 486
as allowing the taxpayer to add or deduct any amount more than 487
once or shall be construed as allowing any taxpayer to deduct 488
any amount paid to or accrued for purposes of federal self- 489

employment tax. 490

(F) "Schedule C" means internal revenue service schedule C 491
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 492
Code. 493

(G) "Schedule E" means internal revenue service schedule E 494
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 495
Code. 496

(H) "Schedule F" means internal revenue service schedule F 497
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 498
Code. 499

(I) "Internal Revenue Code" has the same meaning as in 500
section 5747.01 of the Revised Code. 501

(J) "Resident" means an individual who is domiciled in the 502
municipal corporation as determined under section 718.012 of the 503
Revised Code. 504

(K) "Nonresident" means an individual that is not a 505
resident. 506

(L) (1) "Taxpayer" means a person subject to a tax levied 507
on income by a municipal corporation in accordance with this 508
chapter. "Taxpayer" does not include a grantor trust or, except 509
as provided in division (L) (2) (a) of this section, a disregarded 510
entity. 511

(2) (a) A single member limited liability company that is a 512
disregarded entity for federal tax purposes may be a separate 513
taxpayer from its single member in all Ohio municipal 514
corporations in which it either filed as a separate taxpayer or 515
did not file for its taxable year ending in 2003, if all of the 516
following conditions are met: 517

(i) The limited liability company's single member is also 518
a limited liability company. 519

(ii) The limited liability company and its single member 520
were formed and doing business in one or more Ohio municipal 521
corporations for at least five years before January 1, 2004. 522

(iii) Not later than December 31, 2004, the limited 523
liability company and its single member each made an election to 524
be treated as a separate taxpayer under division (L) of this 525
section as this section existed on December 31, 2004. 526

(iv) The limited liability company was not formed for the 527
purpose of evading or reducing Ohio municipal corporation income 528
tax liability of the limited liability company or its single 529
member. 530

(v) The Ohio municipal corporation that was the primary 531
place of business of the sole member of the limited liability 532
company consented to the election. 533

(b) For purposes of division (L) (2) (a) (v) of this section, 534
a municipal corporation was the primary place of business of a 535
limited liability company if, for the limited liability 536
company's taxable year ending in 2003, its income tax liability 537
was greater in that municipal corporation than in any other 538
municipal corporation in Ohio, and that tax liability to that 539
municipal corporation for its taxable year ending in 2003 was at 540
least four hundred thousand dollars. 541

(M) "Person" includes individuals, firms, companies, joint 542
stock companies, business trusts, estates, trusts, partnerships, 543
limited liability partnerships, limited liability companies, 544
associations, C corporations, S corporations, governmental 545
entities, and any other entity. 546

(N) "Pass-through entity" means a partnership not treated 547
as an association taxable as a C corporation for federal income 548
tax purposes, a limited liability company not treated as an 549
association taxable as a C corporation for federal income tax 550
purposes, an S corporation, or any other class of entity from 551
which the income or profits of the entity are given pass-through 552
treatment for federal income tax purposes. "Pass-through entity" 553
does not include a trust, estate, grantor of a grantor trust, or 554
disregarded entity. 555

(O) "S corporation" means a person that has made an 556
election under subchapter S of Chapter 1 of Subtitle A of the 557
Internal Revenue Code for its taxable year. 558

(P) "Single member limited liability company" means a 559
limited liability company that has one direct member. 560

(Q) "Limited liability company" means a limited liability 561
company formed under former Chapter 1705. of the Revised Code as 562
that chapter existed prior to February 11, 2022, Chapter 1706. 563
of the Revised Code, or the laws of another state. 564

(R) "Qualifying wages" means wages, as defined in section 565
3121(a) of the Internal Revenue Code, without regard to any wage 566
limitations, adjusted as follows: 567

(1) Deduct the following amounts: 568

(a) Any amount included in wages if the amount constitutes 569
compensation attributable to a plan or program described in 570
section 125 of the Internal Revenue Code. 571

(b) Any amount included in wages if the amount constitutes 572
payment on account of a disability related to sickness or an 573
accident paid by a party unrelated to the employer, agent of an 574
employer, or other payer. 575

(c) Any amount attributable to a nonqualified deferred 576
compensation plan or program described in section 3121(v) (2) (C) 577
of the Internal Revenue Code if the compensation is included in 578
wages and the municipal corporation has, by resolution or 579
ordinance adopted before January 1, 2016, exempted the amount 580
from withholding and tax. 581

(d) Any amount included in wages if the amount arises from 582
the sale, exchange, or other disposition of a stock option, the 583
exercise of a stock option, or the sale, exchange, or other 584
disposition of stock purchased under a stock option and the 585
municipal corporation has, by resolution or ordinance adopted 586
before January 1, 2016, exempted the amount from withholding and 587
tax. 588

(e) Any amount included in wages that is exempt income. 589

(2) Add the following amounts: 590

(a) Any amount not included in wages solely because the 591
employee was employed by the employer before April 1, 1986. 592

(b) Any amount not included in wages because the amount 593
arises from the sale, exchange, or other disposition of a stock 594
option, the exercise of a stock option, or the sale, exchange, 595
or other disposition of stock purchased under a stock option and 596
the municipal corporation has not, by resolution or ordinance, 597
exempted the amount from withholding and tax adopted before 598
January 1, 2016. Division (R) (2) (b) of this section applies only 599
to those amounts constituting ordinary income. 600

(c) Any amount not included in wages if the amount is an 601
amount described in section 401(k), 403(b), or 457 of the 602
Internal Revenue Code. Division (R) (2) (c) of this section 603
applies only to employee contributions and employee deferrals. 604

(d) Any amount that is supplemental unemployment 605
compensation benefits described in section 3402(o) (2) of the 606
Internal Revenue Code and not included in wages. 607

(e) Any amount received that is treated as self-employment 608
income for federal tax purposes in accordance with section 609
1402(a) (8) of the Internal Revenue Code. 610

(f) Any amount not included in wages if all of the 611
following apply: 612

(i) For the taxable year the amount is employee 613
compensation that is earned outside of the United States and 614
that either is included in the taxpayer's gross income for 615
federal income tax purposes or would have been included in the 616
taxpayer's gross income for such purposes if the taxpayer did 617
not elect to exclude the income under section 911 of the 618
Internal Revenue Code; 619

(ii) For no preceding taxable year did the amount 620
constitute wages as defined in section 3121(a) of the Internal 621
Revenue Code; 622

(iii) For no succeeding taxable year will the amount 623
constitute wages; and 624

(iv) For any taxable year the amount has not otherwise 625
been added to wages pursuant to either division (R) (2) of this 626
section or section 718.03 of the Revised Code, as that section 627
existed before the effective date of H.B. 5 of the 130th general 628
assembly, March 23, 2015. 629

(S) "Intangible income" means income of any of the 630
following types: income yield, interest, capital gains, 631
dividends, or other income arising from the ownership, sale, 632
exchange, or other disposition of intangible property including, 633

but not limited to, investments, deposits, money, or credits as 634
those terms are defined in Chapter 5701. of the Revised Code, 635
and patents, copyrights, trademarks, tradenames, investments in 636
real estate investment trusts, investments in regulated 637
investment companies, and appreciation on deferred compensation. 638
"Intangible income" does not include prizes, awards, or other 639
income associated with any lottery winnings, gambling winnings, 640
or other similar games of chance. 641

(T) "Taxable year" means the corresponding tax reporting 642
period as prescribed for the taxpayer under the Internal Revenue 643
Code. 644

(U) (1) "Tax administrator" means, subject to division (U) 645
(2) of this section, the individual charged with direct 646
responsibility for administration of an income tax levied by a 647
municipal corporation in accordance with this chapter, and also 648
includes the following: 649

(a) A municipal corporation acting as the agent of another 650
municipal corporation; 651

(b) A person retained by a municipal corporation to 652
administer a tax levied by the municipal corporation, but only 653
if the municipal corporation does not compensate the person in 654
whole or in part on a contingency basis; 655

(c) The central collection agency or the regional income 656
tax agency or their successors in interest, or another entity 657
organized to perform functions similar to those performed by the 658
central collection agency and the regional income tax agency. 659

(2) "Tax administrator" does not include the tax 660
commissioner. 661

(3) A private individual or entity serving in any position 662

described in division (U) (1) (b) or (c) of this section shall 663
have no access to criminal history record information. 664

(V) "Employer" means a person that is an employer for 665
federal income tax purposes. 666

(W) "Employee" means an individual who is an employee for 667
federal income tax purposes. 668

(X) "Other payer" means any person, other than an 669
individual's employer or the employer's agent, that pays an 670
individual any amount included in the federal gross income of 671
the individual. "Other payer" includes casino operators and 672
video lottery terminal sales agents. 673

(Y) "Calendar quarter" means the three-month period ending 674
on the last day of March, June, September, or December. 675

(Z) "Form 2106" means internal revenue service form 2106 676
filed by a taxpayer pursuant to the Internal Revenue Code. 677

(AA) "Municipal corporation" includes a joint economic 678
development district or joint economic development zone that 679
levies an income tax under section 715.691, 715.70, 715.71, or 680
715.72 of the Revised Code. 681

(BB) "Disregarded entity" means a single member limited 682
liability company, a qualifying subchapter S subsidiary, or 683
another entity if the company, subsidiary, or entity is a 684
disregarded entity for federal income tax purposes. 685

(CC) "Generic form" means an electronic or paper form that 686
is not prescribed by a particular municipal corporation and that 687
is designed for reporting taxes withheld by an employer, agent 688
of an employer, or other payer, estimated municipal income 689
taxes, or annual municipal income tax liability or for filing a 690

refund claim. 691

(DD) "Tax return preparer" means any individual described 692
in section 7701(a) (36) of the Internal Revenue Code and 26 693
C.F.R. 301.7701-15. 694

(EE) "Ohio business gateway" means the online computer 695
network system created under section 125.30 of the Revised Code 696
or any successor electronic filing and payment system. 697

(FF) "Local board of tax review" and "board of tax review" 698
mean the entity created under section 718.11 of the Revised 699
Code. 700

(GG) "Net operating loss" means a loss incurred by a 701
person in the operation of a trade or business. "Net operating 702
loss" does not include unutilized losses resulting from basis 703
limitations, at-risk limitations, or passive activity loss 704
limitations. 705

(HH) "Casino operator" and "casino facility" have the same 706
meanings as in section 3772.01 of the Revised Code. 707

(II) "Video lottery terminal" has the same meaning as in 708
section 3770.21 of the Revised Code. 709

(JJ) "Video lottery terminal sales agent" means a lottery 710
sales agent licensed under Chapter 3770. of the Revised Code to 711
conduct video lottery terminals on behalf of the state pursuant 712
to section 3770.21 of the Revised Code. 713

(KK) "Postal service" means the United States postal 714
service. 715

(LL) "Certified mail," "express mail," "United States 716
mail," "postal service," and similar terms include any delivery 717
service authorized pursuant to section 5703.056 of the Revised 718

Code. 719

(MM) "Postmark date," "date of postmark," and similar 720
terms include the date recorded and marked in the manner 721
described in division (B) (3) of section 5703.056 of the Revised 722
Code. 723

(NN) "Related member" means a person that, with respect to 724
the taxpayer during all or any portion of the taxable year, is 725
either a related entity, a component member as defined in 726
section 1563(b) of the Internal Revenue Code, or a person to or 727
from whom there is attribution of stock ownership in accordance 728
with section 1563(e) of the Internal Revenue Code except, for 729
purposes of determining whether a person is a related member 730
under this division, "twenty per cent" shall be substituted for 731
"5 percent" wherever "5 percent" appears in section 1563(e) of 732
the Internal Revenue Code. 733

(OO) "Related entity" means any of the following: 734

(1) An individual stockholder, or a member of the 735
stockholder's family enumerated in section 318 of the Internal 736
Revenue Code, if the stockholder and the members of the 737
stockholder's family own directly, indirectly, beneficially, or 738
constructively, in the aggregate, at least fifty per cent of the 739
value of the taxpayer's outstanding stock; 740

(2) A stockholder, or a stockholder's partnership, estate, 741
trust, or corporation, if the stockholder and the stockholder's 742
partnerships, estates, trusts, or corporations own directly, 743
indirectly, beneficially, or constructively, in the aggregate, 744
at least fifty per cent of the value of the taxpayer's 745
outstanding stock; 746

(3) A corporation, or a party related to the corporation 747

in a manner that would require an attribution of stock from the 748
corporation to the party or from the party to the corporation 749
under division (00) (4) of this section, provided the taxpayer 750
owns directly, indirectly, beneficially, or constructively, at 751
least fifty per cent of the value of the corporation's 752
outstanding stock; 753

(4) The attribution rules described in section 318 of the 754
Internal Revenue Code apply for the purpose of determining 755
whether the ownership requirements in divisions (00) (1) to (3) 756
of this section have been met. 757

(PP) (1) "Assessment" means a written finding by the tax 758
administrator that a person has underpaid municipal income tax, 759
or owes penalty and interest, or any combination of tax, 760
penalty, or interest, to the municipal corporation that 761
commences the person's time limitation for making an appeal to 762
the local board of tax review pursuant to section 718.11 of the 763
Revised Code, and has "ASSESSMENT" written in all capital 764
letters at the top of such finding. 765

(2) "Assessment" does not include an informal notice 766
denying a request for refund issued under division (B) (3) of 767
section 718.19 of the Revised Code, a billing statement 768
notifying a taxpayer of current or past-due balances owed to the 769
municipal corporation, a tax administrator's request for 770
additional information, a notification to the taxpayer of 771
mathematical errors, or a tax administrator's other written 772
correspondence to a person or taxpayer that does not meet the 773
criteria prescribed by division (PP) (1) of this section. 774

(QQ) "Taxpayers' rights and responsibilities" means the 775
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 776
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 777

Revised Code and the responsibilities of taxpayers to file, 778
report, withhold, remit, and pay municipal income tax and 779
otherwise comply with Chapter 718. of the Revised Code and 780
resolutions, ordinances, and rules adopted by a municipal 781
corporation for the imposition and administration of a municipal 782
income tax. 783

(RR) "Qualified municipal corporation" means a municipal 784
corporation that, by resolution or ordinance adopted on or 785
before December 31, 2011, adopted Ohio adjusted gross income, as 786
defined by section 5747.01 of the Revised Code, as the income 787
subject to tax for the purposes of imposing a municipal income 788
tax. 789

(SS) (1) "Pre-2017 net operating loss carryforward" means 790
any net operating loss incurred in a taxable year beginning 791
before January 1, 2017, to the extent such loss was permitted, 792
by a resolution or ordinance of the municipal corporation that 793
was adopted by the municipal corporation before January 1, 2016, 794
to be carried forward and utilized to offset income or net 795
profit generated in such municipal corporation in future taxable 796
years. 797

(2) For the purpose of calculating municipal taxable 798
income, any pre-2017 net operating loss carryforward may be 799
carried forward to any taxable year, including taxable years 800
beginning in 2017 or thereafter, for the number of taxable years 801
provided in the resolution or ordinance or until fully utilized, 802
whichever is earlier. 803

(TT) "Small employer" means any employer that had total 804
revenue of less than five hundred thousand dollars during the 805
preceding taxable year. For purposes of this division, "total 806
revenue" means receipts of any type or kind, including, but not 807

limited to, sales receipts; payments; rents; profits; gains, 808
dividends, and other investment income; compensation; 809
commissions; premiums; money; property; grants; contributions; 810
donations; gifts; program service revenue; patient service 811
revenue; premiums; fees, including premium fees and service 812
fees; tuition payments; unrelated business revenue; 813
reimbursements; any type of payment from a governmental unit, 814
including grants and other allocations; and any other similar 815
receipts reported for federal income tax purposes or under 816
generally accepted accounting principles. "Small employer" does 817
not include the federal government; any state government, 818
including any state agency or instrumentality; any political 819
subdivision; or any entity treated as a government for financial 820
accounting and reporting purposes. 821

(UU) "Audit" means the examination of a person or the 822
inspection of the books, records, memoranda, or accounts of a 823
person for the purpose of determining liability for a municipal 824
income tax. 825

(VV) "Publicly traded partnership" means any partnership, 826
an interest in which is regularly traded on an established 827
securities market. A "publicly traded partnership" may have any 828
number of partners. 829

(WW) "Tax commissioner" means the tax commissioner 830
appointed under section 121.03 of the Revised Code. 831

(XX) "Out-of-state disaster business," "qualifying 832
solicitation," "qualifying employee," "disaster work," "critical 833
infrastructure," and "disaster response period" have the same 834
meanings as in section 5703.94 of the Revised Code. 835

(YY) "Pension" means a retirement benefit plan, regardless 836

of whether the plan satisfies the qualifications described under 837
section 401(a) of the Internal Revenue Code, including amounts 838
that are taxable under the "Federal Insurance Contributions 839
Act," Chapter 21 of the Internal Revenue Code, excluding 840
employee contributions and elective deferrals, and regardless of 841
whether such amounts are paid in the same taxable year in which 842
the amounts are included in the employee's wages, as defined by 843
section 3121(a) of the Internal Revenue Code. 844

(ZZ) "Retirement benefit plan" means an arrangement 845
whereby an entity provides benefits to individuals either on or 846
after their termination of service because of retirement or 847
disability. "Retirement benefit plan" does not include wage 848
continuation payments, severance payments, or payments made for 849
accrued personal or vacation time. 850

Sec. 5747.01. Except as otherwise expressly provided or 851
clearly appearing from the context, any term used in this 852
chapter that is not otherwise defined in this section has the 853
same meaning as when used in a comparable context in the laws of 854
the United States relating to federal income taxes or if not 855
used in a comparable context in those laws, has the same meaning 856
as in section 5733.40 of the Revised Code. Any reference in this 857
chapter to the Internal Revenue Code includes other laws of the 858
United States relating to federal income taxes. 859

As used in this chapter: 860

(A) "Adjusted gross income" or "Ohio adjusted gross 861
income" means federal adjusted gross income, as defined and used 862
in the Internal Revenue Code, adjusted as provided in this 863
section: 864

(1) Add interest or dividends on obligations or securities 865

of any state or of any political subdivision or authority of any 866
state, other than this state and its subdivisions and 867
authorities. 868

(2) Add interest or dividends on obligations of any 869
authority, commission, instrumentality, territory, or possession 870
of the United States to the extent that the interest or 871
dividends are exempt from federal income taxes but not from 872
state income taxes. 873

(3) Deduct interest or dividends on obligations of the 874
United States and its territories and possessions or of any 875
authority, commission, or instrumentality of the United States 876
to the extent that the interest or dividends are included in 877
federal adjusted gross income but exempt from state income taxes 878
under the laws of the United States. 879

(4) Deduct disability and survivor's benefits to the 880
extent included in federal adjusted gross income. 881

(5) Deduct the following, to the extent not otherwise 882
deducted or excluded in computing federal or Ohio adjusted gross 883
income: 884

(a) Benefits under Title II of the Social Security Act and 885
tier 1 railroad retirement; 886

(b) Railroad retirement benefits, other than tier 1 887
railroad retirement benefits, to the extent such amounts are 888
exempt from state taxation under federal law. 889

(6) Deduct the amount of wages and salaries, if any, not 890
otherwise allowable as a deduction but that would have been 891
allowable as a deduction in computing federal adjusted gross 892
income for the taxable year, had the work opportunity tax credit 893
allowed and determined under sections 38, 51, and 52 of the 894

Internal Revenue Code not been in effect. 895

(7) Deduct any interest or interest equivalent on public 896
obligations and purchase obligations to the extent that the 897
interest or interest equivalent is included in federal adjusted 898
gross income. 899

(8) Add any loss or deduct any gain resulting from the 900
sale, exchange, or other disposition of public obligations to 901
the extent that the loss has been deducted or the gain has been 902
included in computing federal adjusted gross income. 903

(9) Deduct or add amounts, as provided under section 904
5747.70 of the Revised Code, related to contributions made to or 905
tuition units purchased under a qualified tuition program 906
established pursuant to section 529 of the Internal Revenue 907
Code. 908

(10) (a) Deduct, to the extent not otherwise allowable as a 909
deduction or exclusion in computing federal or Ohio adjusted 910
gross income for the taxable year, the amount the taxpayer paid 911
during the taxable year for medical care insurance and qualified 912
long-term care insurance for the taxpayer, the taxpayer's 913
spouse, and dependents. No deduction for medical care insurance 914
under division (A) (10) (a) of this section shall be allowed 915
either to any taxpayer who is eligible to participate in any 916
subsidized health plan maintained by any employer of the 917
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 918
entitled to, or on application would be entitled to, benefits 919
under part A of Title XVIII of the "Social Security Act," 49 920
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 921
division (A) (10) (a) of this section, "subsidized health plan" 922
means a health plan for which the employer pays any portion of 923
the plan's cost. The deduction allowed under division (A) (10) (a) 924

of this section shall be the net of any related premium refunds, 925
related premium reimbursements, or related insurance premium 926
dividends received during the taxable year. 927

(b) Deduct, to the extent not otherwise deducted or 928
excluded in computing federal or Ohio adjusted gross income 929
during the taxable year, the amount the taxpayer paid during the 930
taxable year, not compensated for by any insurance or otherwise, 931
for medical care of the taxpayer, the taxpayer's spouse, and 932
dependents, to the extent the expenses exceed seven and one-half 933
per cent of the taxpayer's federal adjusted gross income. 934

(c) For purposes of division (A)(10) of this section, 935
"medical care" has the meaning given in section 213 of the 936
Internal Revenue Code, subject to the special rules, 937
limitations, and exclusions set forth therein, and "qualified 938
long-term care" has the same meaning given in section 7702B(c) 939
of the Internal Revenue Code. Solely for purposes of division 940
(A)(10)(a) of this section, "dependent" includes a person who 941
otherwise would be a "qualifying relative" and thus a 942
"dependent" under section 152 of the Internal Revenue Code but 943
for the fact that the person fails to meet the income and 944
support limitations under section 152(d)(1)(B) and (C) of the 945
Internal Revenue Code. 946

(11)(a) Deduct any amount included in federal adjusted 947
gross income solely because the amount represents a 948
reimbursement or refund of expenses that in any year the 949
taxpayer had deducted as an itemized deduction pursuant to 950
section 63 of the Internal Revenue Code and applicable United 951
States department of the treasury regulations. The deduction 952
otherwise allowed under division (A)(11)(a) of this section 953
shall be reduced to the extent the reimbursement is attributable 954

to an amount the taxpayer deducted under this section in any 955
taxable year. 956

(b) Add any amount not otherwise included in Ohio adjusted 957
gross income for any taxable year to the extent that the amount 958
is attributable to the recovery during the taxable year of any 959
amount deducted or excluded in computing federal or Ohio 960
adjusted gross income in any taxable year. 961

(12) Deduct any portion of the deduction described in 962
section 1341(a)(2) of the Internal Revenue Code, for repaying 963
previously reported income received under a claim of right, that 964
meets both of the following requirements: 965

(a) It is allowable for repayment of an item that was 966
included in the taxpayer's adjusted gross income for a prior 967
taxable year and did not qualify for a credit under division (A) 968
or (B) of section 5747.05 of the Revised Code for that year; 969

(b) It does not otherwise reduce the taxpayer's adjusted 970
gross income for the current or any other taxable year. 971

(13) Deduct an amount equal to the deposits made to, and 972
net investment earnings of, a medical savings account during the 973
taxable year, in accordance with section 3924.66 of the Revised 974
Code. The deduction allowed by division (A)(13) of this section 975
does not apply to medical savings account deposits and earnings 976
otherwise deducted or excluded for the current or any other 977
taxable year from the taxpayer's federal adjusted gross income. 978

(14)(a) Add an amount equal to the funds withdrawn from a 979
medical savings account during the taxable year, and the net 980
investment earnings on those funds, when the funds withdrawn 981
were used for any purpose other than to reimburse an account 982
holder for, or to pay, eligible medical expenses, in accordance 983

with section 3924.66 of the Revised Code; 984

(b) Add the amounts distributed from a medical savings 985
account under division (A)(2) of section 3924.68 of the Revised 986
Code during the taxable year. 987

(15) Add any amount claimed as a credit under section 988
5747.059 of the Revised Code to the extent that such amount 989
satisfies either of the following: 990

(a) The amount was deducted or excluded from the 991
computation of the taxpayer's federal adjusted gross income as 992
required to be reported for the taxpayer's taxable year under 993
the Internal Revenue Code; 994

(b) The amount resulted in a reduction of the taxpayer's 995
federal adjusted gross income as required to be reported for any 996
of the taxpayer's taxable years under the Internal Revenue Code. 997

(16) Deduct the amount contributed by the taxpayer to an 998
individual development account program established by a county 999
department of job and family services pursuant to sections 1000
329.11 to 329.14 of the Revised Code for the purpose of matching 1001
funds deposited by program participants. On request of the tax 1002
commissioner, the taxpayer shall provide any information that, 1003
in the tax commissioner's opinion, is necessary to establish the 1004
amount deducted under division (A)(16) of this section. 1005

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and 1006
(v) of this section, add five-sixths of the amount of 1007
depreciation expense allowed by subsection (k) of section 168 of 1008
the Internal Revenue Code, including the taxpayer's 1009
proportionate or distributive share of the amount of 1010
depreciation expense allowed by that subsection to a pass- 1011
through entity in which the taxpayer has a direct or indirect 1012

ownership interest. 1013

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 1014
of this section, add five-sixths of the amount of qualifying 1015
section 179 depreciation expense, including the taxpayer's 1016
proportionate or distributive share of the amount of qualifying 1017
section 179 depreciation expense allowed to any pass-through 1018
entity in which the taxpayer has a direct or indirect ownership 1019
interest. 1020

(iii) Subject to division (A) (17) (a) (v) of this section, 1021
for taxable years beginning in 2012 or thereafter, if the 1022
increase in income taxes withheld by the taxpayer is equal to or 1023
greater than ten per cent of income taxes withheld by the 1024
taxpayer during the taxpayer's immediately preceding taxable 1025
year, "two-thirds" shall be substituted for "five-sixths" for 1026
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1027

(iv) Subject to division (A) (17) (a) (v) of this section, 1028
for taxable years beginning in 2012 or thereafter, a taxpayer is 1029
not required to add an amount under division (A) (17) of this 1030
section if the increase in income taxes withheld by the taxpayer 1031
and by any pass-through entity in which the taxpayer has a 1032
direct or indirect ownership interest is equal to or greater 1033
than the sum of (I) the amount of qualifying section 179 1034
depreciation expense and (II) the amount of depreciation expense 1035
allowed to the taxpayer by subsection (k) of section 168 of the 1036
Internal Revenue Code, and including the taxpayer's 1037
proportionate or distributive shares of such amounts allowed to 1038
any such pass-through entities. 1039

(v) If a taxpayer directly or indirectly incurs a net 1040
operating loss for the taxable year for federal income tax 1041
purposes, to the extent such loss resulted from depreciation 1042

expense allowed by subsection (k) of section 168 of the Internal 1043
Revenue Code and by qualifying section 179 depreciation expense, 1044
"the entire" shall be substituted for "five-sixths of the" for 1045
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1046

The tax commissioner, under procedures established by the 1047
commissioner, may waive the add-backs related to a pass-through 1048
entity if the taxpayer owns, directly or indirectly, less than 1049
five per cent of the pass-through entity. 1050

(b) Nothing in division (A) (17) of this section shall be 1051
construed to adjust or modify the adjusted basis of any asset. 1052

(c) To the extent the add-back required under division (A) 1053
(17) (a) of this section is attributable to property generating 1054
nonbusiness income or loss allocated under section 5747.20 of 1055
the Revised Code, the add-back shall be situated to the same 1056
location as the nonbusiness income or loss generated by the 1057
property for the purpose of determining the credit under 1058
division (A) of section 5747.05 of the Revised Code. Otherwise, 1059
the add-back shall be apportioned, subject to one or more of the 1060
four alternative methods of apportionment enumerated in section 1061
5747.21 of the Revised Code. 1062

(d) For the purposes of division (A) (17) (a) (v) of this 1063
section, net operating loss carryback and carryforward shall not 1064
include the allowance of any net operating loss deduction 1065
carryback or carryforward to the taxable year to the extent such 1066
loss resulted from depreciation allowed by section 168(k) of the 1067
Internal Revenue Code and by the qualifying section 179 1068
depreciation expense amount. 1069

(e) For the purposes of divisions (A) (17) and (18) of this 1070
section: 1071

(i) "Income taxes withheld" means the total amount 1072
withheld and remitted under sections 5747.06 and 5747.07 of the 1073
Revised Code by an employer during the employer's taxable year. 1074

(ii) "Increase in income taxes withheld" means the amount 1075
by which the amount of income taxes withheld by an employer 1076
during the employer's current taxable year exceeds the amount of 1077
income taxes withheld by that employer during the employer's 1078
immediately preceding taxable year. 1079

(iii) "Qualifying section 179 depreciation expense" means 1080
the difference between (I) the amount of depreciation expense 1081
directly or indirectly allowed to a taxpayer under section 179 1082
of the Internal Revised Code, and (II) the amount of 1083
depreciation expense directly or indirectly allowed to the 1084
taxpayer under section 179 of the Internal Revenue Code as that 1085
section existed on December 31, 2002. 1086

(18)(a) If the taxpayer was required to add an amount 1087
under division (A)(17)(a) of this section for a taxable year, 1088
deduct one of the following: 1089

(i) One-fifth of the amount so added for each of the five 1090
succeeding taxable years if the amount so added was five-sixths 1091
of qualifying section 179 depreciation expense or depreciation 1092
expense allowed by subsection (k) of section 168 of the Internal 1093
Revenue Code; 1094

(ii) One-half of the amount so added for each of the two 1095
succeeding taxable years if the amount so added was two-thirds 1096
of such depreciation expense; 1097

(iii) One-sixth of the amount so added for each of the six 1098
succeeding taxable years if the entire amount of such 1099
depreciation expense was so added. 1100

(b) If the amount deducted under division (A) (18) (a) of 1101
this section is attributable to an add-back allocated under 1102
division (A) (17) (c) of this section, the amount deducted shall 1103
be situated to the same location. Otherwise, the add-back shall 1104
be apportioned using the apportionment factors for the taxable 1105
year in which the deduction is taken, subject to one or more of 1106
the four alternative methods of apportionment enumerated in 1107
section 5747.21 of the Revised Code. 1108

(c) No deduction is available under division (A) (18) (a) of 1109
this section with regard to any depreciation allowed by section 1110
168(k) of the Internal Revenue Code and by the qualifying 1111
section 179 depreciation expense amount to the extent that such 1112
depreciation results in or increases a federal net operating 1113
loss carryback or carryforward. If no such deduction is 1114
available for a taxable year, the taxpayer may carry forward the 1115
amount not deducted in such taxable year to the next taxable 1116
year and add that amount to any deduction otherwise available 1117
under division (A) (18) (a) of this section for that next taxable 1118
year. The carryforward of amounts not so deducted shall continue 1119
until the entire addition required by division (A) (17) (a) of 1120
this section has been deducted. 1121

(19) Deduct, to the extent not otherwise deducted or 1122
excluded in computing federal or Ohio adjusted gross income for 1123
the taxable year, the amount the taxpayer received during the 1124
taxable year as reimbursement for life insurance premiums under 1125
section 5919.31 of the Revised Code. 1126

(20) Deduct, to the extent not otherwise deducted or 1127
excluded in computing federal or Ohio adjusted gross income for 1128
the taxable year, the amount the taxpayer received during the 1129
taxable year as a death benefit paid by the adjutant general 1130

under section 5919.33 of the Revised Code. 1131

(21) Deduct, to the extent included in federal adjusted 1132
gross income and not otherwise allowable as a deduction or 1133
exclusion in computing federal or Ohio adjusted gross income for 1134
the taxable year, military pay and allowances received by the 1135
taxpayer during the taxable year for active duty service in the 1136
United States army, air force, navy, marine corps, or coast 1137
guard or reserve components thereof or the national guard. The 1138
deduction may not be claimed for military pay and allowances 1139
received by the taxpayer while the taxpayer is stationed in this 1140
state. 1141

(22) Deduct, to the extent not otherwise allowable as a 1142
deduction or exclusion in computing federal or Ohio adjusted 1143
gross income for the taxable year and not otherwise compensated 1144
for by any other source, the amount of qualified organ donation 1145
expenses incurred by the taxpayer during the taxable year, not 1146
to exceed ten thousand dollars. A taxpayer may deduct qualified 1147
organ donation expenses only once for all taxable years 1148
beginning with taxable years beginning in 2007. 1149

For the purposes of division (A) (22) of this section: 1150

(a) "Human organ" means all or any portion of a human 1151
liver, pancreas, kidney, intestine, or lung, and any portion of 1152
human bone marrow. 1153

(b) "Qualified organ donation expenses" means travel 1154
expenses, lodging expenses, and wages and salary forgone by a 1155
taxpayer in connection with the taxpayer's donation, while 1156
living, of one or more of the taxpayer's human organs to another 1157
human being. 1158

(23) Deduct, to the extent not otherwise deducted or 1159

excluded in computing federal or Ohio adjusted gross income for 1160
the taxable year, amounts received by the taxpayer as retired 1161
personnel pay for service in the uniformed services or reserve 1162
components thereof, or the national guard, or received by the 1163
surviving spouse or former spouse of such a taxpayer under the 1164
survivor benefit plan on account of such a taxpayer's death. If 1165
the taxpayer receives income on account of retirement paid under 1166
the federal civil service retirement system or federal employees 1167
retirement system, or under any successor retirement program 1168
enacted by the congress of the United States that is established 1169
and maintained for retired employees of the United States 1170
government, and such retirement income is based, in whole or in 1171
part, on credit for the taxpayer's uniformed service, the 1172
deduction allowed under this division shall include only that 1173
portion of such retirement income that is attributable to the 1174
taxpayer's uniformed service, to the extent that portion of such 1175
retirement income is otherwise included in federal adjusted 1176
gross income and is not otherwise deducted under this section. 1177
Any amount deducted under division (A) (23) of this section is 1178
not included in a taxpayer's adjusted gross income for the 1179
purposes of section 5747.055 of the Revised Code. No amount may 1180
be deducted under division (A) (23) of this section on the basis 1181
of which a credit was claimed under section 5747.055 of the 1182
Revised Code. 1183

(24) Deduct, to the extent not otherwise deducted or 1184
excluded in computing federal or Ohio adjusted gross income for 1185
the taxable year, the amount the taxpayer received during the 1186
taxable year from the military injury relief fund created in 1187
section 5902.05 of the Revised Code. 1188

(25) Deduct, to the extent not otherwise deducted or 1189
excluded in computing federal or Ohio adjusted gross income for 1190

the taxable year, the amount the taxpayer received as a veterans 1191
bonus during the taxable year from the Ohio department of 1192
veterans services as authorized by Section 2r of Article VIII, 1193
Ohio Constitution. 1194

(26) Deduct, to the extent not otherwise deducted or 1195
excluded in computing federal or Ohio adjusted gross income for 1196
the taxable year, any income derived from a transfer agreement 1197
or from the enterprise transferred under that agreement under 1198
section 4313.02 of the Revised Code. 1199

(27) Deduct, to the extent not otherwise deducted or 1200
excluded in computing federal or Ohio adjusted gross income for 1201
the taxable year, Ohio college opportunity or federal Pell grant 1202
amounts received by the taxpayer or the taxpayer's spouse or 1203
dependent pursuant to section 3333.122 of the Revised Code or 20 1204
U.S.C. 1070a, et seq., and used to pay room or board furnished 1205
by the educational institution for which the grant was awarded 1206
at the institution's facilities, including meal plans 1207
administered by the institution. For the purposes of this 1208
division, receipt of a grant includes the distribution of a 1209
grant directly to an educational institution and the crediting 1210
of the grant to the enrollee's account with the institution. 1211

(28) Deduct from the portion of an individual's federal 1212
adjusted gross income that is business income, to the extent not 1213
otherwise deducted or excluded in computing federal adjusted 1214
gross income for the taxable year, one hundred twenty-five 1215
thousand dollars for each spouse if spouses file separate 1216
returns under section 5747.08 of the Revised Code or two hundred 1217
fifty thousand dollars for all other individuals. 1218

(29) Deduct, as provided under section 5747.78 of the 1219
Revised Code, contributions to ABLE savings accounts made in 1220

accordance with sections 113.50 to 113.56 of the Revised Code. 1221

(30) (a) Deduct, to the extent not otherwise deducted or 1222
excluded in computing federal or Ohio adjusted gross income 1223
during the taxable year, all of the following: 1224

(i) Compensation paid to a qualifying employee described 1225
in division (A) (14) (a) of section 5703.94 of the Revised Code to 1226
the extent such compensation is for disaster work conducted in 1227
this state during a disaster response period pursuant to a 1228
qualifying solicitation received by the employee's employer; 1229

(ii) Compensation paid to a qualifying employee described 1230
in division (A) (14) (b) of section 5703.94 of the Revised Code to 1231
the extent such compensation is for disaster work conducted in 1232
this state by the employee during the disaster response period 1233
on critical infrastructure owned or used by the employee's 1234
employer; 1235

(iii) Income received by an out-of-state disaster business 1236
for disaster work conducted in this state during a disaster 1237
response period, or, if the out-of-state disaster business is a 1238
pass-through entity, a taxpayer's distributive share of the 1239
pass-through entity's income from the business conducting 1240
disaster work in this state during a disaster response period, 1241
if, in either case, the disaster work is conducted pursuant to a 1242
qualifying solicitation received by the business. 1243

(b) All terms used in division (A) (30) of this section 1244
have the same meanings as in section 5703.94 of the Revised 1245
Code. 1246

(31) For a taxpayer who is a qualifying Ohio educator, 1247
deduct, to the extent not otherwise deducted or excluded in 1248
computing federal or Ohio adjusted gross income for the taxable 1249

year, the lesser of two hundred fifty dollars or the amount of 1250
expenses described in subsections (a)(2)(D)(i) and (ii) of 1251
section 62 of the Internal Revenue Code paid or incurred by the 1252
taxpayer during the taxpayer's taxable year in excess of the 1253
amount the taxpayer is authorized to deduct for that taxable 1254
year under subsection (a)(2)(D) of that section. 1255

(32) Deduct, to the extent not otherwise deducted or 1256
excluded in computing federal or Ohio adjusted gross income for 1257
the taxable year, amounts received by the taxpayer as a 1258
disability severance payment, computed under 10 U.S.C. 1212, 1259
following discharge or release under honorable conditions from 1260
the armed forces of the United States, as defined in section 1261
5907.01 of the Revised Code. 1262

(33) Deduct, to the extent not otherwise deducted or 1263
excluded in computing federal adjusted gross income or Ohio 1264
adjusted gross income, amounts not subject to tax due to an 1265
agreement entered into under division (A)(2) of section 5747.05 1266
of the Revised Code. 1267

(34) Deduct amounts as provided under section 5747.79 of 1268
the Revised Code related to the taxpayer's qualifying capital 1269
gains and deductible payroll. 1270

To the extent a qualifying capital gain described under 1271
division (A)(34) of this section is business income, the 1272
taxpayer shall deduct those gains under this division before 1273
deducting any such gains under division (A)(28) of this section. 1274

(35)(a) For taxable years beginning in or after 2026, 1275
deduct, to the extent not otherwise deducted or excluded in 1276
computing federal or Ohio adjusted gross income for the taxable 1277
year: 1278

(i) One hundred per cent of the capital gain received by 1279
the taxpayer in the taxable year from a qualifying interest in 1280
an Ohio venture capital operating company attributable to the 1281
company's investments in Ohio businesses during the period for 1282
which the company was an Ohio venture operating company; and 1283

(ii) Fifty per cent of the capital gain received by the 1284
taxpayer in the taxable year from a qualifying interest in an 1285
Ohio venture capital operating company attributable to the 1286
company's investments in all other businesses during the period 1287
for which the company was an Ohio venture operating company. 1288

(b) Add amounts previously deducted by the taxpayer under 1289
division (A) (35) (a) of this section if the director of 1290
development certifies to the tax commissioner that the 1291
requirements for the deduction were not met. 1292

(c) All terms used in division (A) (35) of this section 1293
have the same meanings as in section 122.851 of the Revised 1294
Code. 1295

(d) To the extent a capital gain described in division (A) 1296
(35) (a) of this section is business income, the taxpayer shall 1297
apply that division before applying division (A) (28) of this 1298
section. 1299

(36) Add, to the extent not otherwise included in 1300
computing federal or Ohio adjusted gross income for any taxable 1301
year, the taxpayer's proportionate share of the amount of the 1302
tax levied under section 5747.38 of the Revised Code and paid by 1303
an electing pass-through entity for the taxable year. 1304

Notwithstanding any provision of the Revised Code to the 1305
contrary, the portion of the addition required by division (A) 1306
(36) of this section related to the apportioned business income 1307

of the pass-through entity shall be considered business income 1308
under division (B) of this section. Such addition is eligible 1309
for the deduction in division (A) (28) of this section, subject 1310
to the applicable dollar limitations, and the tax rate 1311
prescribed by division (A) (4) (a) of section 5747.02 of the 1312
Revised Code. The taxpayer shall provide, upon request of the 1313
tax commissioner, any documentation necessary to verify the 1314
portion of the addition that is business income under this 1315
division. 1316

(37) Deduct, to the extent not otherwise deducted or 1317
excluded in computing federal or Ohio adjusted gross income for 1318
the taxable year, amounts delivered to a qualifying institution 1319
pursuant to section 3333.128 of the Revised Code for the benefit 1320
of the taxpayer or the taxpayer's spouse or dependent. 1321

(38) Deduct, to the extent not otherwise deducted or 1322
excluded in computing federal or Ohio adjusted gross income for 1323
the taxable year, amounts received under the Ohio adoption grant 1324
program pursuant to section 5101.191 of the Revised Code. 1325

(39) Deduct, to the extent included in federal adjusted 1326
gross income, income attributable to amounts provided to a 1327
taxpayer for any of the purposes for which an exclusion would 1328
have been authorized under section 139 of the Internal Revenue 1329
Code if the train derailment near the city of East Palestine on 1330
February 3, 2023, had been a qualified disaster pursuant to that 1331
section, or to compensate for lost business resulting from that 1332
derailment, if such amounts are provided by any of the 1333
following: 1334

(a) A federal, state, or local government agency; 1335

(b) A railroad company, as that term is defined in section 1336

5727.01 of the Revised Code; 1337

(c) Any subsidiary, insurer, or agent of a railroad 1338
company or any related person. 1339

Notwithstanding any provision to the contrary, the 1340
derailment is not required to meet the definition of a 1341
"qualified disaster" pursuant to section 139 of the Internal 1342
Revenue Code to qualify for the deduction under this section. 1343

(40) Deduct, to the extent included in federal adjusted 1344
gross income, income attributable to loan repayments on behalf 1345
of the taxpayer under the rural practice incentive program under 1346
section 3333.135 of the Revised Code. 1347

(41) Add any income taxes deducted in computing federal or 1348
Ohio adjusted gross income to the extent the income taxes were 1349
derived from income subject to a tax levied in another state or 1350
the District of Columbia when such tax was enacted for purposes 1351
of complying with internal revenue service notice 2020-75. 1352

Notwithstanding any provision of the Revised Code to the 1353
contrary, the portion of the addition required by division (A) 1354
(41) of this section related to the apportioned business income 1355
of the pass-through entity shall be considered business income 1356
under division (B) of this section. Such addition is eligible 1357
for the deduction in division (A) (28) of this section, subject 1358
to the applicable dollar limitations, and the tax rate 1359
prescribed by division (A) (4) (a) of section 5747.02 of the 1360
Revised Code. The taxpayer shall provide, upon request of the 1361
tax commissioner, any documentation necessary to verify the 1362
portion of the addition that is business income under this 1363
division. 1364

(42) Deduct amounts contributed to a homeownership savings 1365

account and calculated pursuant to divisions (B) and (C) of 1366
section 5747.85 of the Revised Code. 1367

(43) If the taxpayer is the account owner, add the amount 1368
of funds withdrawn from a homeownership savings account not used 1369
for eligible expenses, regardless of who deposited those funds. 1370
As used in division (A) (43) of this section, "homeownership 1371
savings account," "account owner," and "eligible expenses" have 1372
the same meanings as in section 5747.85 of the Revised Code. 1373

(44) Deduct tips, to the extent not otherwise deducted or 1374
excluded in computing federal or Ohio adjusted gross income for 1375
the taxable year. 1376

(B) "Business income" means income, including gain or 1377
loss, arising from transactions, activities, and sources in the 1378
regular course of a trade or business and includes income, gain, 1379
or loss from real property, tangible property, and intangible 1380
property if the acquisition, rental, management, and disposition 1381
of the property constitute integral parts of the regular course 1382
of a trade or business operation. "Business income" includes 1383
income, including gain or loss, from a partial or complete 1384
liquidation of a business, including, but not limited to, gain 1385
or loss from the sale or other disposition of goodwill or the 1386
sale of an equity or ownership interest in a business. 1387

As used in this division, the "sale of an equity or 1388
ownership interest in a business" means sales to which either or 1389
both of the following apply: 1390

(1) The sale is treated for federal income tax purposes as 1391
the sale of assets. 1392

(2) The seller materially participated, as described in 26 1393
C.F.R. 1.469-5T, in the activities of the business during the 1394

taxable year in which the sale occurs or during any of the five 1395
preceding taxable years. 1396

(C) "Nonbusiness income" means all income other than 1397
business income and may include, but is not limited to, 1398
compensation, rents and royalties from real or tangible personal 1399
property, capital gains, interest, dividends and distributions, 1400
patent or copyright royalties, or lottery winnings, prizes, and 1401
awards. 1402

(D) "Compensation" means any form of remuneration paid to 1403
an employee for personal services. 1404

(E) "Fiduciary" means a guardian, trustee, executor, 1405
administrator, receiver, conservator, or any other person acting 1406
in any fiduciary capacity for any individual, trust, or estate. 1407

(F) "Fiscal year" means an accounting period of twelve 1408
months ending on the last day of any month other than December. 1409

(G) "Individual" means any natural person. 1410

(H) "Internal Revenue Code" means the "Internal Revenue 1411
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1412

(I) "Resident" means any of the following: 1413

(1) An individual who is domiciled in this state, subject 1414
to section 5747.24 of the Revised Code; 1415

(2) The estate of a decedent who at the time of death was 1416
domiciled in this state. The domicile tests of section 5747.24 1417
of the Revised Code are not controlling for purposes of division 1418
(I) (2) of this section. 1419

(3) A trust that, in whole or part, resides in this state. 1420
If only part of a trust resides in this state, the trust is a 1421

resident only with respect to that part. 1422

For the purposes of division (I)(3) of this section: 1423

(a) A trust resides in this state for the trust's current 1424
taxable year to the extent, as described in division (I)(3)(d) 1425
of this section, that the trust consists directly or indirectly, 1426
in whole or in part, of assets, net of any related liabilities, 1427
that were transferred, or caused to be transferred, directly or 1428
indirectly, to the trust by any of the following: 1429

(i) A person, a court, or a governmental entity or 1430
instrumentality on account of the death of a decedent, but only 1431
if the trust is described in division (I)(3)(e)(i) or (ii) of 1432
this section; 1433

(ii) A person who was domiciled in this state for the 1434
purposes of this chapter when the person directly or indirectly 1435
transferred assets to an irrevocable trust, but only if at least 1436
one of the trust's qualifying beneficiaries is domiciled in this 1437
state for the purposes of this chapter during all or some 1438
portion of the trust's current taxable year; 1439

(iii) A person who was domiciled in this state for the 1440
purposes of this chapter when the trust document or instrument 1441
or part of the trust document or instrument became irrevocable, 1442
but only if at least one of the trust's qualifying beneficiaries 1443
is a resident domiciled in this state for the purposes of this 1444
chapter during all or some portion of the trust's current 1445
taxable year. If a trust document or instrument became 1446
irrevocable upon the death of a person who at the time of death 1447
was domiciled in this state for purposes of this chapter, that 1448
person is a person described in division (I)(3)(a)(iii) of this 1449
section. 1450

(b) A trust is irrevocable to the extent that the 1451
transferor is not considered to be the owner of the net assets 1452
of the trust under sections 671 to 678 of the Internal Revenue 1453
Code. 1454

(c) With respect to a trust other than a charitable lead 1455
trust, "qualifying beneficiary" has the same meaning as 1456
"potential current beneficiary" as defined in section 1361(e) (2) 1457
of the Internal Revenue Code, and with respect to a charitable 1458
lead trust "qualifying beneficiary" is any current, future, or 1459
contingent beneficiary, but with respect to any trust 1460
"qualifying beneficiary" excludes a person or a governmental 1461
entity or instrumentality to any of which a contribution would 1462
qualify for the charitable deduction under section 170 of the 1463
Internal Revenue Code. 1464

(d) For the purposes of division (I) (3) (a) of this 1465
section, the extent to which a trust consists directly or 1466
indirectly, in whole or in part, of assets, net of any related 1467
liabilities, that were transferred directly or indirectly, in 1468
whole or part, to the trust by any of the sources enumerated in 1469
that division shall be ascertained by multiplying the fair 1470
market value of the trust's assets, net of related liabilities, 1471
by the qualifying ratio, which shall be computed as follows: 1472

(i) The first time the trust receives assets, the 1473
numerator of the qualifying ratio is the fair market value of 1474
those assets at that time, net of any related liabilities, from 1475
sources enumerated in division (I) (3) (a) of this section. The 1476
denominator of the qualifying ratio is the fair market value of 1477
all the trust's assets at that time, net of any related 1478
liabilities. 1479

(ii) Each subsequent time the trust receives assets, a 1480

revised qualifying ratio shall be computed. The numerator of the 1481
revised qualifying ratio is the sum of (1) the fair market value 1482
of the trust's assets immediately prior to the subsequent 1483
transfer, net of any related liabilities, multiplied by the 1484
qualifying ratio last computed without regard to the subsequent 1485
transfer, and (2) the fair market value of the subsequently 1486
transferred assets at the time transferred, net of any related 1487
liabilities, from sources enumerated in division (I) (3) (a) of 1488
this section. The denominator of the revised qualifying ratio is 1489
the fair market value of all the trust's assets immediately 1490
after the subsequent transfer, net of any related liabilities. 1491

(iii) Whether a transfer to the trust is by or from any of 1492
the sources enumerated in division (I) (3) (a) of this section 1493
shall be ascertained without regard to the domicile of the 1494
trust's beneficiaries. 1495

(e) For the purposes of division (I) (3) (a) (i) of this 1496
section: 1497

(i) A trust is described in division (I) (3) (e) (i) of this 1498
section if the trust is a testamentary trust and the testator of 1499
that testamentary trust was domiciled in this state at the time 1500
of the testator's death for purposes of the taxes levied under 1501
Chapter 5731. of the Revised Code. 1502

(ii) A trust is described in division (I) (3) (e) (ii) of 1503
this section if the transfer is a qualifying transfer described 1504
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1505
trust is an irrevocable inter vivos trust, and at least one of 1506
the trust's qualifying beneficiaries is domiciled in this state 1507
for purposes of this chapter during all or some portion of the 1508
trust's current taxable year. 1509

(f) For the purposes of division (I)(3)(e)(ii) of this 1510
section, a "qualifying transfer" is a transfer of assets, net of 1511
any related liabilities, directly or indirectly to a trust, if 1512
the transfer is described in any of the following: 1513

(i) The transfer is made to a trust, created by the 1514
decedent before the decedent's death and while the decedent was 1515
domiciled in this state for the purposes of this chapter, and, 1516
prior to the death of the decedent, the trust became irrevocable 1517
while the decedent was domiciled in this state for the purposes 1518
of this chapter. 1519

(ii) The transfer is made to a trust to which the 1520
decedent, prior to the decedent's death, had directly or 1521
indirectly transferred assets, net of any related liabilities, 1522
while the decedent was domiciled in this state for the purposes 1523
of this chapter, and prior to the death of the decedent the 1524
trust became irrevocable while the decedent was domiciled in 1525
this state for the purposes of this chapter. 1526

(iii) The transfer is made on account of a contractual 1527
relationship existing directly or indirectly between the 1528
transferor and either the decedent or the estate of the decedent 1529
at any time prior to the date of the decedent's death, and the 1530
decedent was domiciled in this state at the time of death for 1531
purposes of the taxes levied under Chapter 5731. of the Revised 1532
Code. 1533

(iv) The transfer is made to a trust on account of a 1534
contractual relationship existing directly or indirectly between 1535
the transferor and another person who at the time of the 1536
decedent's death was domiciled in this state for purposes of 1537
this chapter. 1538

(v) The transfer is made to a trust on account of the will 1539
of a testator who was domiciled in this state at the time of the 1540
testator's death for purposes of the taxes levied under Chapter 1541
5731. of the Revised Code. 1542

(vi) The transfer is made to a trust created by or caused 1543
to be created by a court, and the trust was directly or 1544
indirectly created in connection with or as a result of the 1545
death of an individual who, for purposes of the taxes levied 1546
under Chapter 5731. of the Revised Code, was domiciled in this 1547
state at the time of the individual's death. 1548

(g) The tax commissioner may adopt rules to ascertain the 1549
part of a trust residing in this state. 1550

(J) "Nonresident" means an individual or estate that is 1551
not a resident. An individual who is a resident for only part of 1552
a taxable year is a nonresident for the remainder of that 1553
taxable year. 1554

(K) "Pass-through entity" has the same meaning as in 1555
section 5733.04 of the Revised Code. 1556

(L) "Return" means the notifications and reports required 1557
to be filed pursuant to this chapter for the purpose of 1558
reporting the tax due and includes declarations of estimated tax 1559
when so required. 1560

(M) "Taxable year" means the calendar year or the 1561
taxpayer's fiscal year ending during the calendar year, or 1562
fractional part thereof, upon which the adjusted gross income is 1563
calculated pursuant to this chapter. 1564

(N) "Taxpayer" means any person subject to the tax imposed 1565
by section 5747.02 of the Revised Code or any pass-through 1566
entity that makes the election under division (D) of section 1567

5747.08 of the Revised Code. 1568

(O) "Dependents" means one of the following: 1569

(1) For taxable years beginning on or after January 1, 1570
2018, and before January 1, 2026, dependents as defined in the 1571
Internal Revenue Code; 1572

(2) For all other taxable years, dependents as defined in 1573
the Internal Revenue Code and as claimed in the taxpayer's 1574
federal income tax return for the taxable year or which the 1575
taxpayer would have been permitted to claim had the taxpayer 1576
filed a federal income tax return. 1577

(P) "Principal county of employment" means, in the case of 1578
a nonresident, the county within the state in which a taxpayer 1579
performs services for an employer or, if those services are 1580
performed in more than one county, the county in which the major 1581
portion of the services are performed. 1582

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1583
Code: 1584

(1) "Subdivision" means any county, municipal corporation, 1585
park district, or township. 1586

(2) "Essential local government purposes" includes all 1587
functions that any subdivision is required by general law to 1588
exercise, including like functions that are exercised under a 1589
charter adopted pursuant to the Ohio Constitution. 1590

(R) "Overpayment" means any amount already paid that 1591
exceeds the figure determined to be the correct amount of the 1592
tax. 1593

(S) "Taxable income" or "Ohio taxable income" applies only 1594
to estates and trusts, and means federal taxable income, as 1595

defined and used in the Internal Revenue Code, adjusted as 1596
follows: 1597

(1) Add interest or dividends, net of ordinary, necessary, 1598
and reasonable expenses not deducted in computing federal 1599
taxable income, on obligations or securities of any state or of 1600
any political subdivision or authority of any state, other than 1601
this state and its subdivisions and authorities, but only to the 1602
extent that such net amount is not otherwise includible in Ohio 1603
taxable income and is described in either division (S) (1) (a) or 1604
(b) of this section: 1605

(a) The net amount is not attributable to the S portion of 1606
an electing small business trust and has not been distributed to 1607
beneficiaries for the taxable year; 1608

(b) The net amount is attributable to the S portion of an 1609
electing small business trust for the taxable year. 1610

(2) Add interest or dividends, net of ordinary, necessary, 1611
and reasonable expenses not deducted in computing federal 1612
taxable income, on obligations of any authority, commission, 1613
instrumentality, territory, or possession of the United States 1614
to the extent that the interest or dividends are exempt from 1615
federal income taxes but not from state income taxes, but only 1616
to the extent that such net amount is not otherwise includible 1617
in Ohio taxable income and is described in either division (S) 1618
(1) (a) or (b) of this section; 1619

(3) Add the amount of personal exemption allowed to the 1620
estate pursuant to section 642(b) of the Internal Revenue Code; 1621

(4) Deduct interest or dividends, net of related expenses 1622
deducted in computing federal taxable income, on obligations of 1623
the United States and its territories and possessions or of any 1624

authority, commission, or instrumentality of the United States 1625
to the extent that the interest or dividends are exempt from 1626
state taxes under the laws of the United States, but only to the 1627
extent that such amount is included in federal taxable income 1628
and is described in either division (S)(1)(a) or (b) of this 1629
section; 1630

(5) Deduct the amount of wages and salaries, if any, not 1631
otherwise allowable as a deduction but that would have been 1632
allowable as a deduction in computing federal taxable income for 1633
the taxable year, had the work opportunity tax credit allowed 1634
under sections 38, 51, and 52 of the Internal Revenue Code not 1635
been in effect, but only to the extent such amount relates 1636
either to income included in federal taxable income for the 1637
taxable year or to income of the S portion of an electing small 1638
business trust for the taxable year; 1639

(6) Deduct any interest or interest equivalent, net of 1640
related expenses deducted in computing federal taxable income, 1641
on public obligations and purchase obligations, but only to the 1642
extent that such net amount relates either to income included in 1643
federal taxable income for the taxable year or to income of the 1644
S portion of an electing small business trust for the taxable 1645
year; 1646

(7) Add any loss or deduct any gain resulting from sale, 1647
exchange, or other disposition of public obligations to the 1648
extent that such loss has been deducted or such gain has been 1649
included in computing either federal taxable income or income of 1650
the S portion of an electing small business trust for the 1651
taxable year; 1652

(8) Except in the case of the final return of an estate, 1653
add any amount deducted by the taxpayer on both its Ohio estate 1654

tax return pursuant to section 5731.14 of the Revised Code, and 1655
on its federal income tax return in determining federal taxable 1656
income; 1657

(9) (a) Deduct any amount included in federal taxable 1658
income solely because the amount represents a reimbursement or 1659
refund of expenses that in a previous year the decedent had 1660
deducted as an itemized deduction pursuant to section 63 of the 1661
Internal Revenue Code and applicable treasury regulations. The 1662
deduction otherwise allowed under division (S) (9) (a) of this 1663
section shall be reduced to the extent the reimbursement is 1664
attributable to an amount the taxpayer or decedent deducted 1665
under this section in any taxable year. 1666

(b) Add any amount not otherwise included in Ohio taxable 1667
income for any taxable year to the extent that the amount is 1668
attributable to the recovery during the taxable year of any 1669
amount deducted or excluded in computing federal or Ohio taxable 1670
income in any taxable year, but only to the extent such amount 1671
has not been distributed to beneficiaries for the taxable year. 1672

(10) Deduct any portion of the deduction described in 1673
section 1341(a) (2) of the Internal Revenue Code, for repaying 1674
previously reported income received under a claim of right, that 1675
meets both of the following requirements: 1676

(a) It is allowable for repayment of an item that was 1677
included in the taxpayer's taxable income or the decedent's 1678
adjusted gross income for a prior taxable year and did not 1679
qualify for a credit under division (A) or (B) of section 1680
5747.05 of the Revised Code for that year. 1681

(b) It does not otherwise reduce the taxpayer's taxable 1682
income or the decedent's adjusted gross income for the current 1683

or any other taxable year. 1684

(11) Add any amount claimed as a credit under section 1685
5747.059 of the Revised Code to the extent that the amount 1686
satisfies either of the following: 1687

(a) The amount was deducted or excluded from the 1688
computation of the taxpayer's federal taxable income as required 1689
to be reported for the taxpayer's taxable year under the 1690
Internal Revenue Code; 1691

(b) The amount resulted in a reduction in the taxpayer's 1692
federal taxable income as required to be reported for any of the 1693
taxpayer's taxable years under the Internal Revenue Code. 1694

(12) Deduct any amount, net of related expenses deducted 1695
in computing federal taxable income, that a trust is required to 1696
report as farm income on its federal income tax return, but only 1697
if the assets of the trust include at least ten acres of land 1698
satisfying the definition of "land devoted exclusively to 1699
agricultural use" under section 5713.30 of the Revised Code, 1700
regardless of whether the land is valued for tax purposes as 1701
such land under sections 5713.30 to 5713.38 of the Revised Code. 1702
If the trust is a pass-through entity investor, section 5747.231 1703
of the Revised Code applies in ascertaining if the trust is 1704
eligible to claim the deduction provided by division (S)(12) of 1705
this section in connection with the pass-through entity's farm 1706
income. 1707

Except for farm income attributable to the S portion of an 1708
electing small business trust, the deduction provided by 1709
division (S)(12) of this section is allowed only to the extent 1710
that the trust has not distributed such farm income. 1711

(13) Add the net amount of income described in section 1712

641(c) of the Internal Revenue Code to the extent that amount is 1713
not included in federal taxable income. 1714

(14) Deduct the amount the taxpayer would be required to 1715
deduct under division (A) (18) of this section if the taxpayer's 1716
Ohio taxable income ~~were~~was computed in the same manner as an 1717
individual's Ohio adjusted gross income is computed under this 1718
section. 1719

(15) Add, to the extent not otherwise included in 1720
computing taxable income or Ohio taxable income for any taxable 1721
year, the taxpayer's proportionate share of the amount of the 1722
tax levied under section 5747.38 of the Revised Code and paid by 1723
an electing pass-through entity for the taxable year. 1724

(16) Add any income taxes deducted in computing federal 1725
taxable income or Ohio taxable income to the extent the income 1726
taxes were derived from income subject to a tax levied in 1727
another state or the District of Columbia when such tax was 1728
enacted for purposes of complying with internal revenue service 1729
notice 2020-75. 1730

(T) "School district income" and "school district income 1731
tax" have the same meanings as in section 5748.01 of the Revised 1732
Code. 1733

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1734
(7) of this section, "public obligations," "purchase 1735
obligations," and "interest or interest equivalent" have the 1736
same meanings as in section 5709.76 of the Revised Code. 1737

(V) "Limited liability company" means any limited 1738
liability company formed under former Chapter 1705. of the 1739
Revised Code as that chapter existed prior to February 11, 2022, 1740
Chapter 1706. of the Revised Code, or the laws of any other 1741

state. 1742

(W) "Pass-through entity investor" means any person who, 1743
during any portion of a taxable year of a pass-through entity, 1744
is a partner, member, shareholder, or equity investor in that 1745
pass-through entity. 1746

(X) "Banking day" has the same meaning as in section 1747
1304.01 of the Revised Code. 1748

(Y) "Month" means a calendar month. 1749

(Z) "Quarter" means the first three months, the second 1750
three months, the third three months, or the last three months 1751
of the taxpayer's taxable year. 1752

(AA) (1) "Modified business income" means the business 1753
income included in a trust's Ohio taxable income after such 1754
taxable income is first reduced by the qualifying trust amount, 1755
if any. 1756

(2) "Qualifying trust amount" of a trust means capital 1757
gains and losses from the sale, exchange, or other disposition 1758
of equity or ownership interests in, or debt obligations of, a 1759
qualifying investee to the extent included in the trust's Ohio 1760
taxable income, but only if the following requirements are 1761
satisfied: 1762

(a) The book value of the qualifying investee's physical 1763
assets in this state and everywhere, as of the last day of the 1764
qualifying investee's fiscal or calendar year ending immediately 1765
prior to the date on which the trust recognizes the gain or 1766
loss, is available to the trust. 1767

(b) The requirements of section 5747.011 of the Revised 1768
Code are satisfied for the trust's taxable year in which the 1769

trust recognizes the gain or loss. 1770

Any gain or loss that is not a qualifying trust amount is 1771
modified business income, qualifying investment income, or 1772
modified nonbusiness income, as the case may be. 1773

(3) "Modified nonbusiness income" means a trust's Ohio 1774
taxable income other than modified business income, other than 1775
the qualifying trust amount, and other than qualifying 1776
investment income, as defined in section 5747.012 of the Revised 1777
Code, to the extent such qualifying investment income is not 1778
otherwise part of modified business income. 1779

(4) "Modified Ohio taxable income" applies only to trusts, 1780
and means the sum of the amounts described in divisions (AA) (4) 1781
(a) to (c) of this section: 1782

(a) The fraction, calculated under section 5747.013, and 1783
applying section 5747.231 of the Revised Code, multiplied by the 1784
sum of the following amounts: 1785

(i) The trust's modified business income; 1786

(ii) The trust's qualifying investment income, as defined 1787
in section 5747.012 of the Revised Code, but only to the extent 1788
the qualifying investment income does not otherwise constitute 1789
modified business income and does not otherwise constitute a 1790
qualifying trust amount. 1791

(b) The qualifying trust amount multiplied by a fraction, 1792
the numerator of which is the sum of the book value of the 1793
qualifying investee's physical assets in this state on the last 1794
day of the qualifying investee's fiscal or calendar year ending 1795
immediately prior to the day on which the trust recognizes the 1796
qualifying trust amount, and the denominator of which is the sum 1797
of the book value of the qualifying investee's total physical 1798

assets everywhere on the last day of the qualifying investee's 1799
fiscal or calendar year ending immediately prior to the day on 1800
which the trust recognizes the qualifying trust amount. If, for 1801
a taxable year, the trust recognizes a qualifying trust amount 1802
with respect to more than one qualifying investee, the amount 1803
described in division (AA) (4) (b) of this section shall equal the 1804
sum of the products so computed for each such qualifying 1805
investee. 1806

(c) (i) With respect to a trust or portion of a trust that 1807
is a resident as ascertained in accordance with division (I) (3) 1808
(d) of this section, its modified nonbusiness income. 1809

(ii) With respect to a trust or portion of a trust that is 1810
not a resident as ascertained in accordance with division (I) (3) 1811
(d) of this section, the amount of its modified nonbusiness 1812
income satisfying the descriptions in divisions (B) (2) to (5) of 1813
section 5747.20 of the Revised Code, except as otherwise 1814
provided in division (AA) (4) (c) (ii) of this section. With 1815
respect to a trust or portion of a trust that is not a resident 1816
as ascertained in accordance with division (I) (3) (d) of this 1817
section, the trust's portion of modified nonbusiness income 1818
recognized from the sale, exchange, or other disposition of a 1819
debt interest in or equity interest in a section 5747.212 1820
entity, as defined in section 5747.212 of the Revised Code, 1821
without regard to division (A) of that section, shall not be 1822
allocated to this state in accordance with section 5747.20 of 1823
the Revised Code but shall be apportioned to this state in 1824
accordance with division (B) of section 5747.212 of the Revised 1825
Code without regard to division (A) of that section. 1826

If the allocation and apportionment of a trust's income 1827
under divisions (AA) (4) (a) and (c) of this section do not fairly 1828

represent the modified Ohio taxable income of the trust in this 1829
state, the alternative methods described in division (C) of 1830
section 5747.21 of the Revised Code may be applied in the manner 1831
and to the same extent provided in that section. 1832

(5) (a) Except as set forth in division (AA) (5) (b) of this 1833
section, "qualifying investee" means a person in which a trust 1834
has an equity or ownership interest, or a person or unit of 1835
government the debt obligations of either of which are owned by 1836
a trust. For the purposes of division (AA) (2) (a) of this section 1837
and for the purpose of computing the fraction described in 1838
division (AA) (4) (b) of this section, all of the following apply: 1839

(i) If the qualifying investee is a member of a qualifying 1840
controlled group on the last day of the qualifying investee's 1841
fiscal or calendar year ending immediately prior to the date on 1842
which the trust recognizes the gain or loss, then "qualifying 1843
investee" includes all persons in the qualifying controlled 1844
group on such last day. 1845

(ii) If the qualifying investee, or if the qualifying 1846
investee and any members of the qualifying controlled group of 1847
which the qualifying investee is a member on the last day of the 1848
qualifying investee's fiscal or calendar year ending immediately 1849
prior to the date on which the trust recognizes the gain or 1850
loss, separately or cumulatively own, directly or indirectly, on 1851
the last day of the qualifying investee's fiscal or calendar 1852
year ending immediately prior to the date on which the trust 1853
recognizes the qualifying trust amount, more than fifty per cent 1854
of the equity of a pass-through entity, then the qualifying 1855
investee and the other members are deemed to own the 1856
proportionate share of the pass-through entity's physical assets 1857
which the pass-through entity directly or indirectly owns on the 1858

last day of the pass-through entity's calendar or fiscal year 1859
ending within or with the last day of the qualifying investee's 1860
fiscal or calendar year ending immediately prior to the date on 1861
which the trust recognizes the qualifying trust amount. 1862

(iii) For the purposes of division (AA)(5)(a)(iii) of this 1863
section, "upper level pass-through entity" means a pass-through 1864
entity directly or indirectly owning any equity of another pass- 1865
through entity, and "lower level pass-through entity" means that 1866
other pass-through entity. 1867

An upper level pass-through entity, whether or not it is 1868
also a qualifying investee, is deemed to own, on the last day of 1869
the upper level pass-through entity's calendar or fiscal year, 1870
the proportionate share of the lower level pass-through entity's 1871
physical assets that the lower level pass-through entity 1872
directly or indirectly owns on the last day of the lower level 1873
pass-through entity's calendar or fiscal year ending within or 1874
with the last day of the upper level pass-through entity's 1875
fiscal or calendar year. If the upper level pass-through entity 1876
directly and indirectly owns less than fifty per cent of the 1877
equity of the lower level pass-through entity on each day of the 1878
upper level pass-through entity's calendar or fiscal year in 1879
which or with which ends the calendar or fiscal year of the 1880
lower level pass-through entity and if, based upon clear and 1881
convincing evidence, complete information about the location and 1882
cost of the physical assets of the lower pass-through entity is 1883
not available to the upper level pass-through entity, then 1884
solely for purposes of ascertaining if a gain or loss 1885
constitutes a qualifying trust amount, the upper level pass- 1886
through entity shall be deemed as owning no equity of the lower 1887
level pass-through entity for each day during the upper level 1888
pass-through entity's calendar or fiscal year in which or with 1889

which ends the lower level pass-through entity's calendar or 1890
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1891
shall be construed to provide for any deduction or exclusion in 1892
computing any trust's Ohio taxable income. 1893

(b) With respect to a trust that is not a resident for the 1894
taxable year and with respect to a part of a trust that is not a 1895
resident for the taxable year, "qualifying investee" for that 1896
taxable year does not include a C corporation if both of the 1897
following apply: 1898

(i) During the taxable year the trust or part of the trust 1899
recognizes a gain or loss from the sale, exchange, or other 1900
disposition of equity or ownership interests in, or debt 1901
obligations of, the C corporation. 1902

(ii) Such gain or loss constitutes nonbusiness income. 1903

(6) "Available" means information is such that a person is 1904
able to learn of the information by the due date plus 1905
extensions, if any, for filing the return for the taxable year 1906
in which the trust recognizes the gain or loss. 1907

(BB) "Qualifying controlled group" has the same meaning as 1908
in section 5733.04 of the Revised Code. 1909

(CC) "Related member" has the same meaning as in section 1910
5733.042 of the Revised Code. 1911

(DD) (1) For the purposes of division (DD) of this section: 1912

(a) "Qualifying person" means any person other than a 1913
qualifying corporation. 1914

(b) "Qualifying corporation" means any person classified 1915
for federal income tax purposes as an association taxable as a 1916
corporation, except either of the following: 1917

(i) A corporation that has made an election under 1918
subchapter S, chapter one, subtitle A, of the Internal Revenue 1919
Code for its taxable year ending within, or on the last day of, 1920
the investor's taxable year; 1921

(ii) A subsidiary that is wholly owned by any corporation 1922
that has made an election under subchapter S, chapter one, 1923
subtitle A of the Internal Revenue Code for its taxable year 1924
ending within, or on the last day of, the investor's taxable 1925
year. 1926

(2) For the purposes of this chapter, unless expressly 1927
stated otherwise, no qualifying person indirectly owns any asset 1928
directly or indirectly owned by any qualifying corporation. 1929

(EE) For purposes of this chapter and Chapter 5751. of the 1930
Revised Code: 1931

(1) "Trust" does not include a qualified pre-income tax 1932
trust. 1933

(2) A "qualified pre-income tax trust" is any pre-income 1934
tax trust that makes a qualifying pre-income tax trust election 1935
as described in division (EE)(3) of this section. 1936

(3) A "qualifying pre-income tax trust election" is an 1937
election by a pre-income tax trust to subject to the tax imposed 1938
by section 5751.02 of the Revised Code the pre-income tax trust 1939
and all pass-through entities of which the trust owns or 1940
controls, directly, indirectly, or constructively through 1941
related interests, five per cent or more of the ownership or 1942
equity interests. The trustee shall notify the tax commissioner 1943
in writing of the election on or before April 15, 2006. The 1944
election, if timely made, shall be effective on and after 1945
January 1, 2006, and shall apply for all tax periods and tax 1946

years until revoked by the trustee of the trust. 1947

(4) A "pre-income tax trust" is a trust that satisfies all 1948
of the following requirements: 1949

(a) The document or instrument creating the trust was 1950
executed by the grantor before January 1, 1972; 1951

(b) The trust became irrevocable upon the creation of the 1952
trust; and 1953

(c) The grantor was domiciled in this state at the time 1954
the trust was created. 1955

(FF) "Uniformed services" means all of the following: 1956

(1) "Armed forces of the United States" as defined in 1957
section 5907.01 of the Revised Code; 1958

(2) The commissioned corps of the national oceanic and 1959
atmospheric administration; 1960

(3) The commissioned corps of the public health service. 1961

(GG) "Taxable business income" means the amount by which 1962
an individual's business income that is included in federal 1963
adjusted gross income exceeds the amount of business income the 1964
individual is authorized to deduct under division (A) (28) of 1965
this section for the taxable year. 1966

(HH) "Employer" does not include a franchisor with respect 1967
to the franchisor's relationship with a franchisee or an 1968
employee of a franchisee, unless the franchisor agrees to assume 1969
that role in writing or a court of competent jurisdiction 1970
determines that the franchisor exercises a type or degree of 1971
control over the franchisee or the franchisee's employees that 1972
is not customarily exercised by a franchisor for the purpose of 1973

protecting the franchisor's trademark, brand, or both. For 1974
purposes of this division, "franchisor" and "franchisee" have 1975
the same meanings as in 16 C.F.R. 436.1. 1976

(II) "Modified adjusted gross income" means Ohio adjusted 1977
gross income plus any amount deducted under divisions (A) (28) 1978
and (34) of this section for the taxable year. 1979

(JJ) "Qualifying Ohio educator" means an individual who, 1980
for a taxable year, qualifies as an eligible educator, as that 1981
term is defined in section 62 of the Internal Revenue Code, and 1982
who holds a certificate, license, or permit described in Chapter 1983
3319. or section 3301.071 of the Revised Code. 1984

Sec. 5748.01. As used in this chapter: 1985

(A) "School district income tax" means an income tax 1986
adopted under one of the following: 1987

(1) Former section 5748.03 of the Revised Code as it 1988
existed prior to its repeal by Amended Substitute House Bill No. 1989
291 of the 115th general assembly; 1990

(2) Section 5748.03 of the Revised Code as enacted in 1991
Substitute Senate Bill No. 28 of the 118th general assembly; 1992

(3) Section 5748.08 of the Revised Code as enacted in 1993
Amended Substitute Senate Bill No. 17 of the 122nd general 1994
assembly; 1995

(4) Section 5748.021 of the Revised Code; 1996

(5) Section 5748.081 of the Revised Code; 1997

(6) Section 5748.09 of the Revised Code. 1998

(B) "Individual" means an individual subject to the tax 1999
levied by section 5747.02 of the Revised Code. 2000

(C) "Estate" means an estate subject to the tax levied by 2001
section 5747.02 of the Revised Code. 2002

(D) "Taxable year" means a taxable year as defined in 2003
division (M) of section 5747.01 of the Revised Code. 2004

(E) "Taxable income" means: 2005

(1) In the case of an individual, one of the following, as 2006
specified in the resolution imposing the tax: 2007

(a) Modified adjusted gross income for the taxable year, 2008
as defined in section 5747.01 of the Revised Code, less the 2009
exemptions provided by section 5747.025 of the Revised Code; 2010

(b) Wages, salaries, ~~tips~~, and other employee compensation 2011
to the extent included in modified adjusted gross income as 2012
defined in section 5747.01 of the Revised Code, and net earnings 2013
from self-employment, as defined in section 1402(a) of the 2014
Internal Revenue Code, to the extent included in modified 2015
adjusted gross income. 2016

(2) In the case of an estate, taxable income for the 2017
taxable year as defined in division (S) of section 5747.01 of 2018
the Revised Code. 2019

(F) "Resident" of the school district means: 2020

(1) An individual who is a resident of this state as 2021
defined in division (I) of section 5747.01 of the Revised Code 2022
during all or a portion of the taxable year and who, during all 2023
or a portion of such period of state residency, is domiciled in 2024
the school district or lives in and maintains a permanent place 2025
of abode in the school district; 2026

(2) An estate of a decedent who, at the time of death, was 2027
domiciled in the school district. 2028

(G) "School district income" means:	2029
(1) With respect to an individual, the portion of the	2030
taxable income of an individual that is received by the	2031
individual during the portion of the taxable year that the	2032
individual is a resident of the school district and the school	2033
district income tax is in effect in that school district. An	2034
individual may have school district income with respect to more	2035
than one school district.	2036
(2) With respect to an estate, the taxable income of the	2037
estate for the portion of the taxable year that the school	2038
district income tax is in effect in that school district.	2039
(H) "Taxpayer" means an individual or estate having school	2040
district income upon which a school district income tax is	2041
imposed.	2042
(I) "School district purposes" means any of the purposes	2043
for which a tax may be levied pursuant to division (A) of	2044
section 5705.21 of the Revised Code, including the combined	2045
purposes authorized by section 5705.217 of the Revised Code.	2046
(J) "The county auditor's appraised value" and "effective	2047
rate" have the same meanings as in section 5705.01 of the	2048
Revised Code.	2049
Section 2. That existing sections 718.01, 5747.01, and	2050
5748.01 of the Revised Code are hereby repealed.	2051
Section 3. The amendment by this act of sections 718.01,	2052
5747.01, and 5748.01 of the Revised Code applies to taxable	2053
years ending on or after the effective date of this section.	2054
Section 4. Section 5747.01 of the Revised Code is	2055
presented in this act as a composite of the section as amended	2056

by both H.B. 101 and S.B. 154 of the 135th General Assembly. The 2057
General Assembly, applying the principle stated in division (B) 2058
of section 1.52 of the Revised Code that amendments are to be 2059
harmonized if reasonably capable of simultaneous operation, 2060
finds that the composite is the resulting version of the section 2061
in effect prior to the effective date of the section as 2062
presented in this act. 2063