

As Introduced

136th General Assembly

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H. B. No. 21

Representative King

**Cosponsors: Representatives Barhorst, Creech, John, Williams, Klopfenstein,
Gross, Lear, Lorenz**

A BILL

To amend sections 1716.01 and 5747.01 and to enact 1
sections 1716.22 and 3333.96 of the Revised Code 2
to enact the Health Care Sharing Ministries 3
Freedom to Share Act. 4

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

Section 1. That sections 1716.01 and 5747.01 be amended 5
and sections 1716.22 and 3333.96 of the Revised Code be enacted 6
to read as follows: 7

Sec. 1716.01. As used in this chapter: 8

(A) (1) "Charitable organization" means either of the 9
following: 10

(a) Any person that is determined by the internal revenue 11
service to be a tax exempt organization pursuant to section 12
501(c) (3) of the Internal Revenue Code; 13

(b) Any person that is or holds itself out to be 14
established for any benevolent, philanthropic, patriotic, 15
educational, humane, scientific, public health, environmental 16

conservation, civic, or other eleemosynary purpose or for the
benefit of law enforcement personnel, firefighters, or other
persons who protect the public safety, or any person who in any
manner employs a charitable appeal as the basis of any
solicitation or an appeal that suggests that there is a
charitable purpose to any solicitation.

(2) "Charitable organization" is not limited to only those
organizations to which contributions are tax deductible under
section 170 of the Internal Revenue Code.

"Charitable organization" does not include an employer who
is not engaged in the business of soliciting contributions or
conducting charitable sales promotions but who incidentally
solicits contributions for a charitable organization or purpose;
or a compensated employee of an employer not engaged in the
business of soliciting contributions or conducting charitable
sales promotions, when the employee solicits contributions or
conducts charitable sales promotions at the direction of the
employee's employer.

(B) (1) "Charitable purpose" means either of the following:

(a) Any purpose described in section 501(c) (3) of the
Internal Revenue Code;

(b) Any benevolent, philanthropic, patriotic, educational,
humane, scientific, public health, environmental conservation,
civic, or other eleemosynary objective or any objective that
benefits law enforcement personnel, firefighters, or other
persons who protect the public safety.

(2) "Charitable purpose" is not limited to only those
purposes for which contributions are tax deductible under
section 170 of the Internal Revenue Code.

(C) "Charitable sales promotion" means any advertising or 46
sale conducted by a person who represents that the purchase or 47
use of goods or services offered by the person will benefit, in 48
whole or in part, any charitable organization or charitable 49
purpose. The provision of advertising services to a charitable 50
organization, either for compensation or as a donation, does not 51
of itself constitute a charitable sales promotion. 52

(D) "Commercial co-venturer" means any person who for 53
profit regularly and primarily is engaged in trade or commerce 54
other than in connection with soliciting for charitable 55
organizations or charitable purposes and who conducts a 56
charitable sales promotion. 57

(E) "Contribution" means the promise, pledge, or grant of 58
any money or property, financial assistance, or any other thing 59
of value in response to a solicitation. "Contribution" does not 60
include any bona fide fees, or any dues or assessments paid by 61
members, provided that membership is not conferred solely as a 62
consideration for making a contribution in response to a 63
solicitation. 64

(F) "Deceptive act or practice" means knowingly 65
misrepresenting any material fact related to the planning, 66
conducting, or executing of any solicitation of contributions 67
for a charitable organization or charitable purpose or to the 68
planning, conducting, or executing of a charitable sales 69
promotion, when the misrepresentation induces any person to make 70
a contribution to a charitable organization, for a charitable 71
purpose, or in response to a charitable sales promotion. 72

(G) "Fund-raising counsel" means any person who, for 73
compensation, plans, manages, advises, consults, or prepares 74
material for or with respect to the solicitation in this state 75

of contributions for any charitable organization or at any time 76
has custody of contributions from a solicitation, but does not 77
solicit contributions and does not employ, procure, or otherwise 78
engage any compensated person to solicit contributions. "Fund- 79
raising counsel" does not include the following: 80

(1) An attorney, investment counselor, or banker who in 81
the conduct of the attorney's, investment counselor's, or 82
banker's profession advises a client; 83

(2) A charitable organization or a bona fide officer, 84
employee, or volunteer of a charitable organization, when the 85
charitable organization has full knowledge of the services being 86
performed on its behalf and either of the following applies: 87

(a) The services performed by the charitable organization, 88
bona fide officer, employee, or volunteer are performed on 89
behalf of the charitable organization that employs the bona fide 90
officer or employee or engages the services of the bona fide 91
volunteer; 92

(b) The charitable organization on whose behalf the 93
services are performed shares some element of common control or 94
an historic or continuing relationship with the charitable 95
organization that performs the services or employs the bona fide 96
officer or employee or engages the services of the bona fide 97
volunteer; 98

(3) An employer who is not engaged in the business of 99
soliciting contributions or conducting charitable sales 100
promotions but who incidentally solicits contributions for a 101
charitable organization or purpose without compensation; 102

(4) A compensated employee of an employer who is not 103
engaged in the business of soliciting contributions or 104

conducting charitable sales promotions, when the employee 105
solicits contributions or conducts charitable sales promotions 106
at the direction of the employee's employer. 107

(H) "Health care sharing ministry" means a nonprofit 108
organization that meets all of the following: 109

(1) Limits its participants to those members who share a 110
common set of ethical or religious beliefs; 111

(2) Acts as a facilitator among participants who have 112
financial or medical needs to assist in meeting those financial 113
and medical needs in accordance with criteria established by the 114
organization; 115

(3) Provides for the financial or medical needs of a 116
participant through contributions from other participants; 117

(4) Provides amounts that participants may contribute with 118
no assumption of risk or promise to pay by the health care 119
sharing ministry to the participants; 120

(5) Conducts an annual audit which is performed by an 121
independent certified public accounting firm in accordance with 122
generally accepted accounting principles and which is made 123
available to the public by providing a copy upon request or by 124
posting the audit on the organization's web site; 125

(6) Provides to the participants, on at least an annual 126
basis, the total dollar amount of qualified financial and 127
medical needs actually shared in the previous year, or other 128
relevant time period, if the report is made more frequently than 129
annually, in accordance with criteria established by the 130
organization; 131

(7) Provides a written disclaimer on or accompanying all 132

applications and guideline materials distributed by or on behalf 133
of the organization that reads, in substance: 134

"Notice: The organization facilitating the sharing of 135
medical expenses is not an insurance company, and neither its 136
guidelines nor plan of operation is an insurance policy. Whether 137
anyone chooses to assist you with your medical bills will be 138
totally voluntary, because no other participant will be 139
compelled by law to contribute toward your medical bills. As 140
such, participation in the organization or a subscription to any 141
of its documents should never be considered to be insurance. 142
Regardless of whether you receive any payments for medical 143
expenses or whether this organization continues to operate, you 144
are always personally responsible for the payment of your own 145
medical bills." 146

(I) "Internal Revenue Code" means the "Internal Revenue 147
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 148

~~(I)~~ (J) "Person" has the same meaning as in section 1.59 149
of the Revised Code and includes a group, foundation, or any 150
other entity however styled. 151

~~(J)~~ (K) "Professional solicitor" means any person who, for 152
compensation, performs on behalf of or for the benefit of a 153
charitable organization any service in connection with which 154
contributions are or will be solicited in this state by the 155
compensated person or by any person it employs, procures, or 156
otherwise engages directly or indirectly to solicit 157
contributions. "Professional solicitor" does not include the 158
following: 159

(1) An attorney, investment counselor, or banker who in 160
the conduct of the attorney's, investment counselor's, or 161

banker's profession advises a client; 162

(2) A charitable organization or a bona fide officer, 163
employee, or volunteer of a charitable organization, when the 164
charitable organization has full knowledge of the services being 165
performed on its behalf and either of the following applies: 166

(a) The services performed by the charitable organization, 167
bona fide officer, employee, or volunteer are performed on 168
behalf of the charitable organization that employs the bona fide 169
officer or employee or engages the services of the bona fide 170
volunteer; 171

(b) The charitable organization on whose behalf the 172
services are performed shares some element of common control or 173
an historic or continuing relationship with the charitable 174
organization that performs the services or employs the bona fide 175
officer or employee or engages the services of the bona fide 176
volunteer; 177

(3) An employer who is not engaged in the business of 178
soliciting contributions or conducting charitable sales 179
promotions but who incidentally solicits contributions for a 180
charitable organization or purpose without compensation; 181

(4) A compensated employee of an employer who is not 182
engaged in the business of soliciting contributions or 183
conducting charitable sales promotions, when the employee 184
solicits contributions or conducts charitable sales promotions 185
at the direction of the employee's employer. 186

~~(K)(1)~~ (L)(1) "Solicit" or "solicitation" means to request 187
or a request directly or indirectly for money, property, 188
financial assistance, or any other thing of value on the plea or 189
representation that such money, property, financial assistance, 190

or other thing of value or a portion of it will be used for a 191
charitable purpose or will benefit a charitable organization. 192
"Solicit" or "solicitation" includes but is not limited to the 193
following methods of requesting or securing the promise, pledge, 194
or grant of money, property, financial assistance, or any other 195
thing of value: 196

(a) Any oral or written request; 197

(b) Making any announcement to the press, on radio or 198
television, by telephone or telegraph, or by any other 199
communication device concerning an appeal or campaign by or for 200
any charitable organization or for any charitable purpose; 201

(c) Distributing, circulating, posting, or publishing any 202
handbill, written advertisement, or other publication that 203
directly or by implication seeks to obtain any contribution; 204

(d) Selling or offering or attempting to sell any 205
advertisement, advertising space, book, card, tag, coupon, 206
chance, device, magazine, membership, merchandise, subscription, 207
sponsorship, flower, ticket, admission, candy, cookies, or other 208
tangible item, or any right of any description in connection 209
with which an appeal is made for any charitable organization or 210
charitable purpose, or when the name of any charitable 211
organization is used or referred to in any such appeal as an 212
inducement or reason for making the sale, or when in connection 213
with the sale or offer or attempt to sell, any statement is made 214
that all or part of the proceeds from the sale will be used for 215
any charitable purpose or will benefit any charitable 216
organization. 217

(2) A solicitation is considered as having taken place for 218
purposes of division ~~(K) (1)~~ (L) (1) of this section whether or 219

not the person making the solicitation receives any 220
contribution. A solicitation does not occur when a person 221
applies for a grant or an award to the government or to an 222
organization that is exempt from federal income taxation under 223
section 501(a) and described in section 501(c)(3) of the 224
Internal Revenue Code. 225

~~(L)~~ (M) "Theft offense" has the same meaning as in section 226
2913.01 of the Revised Code. 227

~~(M)~~ (N) "Elderly person" and "disabled adult" have the 228
same meanings as in section 2913.01 of the Revised Code. 229

Sec. 1716.22. (A) A health care sharing ministry is not 230
considered to be engaging in the business of insurance and is 231
not subject to the insurance laws of this state. 232

(B) The attorney general has exclusive authority to 233
determine whether an organization meets the definition of a 234
health care sharing ministry. 235

(C) Nothing in this chapter shall be construed as 236
abrogating or reducing a right, privilege, or protection 237
reserved for or accruing to a religious organization or 238
individual pursuant to the Ohio Constitution, the United States 239
Constitution, or the common law of this state, including 240
Humphrey v. Lane, 2000-Ohio-435. 241

Sec. 3333.96. Any state institution of higher education, 242
as defined in section 3345.011 of the Revised Code, that 243
requires attending students to have health care coverage through 244
a health insurer or public health care plan shall accept, in 245
satisfaction of such requirement, the student's participation in 246
a health care sharing ministry, as defined in section 1716.01 of 247
the Revised Code. 248

Sec. 5747.01. Except as otherwise expressly provided or 249
clearly appearing from the context, any term used in this 250
chapter that is not otherwise defined in this section has the 251
same meaning as when used in a comparable context in the laws of 252
the United States relating to federal income taxes or if not 253
used in a comparable context in those laws, has the same meaning 254
as in section 5733.40 of the Revised Code. Any reference in this 255
chapter to the Internal Revenue Code includes other laws of the 256
United States relating to federal income taxes. 257

As used in this chapter: 258

(A) "Adjusted gross income" or "Ohio adjusted gross 259
income" means federal adjusted gross income, as defined and used 260
in the Internal Revenue Code, adjusted as provided in this 261
section: 262

(1) Add interest or dividends on obligations or securities 263
of any state or of any political subdivision or authority of any 264
state, other than this state and its subdivisions and 265
authorities. 266

(2) Add interest or dividends on obligations of any 267
authority, commission, instrumentality, territory, or possession 268
of the United States to the extent that the interest or 269
dividends are exempt from federal income taxes but not from 270
state income taxes. 271

(3) Deduct interest or dividends on obligations of the 272
United States and its territories and possessions or of any 273
authority, commission, or instrumentality of the United States 274
to the extent that the interest or dividends are included in 275
federal adjusted gross income but exempt from state income taxes 276
under the laws of the United States. 277

(4) Deduct disability and survivor's benefits to the	278
extent included in federal adjusted gross income.	279
(5) Deduct the following, to the extent not otherwise	280
deducted or excluded in computing federal or Ohio adjusted gross	281
income:	282
(a) Benefits under Title II of the Social Security Act and	283
tier 1 railroad retirement;	284
(b) Railroad retirement benefits, other than tier 1	285
railroad retirement benefits, to the extent such amounts are	286
exempt from state taxation under federal law.	287
(6) Deduct the amount of wages and salaries, if any, not	288
otherwise allowable as a deduction but that would have been	289
allowable as a deduction in computing federal adjusted gross	290
income for the taxable year, had the work opportunity tax credit	291
allowed and determined under sections 38, 51, and 52 of the	292
Internal Revenue Code not been in effect.	293
(7) Deduct any interest or interest equivalent on public	294
obligations and purchase obligations to the extent that the	295
interest or interest equivalent is included in federal adjusted	296
gross income.	297
(8) Add any loss or deduct any gain resulting from the	298
sale, exchange, or other disposition of public obligations to	299
the extent that the loss has been deducted or the gain has been	300
included in computing federal adjusted gross income.	301
(9) Deduct or add amounts, as provided under section	302
5747.70 of the Revised Code, related to contributions made to or	303
tuition units purchased under a qualified tuition program	304
established pursuant to section 529 of the Internal Revenue	305
Code.	306

(10) (a) Deduct, to the extent not otherwise allowable as a 307
deduction or exclusion in computing federal or Ohio adjusted 308
gross income for the taxable year, the amount the taxpayer paid 309
during the taxable year for medical care insurance and qualified 310
long-term care insurance for the taxpayer, the taxpayer's 311
spouse, and dependents. No deduction for medical care insurance 312
under division (A) (10) (a) of this section shall be allowed 313
either to any taxpayer who is eligible to participate in any 314
subsidized health plan maintained by any employer of the 315
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 316
entitled to, or on application would be entitled to, benefits 317
under part A of Title XVIII of the "Social Security Act," 49 318
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 319
division (A) (10) (a) of this section, "subsidized health plan" 320
means a health plan for which the employer pays any portion of 321
the plan's cost. The deduction allowed under division (A) (10) (a) 322
of this section shall be the net of any related premium refunds, 323
related premium reimbursements, or related insurance premium 324
dividends received during the taxable year. 325

(b) Deduct, to the extent not otherwise deducted or 326
excluded in computing federal or Ohio adjusted gross income 327
during the taxable year, the amount the taxpayer paid during the 328
taxable year, not compensated for by any insurance or otherwise, 329
for medical care of the taxpayer, the taxpayer's spouse, and 330
dependents, to the extent the expenses exceed seven and one-half 331
per cent of the taxpayer's federal adjusted gross income. 332

(c) For purposes of division (A) (10) of this section, 333
"medical care" has the meaning given in section 213 of the 334
Internal Revenue Code, subject to the special rules, 335
limitations, and exclusions set forth therein, and "qualified 336
long-term care" has the same meaning given in section 7702B(c) 337

of the Internal Revenue Code. Solely for purposes of division 338
(A) (10) (a) of this section, "dependent" includes a person who 339
otherwise would be a "qualifying relative" and thus a 340
"dependent" under section 152 of the Internal Revenue Code but 341
for the fact that the person fails to meet the income and 342
support limitations under section 152(d) (1) (B) and (C) of the 343
Internal Revenue Code. 344

(11) (a) Deduct any amount included in federal adjusted 345
gross income solely because the amount represents a 346
reimbursement or refund of expenses that in any year the 347
taxpayer had deducted as an itemized deduction pursuant to 348
section 63 of the Internal Revenue Code and applicable United 349
States department of the treasury regulations. The deduction 350
otherwise allowed under division (A) (11) (a) of this section 351
shall be reduced to the extent the reimbursement is attributable 352
to an amount the taxpayer deducted under this section in any 353
taxable year. 354

(b) Add any amount not otherwise included in Ohio adjusted 355
gross income for any taxable year to the extent that the amount 356
is attributable to the recovery during the taxable year of any 357
amount deducted or excluded in computing federal or Ohio 358
adjusted gross income in any taxable year. 359

(12) Deduct any portion of the deduction described in 360
section 1341(a) (2) of the Internal Revenue Code, for repaying 361
previously reported income received under a claim of right, that 362
meets both of the following requirements: 363

(a) It is allowable for repayment of an item that was 364
included in the taxpayer's adjusted gross income for a prior 365
taxable year and did not qualify for a credit under division (A) 366
or (B) of section 5747.05 of the Revised Code for that year; 367

(b) It does not otherwise reduce the taxpayer's adjusted 368
gross income for the current or any other taxable year. 369

(13) Deduct an amount equal to the deposits made to, and 370
net investment earnings of, a medical savings account during the 371
taxable year, in accordance with section 3924.66 of the Revised 372
Code. The deduction allowed by division (A) (13) of this section 373
does not apply to medical savings account deposits and earnings 374
otherwise deducted or excluded for the current or any other 375
taxable year from the taxpayer's federal adjusted gross income. 376

(14) (a) Add an amount equal to the funds withdrawn from a 377
medical savings account during the taxable year, and the net 378
investment earnings on those funds, when the funds withdrawn 379
were used for any purpose other than to reimburse an account 380
holder for, or to pay, eligible medical expenses, in accordance 381
with section 3924.66 of the Revised Code; 382

(b) Add the amounts distributed from a medical savings 383
account under division (A) (2) of section 3924.68 of the Revised 384
Code during the taxable year. 385

(15) Add any amount claimed as a credit under section 386
5747.059 of the Revised Code to the extent that such amount 387
satisfies either of the following: 388

(a) The amount was deducted or excluded from the 389
computation of the taxpayer's federal adjusted gross income as 390
required to be reported for the taxpayer's taxable year under 391
the Internal Revenue Code; 392

(b) The amount resulted in a reduction of the taxpayer's 393
federal adjusted gross income as required to be reported for any 394
of the taxpayer's taxable years under the Internal Revenue Code. 395

(16) Deduct the amount contributed by the taxpayer to an 396

individual development account program established by a county 397
department of job and family services pursuant to sections 398
329.11 to 329.14 of the Revised Code for the purpose of matching 399
funds deposited by program participants. On request of the tax 400
commissioner, the taxpayer shall provide any information that, 401
in the tax commissioner's opinion, is necessary to establish the 402
amount deducted under division (A)(16) of this section. 403

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and 404
(v) of this section, add five-sixths of the amount of 405
depreciation expense allowed by subsection (k) of section 168 of 406
the Internal Revenue Code, including the taxpayer's 407
proportionate or distributive share of the amount of 408
depreciation expense allowed by that subsection to a pass- 409
through entity in which the taxpayer has a direct or indirect 410
ownership interest. 411

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 412
of this section, add five-sixths of the amount of qualifying 413
section 179 depreciation expense, including the taxpayer's 414
proportionate or distributive share of the amount of qualifying 415
section 179 depreciation expense allowed to any pass-through 416
entity in which the taxpayer has a direct or indirect ownership 417
interest. 418

(iii) Subject to division (A)(17)(a)(v) of this section, 419
for taxable years beginning in 2012 or thereafter, if the 420
increase in income taxes withheld by the taxpayer is equal to or 421
greater than ten per cent of income taxes withheld by the 422
taxpayer during the taxpayer's immediately preceding taxable 423
year, "two-thirds" shall be substituted for "five-sixths" for 424
the purpose of divisions (A)(17)(a)(i) and (ii) of this section. 425

(iv) Subject to division (A)(17)(a)(v) of this section, 426

for taxable years beginning in 2012 or thereafter, a taxpayer is 427
not required to add an amount under division (A) (17) of this 428
section if the increase in income taxes withheld by the taxpayer 429
and by any pass-through entity in which the taxpayer has a 430
direct or indirect ownership interest is equal to or greater 431
than the sum of (I) the amount of qualifying section 179 432
depreciation expense and (II) the amount of depreciation expense 433
allowed to the taxpayer by subsection (k) of section 168 of the 434
Internal Revenue Code, and including the taxpayer's 435
proportionate or distributive shares of such amounts allowed to 436
any such pass-through entities. 437

(v) If a taxpayer directly or indirectly incurs a net 438
operating loss for the taxable year for federal income tax 439
purposes, to the extent such loss resulted from depreciation 440
expense allowed by subsection (k) of section 168 of the Internal 441
Revenue Code and by qualifying section 179 depreciation expense, 442
"the entire" shall be substituted for "five-sixths of the" for 443
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 444

The tax commissioner, under procedures established by the 445
commissioner, may waive the add-backs related to a pass-through 446
entity if the taxpayer owns, directly or indirectly, less than 447
five per cent of the pass-through entity. 448

(b) Nothing in division (A) (17) of this section shall be 449
construed to adjust or modify the adjusted basis of any asset. 450

(c) To the extent the add-back required under division (A) 451
(17) (a) of this section is attributable to property generating 452
nonbusiness income or loss allocated under section 5747.20 of 453
the Revised Code, the add-back shall be situated to the same 454
location as the nonbusiness income or loss generated by the 455
property for the purpose of determining the credit under 456

division (A) of section 5747.05 of the Revised Code. Otherwise, 457
the add-back shall be apportioned, subject to one or more of the 458
four alternative methods of apportionment enumerated in section 459
5747.21 of the Revised Code. 460

(d) For the purposes of division (A) (17) (a) (v) of this 461
section, net operating loss carryback and carryforward shall not 462
include the allowance of any net operating loss deduction 463
carryback or carryforward to the taxable year to the extent such 464
loss resulted from depreciation allowed by section 168(k) of the 465
Internal Revenue Code and by the qualifying section 179 466
depreciation expense amount. 467

(e) For the purposes of divisions (A) (17) and (18) of this 468
section: 469

(i) "Income taxes withheld" means the total amount 470
withheld and remitted under sections 5747.06 and 5747.07 of the 471
Revised Code by an employer during the employer's taxable year. 472

(ii) "Increase in income taxes withheld" means the amount 473
by which the amount of income taxes withheld by an employer 474
during the employer's current taxable year exceeds the amount of 475
income taxes withheld by that employer during the employer's 476
immediately preceding taxable year. 477

(iii) "Qualifying section 179 depreciation expense" means 478
the difference between (I) the amount of depreciation expense 479
directly or indirectly allowed to a taxpayer under section 179 480
of the Internal Revised Code, and (II) the amount of 481
depreciation expense directly or indirectly allowed to the 482
taxpayer under section 179 of the Internal Revenue Code as that 483
section existed on December 31, 2002. 484

(18) (a) If the taxpayer was required to add an amount 485

under division (A) (17) (a) of this section for a taxable year, 486
deduct one of the following: 487

(i) One-fifth of the amount so added for each of the five 488
succeeding taxable years if the amount so added was five-sixths 489
of qualifying section 179 depreciation expense or depreciation 490
expense allowed by subsection (k) of section 168 of the Internal 491
Revenue Code; 492

(ii) One-half of the amount so added for each of the two 493
succeeding taxable years if the amount so added was two-thirds 494
of such depreciation expense; 495

(iii) One-sixth of the amount so added for each of the six 496
succeeding taxable years if the entire amount of such 497
depreciation expense was so added. 498

(b) If the amount deducted under division (A) (18) (a) of 499
this section is attributable to an add-back allocated under 500
division (A) (17) (c) of this section, the amount deducted shall 501
be situated to the same location. Otherwise, the add-back shall 502
be apportioned using the apportionment factors for the taxable 503
year in which the deduction is taken, subject to one or more of 504
the four alternative methods of apportionment enumerated in 505
section 5747.21 of the Revised Code. 506

(c) No deduction is available under division (A) (18) (a) of 507
this section with regard to any depreciation allowed by section 508
168(k) of the Internal Revenue Code and by the qualifying 509
section 179 depreciation expense amount to the extent that such 510
depreciation results in or increases a federal net operating 511
loss carryback or carryforward. If no such deduction is 512
available for a taxable year, the taxpayer may carry forward the 513
amount not deducted in such taxable year to the next taxable 514

year and add that amount to any deduction otherwise available 515
under division (A) (18) (a) of this section for that next taxable 516
year. The carryforward of amounts not so deducted shall continue 517
until the entire addition required by division (A) (17) (a) of 518
this section has been deducted. 519

(19) Deduct, to the extent not otherwise deducted or 520
excluded in computing federal or Ohio adjusted gross income for 521
the taxable year, the amount the taxpayer received during the 522
taxable year as reimbursement for life insurance premiums under 523
section 5919.31 of the Revised Code. 524

(20) Deduct, to the extent not otherwise deducted or 525
excluded in computing federal or Ohio adjusted gross income for 526
the taxable year, the amount the taxpayer received during the 527
taxable year as a death benefit paid by the adjutant general 528
under section 5919.33 of the Revised Code. 529

(21) Deduct, to the extent included in federal adjusted 530
gross income and not otherwise allowable as a deduction or 531
exclusion in computing federal or Ohio adjusted gross income for 532
the taxable year, military pay and allowances received by the 533
taxpayer during the taxable year for active duty service in the 534
United States army, air force, navy, marine corps, or coast 535
guard or reserve components thereof or the national guard. The 536
deduction may not be claimed for military pay and allowances 537
received by the taxpayer while the taxpayer is stationed in this 538
state. 539

(22) Deduct, to the extent not otherwise allowable as a 540
deduction or exclusion in computing federal or Ohio adjusted 541
gross income for the taxable year and not otherwise compensated 542
for by any other source, the amount of qualified organ donation 543
expenses incurred by the taxpayer during the taxable year, not 544

to exceed ten thousand dollars. A taxpayer may deduct qualified 545
organ donation expenses only once for all taxable years 546
beginning with taxable years beginning in 2007. 547

For the purposes of division (A)(22) of this section: 548

(a) "Human organ" means all or any portion of a human 549
liver, pancreas, kidney, intestine, or lung, and any portion of 550
human bone marrow. 551

(b) "Qualified organ donation expenses" means travel 552
expenses, lodging expenses, and wages and salary forgone by a 553
taxpayer in connection with the taxpayer's donation, while 554
living, of one or more of the taxpayer's human organs to another 555
human being. 556

(23) Deduct, to the extent not otherwise deducted or 557
excluded in computing federal or Ohio adjusted gross income for 558
the taxable year, amounts received by the taxpayer as retired 559
personnel pay for service in the uniformed services or reserve 560
components thereof, or the national guard, or received by the 561
surviving spouse or former spouse of such a taxpayer under the 562
survivor benefit plan on account of such a taxpayer's death. If 563
the taxpayer receives income on account of retirement paid under 564
the federal civil service retirement system or federal employees 565
retirement system, or under any successor retirement program 566
enacted by the congress of the United States that is established 567
and maintained for retired employees of the United States 568
government, and such retirement income is based, in whole or in 569
part, on credit for the taxpayer's uniformed service, the 570
deduction allowed under this division shall include only that 571
portion of such retirement income that is attributable to the 572
taxpayer's uniformed service, to the extent that portion of such 573
retirement income is otherwise included in federal adjusted 574

gross income and is not otherwise deducted under this section. 575
Any amount deducted under division (A) (23) of this section is 576
not included in a taxpayer's adjusted gross income for the 577
purposes of section 5747.055 of the Revised Code. No amount may 578
be deducted under division (A) (23) of this section on the basis 579
of which a credit was claimed under section 5747.055 of the 580
Revised Code. 581

(24) Deduct, to the extent not otherwise deducted or 582
excluded in computing federal or Ohio adjusted gross income for 583
the taxable year, the amount the taxpayer received during the 584
taxable year from the military injury relief fund created in 585
section 5902.05 of the Revised Code. 586

(25) Deduct, to the extent not otherwise deducted or 587
excluded in computing federal or Ohio adjusted gross income for 588
the taxable year, the amount the taxpayer received as a veterans 589
bonus during the taxable year from the Ohio department of 590
veterans services as authorized by Section 2r of Article VIII, 591
Ohio Constitution. 592

(26) Deduct, to the extent not otherwise deducted or 593
excluded in computing federal or Ohio adjusted gross income for 594
the taxable year, any income derived from a transfer agreement 595
or from the enterprise transferred under that agreement under 596
section 4313.02 of the Revised Code. 597

(27) Deduct, to the extent not otherwise deducted or 598
excluded in computing federal or Ohio adjusted gross income for 599
the taxable year, Ohio college opportunity or federal Pell grant 600
amounts received by the taxpayer or the taxpayer's spouse or 601
dependent pursuant to section 3333.122 of the Revised Code or 20 602
U.S.C. 1070a, et seq., and used to pay room or board furnished 603
by the educational institution for which the grant was awarded 604

at the institution's facilities, including meal plans 605
administered by the institution. For the purposes of this 606
division, receipt of a grant includes the distribution of a 607
grant directly to an educational institution and the crediting 608
of the grant to the enrollee's account with the institution. 609

(28) Deduct from the portion of an individual's federal 610
adjusted gross income that is business income, to the extent not 611
otherwise deducted or excluded in computing federal adjusted 612
gross income for the taxable year, one hundred twenty-five 613
thousand dollars for each spouse if spouses file separate 614
returns under section 5747.08 of the Revised Code or two hundred 615
fifty thousand dollars for all other individuals. 616

(29) Deduct, as provided under section 5747.78 of the 617
Revised Code, contributions to ABLE savings accounts made in 618
accordance with sections 113.50 to 113.56 of the Revised Code. 619

(30)(a) Deduct, to the extent not otherwise deducted or 620
excluded in computing federal or Ohio adjusted gross income 621
during the taxable year, all of the following: 622

(i) Compensation paid to a qualifying employee described 623
in division (A)(14)(a) of section 5703.94 of the Revised Code to 624
the extent such compensation is for disaster work conducted in 625
this state during a disaster response period pursuant to a 626
qualifying solicitation received by the employee's employer; 627

(ii) Compensation paid to a qualifying employee described 628
in division (A)(14)(b) of section 5703.94 of the Revised Code to 629
the extent such compensation is for disaster work conducted in 630
this state by the employee during the disaster response period 631
on critical infrastructure owned or used by the employee's 632
employer; 633

(iii) Income received by an out-of-state disaster business 634
for disaster work conducted in this state during a disaster 635
response period, or, if the out-of-state disaster business is a 636
pass-through entity, a taxpayer's distributive share of the 637
pass-through entity's income from the business conducting 638
disaster work in this state during a disaster response period, 639
if, in either case, the disaster work is conducted pursuant to a 640
qualifying solicitation received by the business. 641

(b) All terms used in division (A) (30) of this section 642
have the same meanings as in section 5703.94 of the Revised 643
Code. 644

(31) For a taxpayer who is a qualifying Ohio educator, 645
deduct, to the extent not otherwise deducted or excluded in 646
computing federal or Ohio adjusted gross income for the taxable 647
year, the lesser of two hundred fifty dollars or the amount of 648
expenses described in subsections (a) (2) (D) (i) and (ii) of 649
section 62 of the Internal Revenue Code paid or incurred by the 650
taxpayer during the taxpayer's taxable year in excess of the 651
amount the taxpayer is authorized to deduct for that taxable 652
year under subsection (a) (2) (D) of that section. 653

(32) Deduct, to the extent not otherwise deducted or 654
excluded in computing federal or Ohio adjusted gross income for 655
the taxable year, amounts received by the taxpayer as a 656
disability severance payment, computed under 10 U.S.C. 1212, 657
following discharge or release under honorable conditions from 658
the armed forces, as defined by 10 U.S.C. 101. 659

(33) Deduct, to the extent not otherwise deducted or 660
excluded in computing federal adjusted gross income or Ohio 661
adjusted gross income, amounts not subject to tax due to an 662
agreement entered into under division (A) (2) of section 5747.05 663

of the Revised Code. 664

(34) Deduct amounts as provided under section 5747.79 of 665
the Revised Code related to the taxpayer's qualifying capital 666
gains and deductible payroll. 667

To the extent a qualifying capital gain described under 668
division (A) (34) of this section is business income, the 669
taxpayer shall deduct those gains under this division before 670
deducting any such gains under division (A) (28) of this section. 671

(35) (a) For taxable years beginning in or after 2026, 672
deduct, to the extent not otherwise deducted or excluded in 673
computing federal or Ohio adjusted gross income for the taxable 674
year: 675

(i) One hundred per cent of the capital gain received by 676
the taxpayer in the taxable year from a qualifying interest in 677
an Ohio venture capital operating company attributable to the 678
company's investments in Ohio businesses during the period for 679
which the company was an Ohio venture operating company; and 680

(ii) Fifty per cent of the capital gain received by the 681
taxpayer in the taxable year from a qualifying interest in an 682
Ohio venture capital operating company attributable to the 683
company's investments in all other businesses during the period 684
for which the company was an Ohio venture operating company. 685

(b) Add amounts previously deducted by the taxpayer under 686
division (A) (35) (a) of this section if the director of 687
development certifies to the tax commissioner that the 688
requirements for the deduction were not met. 689

(c) All terms used in division (A) (35) of this section 690
have the same meanings as in section 122.851 of the Revised 691
Code. 692

(d) To the extent a capital gain described in division (A) 693
(35)(a) of this section is business income, the taxpayer shall 694
apply that division before applying division (A)(28) of this 695
section. 696

(36) Add, to the extent not otherwise included in 697
computing federal or Ohio adjusted gross income for any taxable 698
year, the taxpayer's proportionate share of the amount of the 699
tax levied under section 5747.38 of the Revised Code and paid by 700
an electing pass-through entity for the taxable year. 701

Notwithstanding any provision of the Revised Code to the 702
contrary, the portion of the addition required by division (A) 703
(36) of this section related to the apportioned business income 704
of the pass-through entity shall be considered business income 705
under division (B) of this section. Such addition is eligible 706
for the deduction in division (A)(28) of this section, subject 707
to the applicable dollar limitations, and the tax rate 708
prescribed by division (A)(4)(a) of section 5747.02 of the 709
Revised Code. The taxpayer shall provide, upon request of the 710
tax commissioner, any documentation necessary to verify the 711
portion of the addition that is business income under this 712
division. 713

(37) Deduct, to the extent not otherwise deducted or 714
excluded in computing federal or Ohio adjusted gross income for 715
the taxable year, amounts delivered to a qualifying institution 716
pursuant to section 3333.128 of the Revised Code for the benefit 717
of the taxpayer or the taxpayer's spouse or dependent. 718

(38) Deduct, to the extent not otherwise deducted or 719
excluded in computing federal or Ohio adjusted gross income for 720
the taxable year, amounts received under the Ohio adoption grant 721
program pursuant to section 5101.191 of the Revised Code. 722

(39) Deduct, to the extent included in federal adjusted 723
gross income, income attributable to amounts provided to a 724
taxpayer for any of the purposes for which an exclusion would 725
have been authorized under section 139 of the Internal Revenue 726
Code if the train derailment near the city of East Palestine on 727
February 3, 2023, had been a qualified disaster pursuant to that 728
section, or to compensate for lost business resulting from that 729
derailment, if such amounts are provided by any of the 730
following: 731

(a) A federal, state, or local government agency; 732

(b) A railroad company, as that term is defined in section 733
5727.01 of the Revised Code; 734

(c) Any subsidiary, insurer, or agent of a railroad 735
company or any related person. 736

Notwithstanding any provision to the contrary, the 737
derailment is not required to meet the definition of a 738
"qualified disaster" pursuant to section 139 of the Internal 739
Revenue Code to qualify for the deduction under this section. 740

(40) Deduct, to the extent included in federal adjusted 741
gross income, income attributable to loan repayments on behalf 742
of the taxpayer under the rural practice incentive program under 743
section 3333.135 of the Revised Code. 744

(41) Add any income taxes deducted in computing federal or 745
Ohio adjusted gross income to the extent the income taxes were 746
derived from income subject to a tax levied in another state or 747
the District of Columbia when such tax was enacted for purposes 748
of complying with internal revenue service notice 2020-75. 749

Notwithstanding any provision of the Revised Code to the 750
contrary, the portion of the addition required by division (A) 751

(41) of this section related to the apportioned business income 752
of the pass-through entity shall be considered business income 753
under division (B) of this section. Such addition is eligible 754
for the deduction in division (A) (28) of this section, subject 755
to the applicable dollar limitations, and the tax rate 756
prescribed by division (A) (4) (a) of section 5747.02 of the 757
Revised Code. The taxpayer shall provide, upon request of the 758
tax commissioner, any documentation necessary to verify the 759
portion of the addition that is business income under this 760
division. 761

(42) Deduct amounts contributed to a homeownership savings 762
account and calculated pursuant to divisions (B) and (C) of 763
section 5747.85 of the Revised Code. 764

(43) If the taxpayer is the account owner, add the amount 765
of funds withdrawn from a homeownership savings account not used 766
for eligible expenses, regardless of who deposited those funds. 767
As used in division (A) (43) of this section, "homeownership 768
savings account," "account owner," and "eligible expenses" have 769
the same meanings as in section 5747.85 of the Revised Code. 770

(44) Deduct, to the extent not otherwise deducted or 771
excluded in computing federal or Ohio adjusted gross income for 772
the taxable year, the amount the taxpayer paid during the 773
taxable year pursuant to membership in a health care sharing 774
ministry, as defined in section 1716.01 of the Revised Code, for 775
participation by the taxpayer, the taxpayer's spouse, and the 776
taxpayer's dependents. 777

(B) "Business income" means income, including gain or 778
loss, arising from transactions, activities, and sources in the 779
regular course of a trade or business and includes income, gain, 780
or loss from real property, tangible property, and intangible 781

property if the acquisition, rental, management, and disposition 782
of the property constitute integral parts of the regular course 783
of a trade or business operation. "Business income" includes 784
income, including gain or loss, from a partial or complete 785
liquidation of a business, including, but not limited to, gain 786
or loss from the sale or other disposition of goodwill or the 787
sale of an equity or ownership interest in a business. 788

As used in this division, the "sale of an equity or 789
ownership interest in a business" means sales to which either or 790
both of the following apply: 791

(1) The sale is treated for federal income tax purposes as 792
the sale of assets. 793

(2) The seller materially participated, as described in 26 794
C.F.R. 1.469-5T, in the activities of the business during the 795
taxable year in which the sale occurs or during any of the five 796
preceding taxable years. 797

(C) "Nonbusiness income" means all income other than 798
business income and may include, but is not limited to, 799
compensation, rents and royalties from real or tangible personal 800
property, capital gains, interest, dividends and distributions, 801
patent or copyright royalties, or lottery winnings, prizes, and 802
awards. 803

(D) "Compensation" means any form of remuneration paid to 804
an employee for personal services. 805

(E) "Fiduciary" means a guardian, trustee, executor, 806
administrator, receiver, conservator, or any other person acting 807
in any fiduciary capacity for any individual, trust, or estate. 808

(F) "Fiscal year" means an accounting period of twelve 809
months ending on the last day of any month other than December. 810

(G) "Individual" means any natural person.	811
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	812 813
(I) "Resident" means any of the following:	814
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	815 816
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	817 818 819 820
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	821 822 823
For the purposes of division (I) (3) of this section:	824
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	825 826 827 828 829 830
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section;	831 832 833 834
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this	835 836 837 838

state for the purposes of this chapter during all or some 839
portion of the trust's current taxable year; 840

(iii) A person who was domiciled in this state for the 841
purposes of this chapter when the trust document or instrument 842
or part of the trust document or instrument became irrevocable, 843
but only if at least one of the trust's qualifying beneficiaries 844
is a resident domiciled in this state for the purposes of this 845
chapter during all or some portion of the trust's current 846
taxable year. If a trust document or instrument became 847
irrevocable upon the death of a person who at the time of death 848
was domiciled in this state for purposes of this chapter, that 849
person is a person described in division (I) (3) (a) (iii) of this 850
section. 851

(b) A trust is irrevocable to the extent that the 852
transferor is not considered to be the owner of the net assets 853
of the trust under sections 671 to 678 of the Internal Revenue 854
Code. 855

(c) With respect to a trust other than a charitable lead 856
trust, "qualifying beneficiary" has the same meaning as 857
"potential current beneficiary" as defined in section 1361(e) (2) 858
of the Internal Revenue Code, and with respect to a charitable 859
lead trust "qualifying beneficiary" is any current, future, or 860
contingent beneficiary, but with respect to any trust 861
"qualifying beneficiary" excludes a person or a governmental 862
entity or instrumentality to any of which a contribution would 863
qualify for the charitable deduction under section 170 of the 864
Internal Revenue Code. 865

(d) For the purposes of division (I) (3) (a) of this 866
section, the extent to which a trust consists directly or 867
indirectly, in whole or in part, of assets, net of any related 868

liabilities, that were transferred directly or indirectly, in 869
whole or part, to the trust by any of the sources enumerated in 870
that division shall be ascertained by multiplying the fair 871
market value of the trust's assets, net of related liabilities, 872
by the qualifying ratio, which shall be computed as follows: 873

(i) The first time the trust receives assets, the 874
numerator of the qualifying ratio is the fair market value of 875
those assets at that time, net of any related liabilities, from 876
sources enumerated in division (I) (3) (a) of this section. The 877
denominator of the qualifying ratio is the fair market value of 878
all the trust's assets at that time, net of any related 879
liabilities. 880

(ii) Each subsequent time the trust receives assets, a 881
revised qualifying ratio shall be computed. The numerator of the 882
revised qualifying ratio is the sum of (1) the fair market value 883
of the trust's assets immediately prior to the subsequent 884
transfer, net of any related liabilities, multiplied by the 885
qualifying ratio last computed without regard to the subsequent 886
transfer, and (2) the fair market value of the subsequently 887
transferred assets at the time transferred, net of any related 888
liabilities, from sources enumerated in division (I) (3) (a) of 889
this section. The denominator of the revised qualifying ratio is 890
the fair market value of all the trust's assets immediately 891
after the subsequent transfer, net of any related liabilities. 892

(iii) Whether a transfer to the trust is by or from any of 893
the sources enumerated in division (I) (3) (a) of this section 894
shall be ascertained without regard to the domicile of the 895
trust's beneficiaries. 896

(e) For the purposes of division (I) (3) (a) (i) of this 897
section: 898

(i) A trust is described in division (I) (3) (e) (i) of this 899
section if the trust is a testamentary trust and the testator of 900
that testamentary trust was domiciled in this state at the time 901
of the testator's death for purposes of the taxes levied under 902
Chapter 5731. of the Revised Code. 903

(ii) A trust is described in division (I) (3) (e) (ii) of 904
this section if the transfer is a qualifying transfer described 905
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 906
trust is an irrevocable inter vivos trust, and at least one of 907
the trust's qualifying beneficiaries is domiciled in this state 908
for purposes of this chapter during all or some portion of the 909
trust's current taxable year. 910

(f) For the purposes of division (I) (3) (e) (ii) of this 911
section, a "qualifying transfer" is a transfer of assets, net of 912
any related liabilities, directly or indirectly to a trust, if 913
the transfer is described in any of the following: 914

(i) The transfer is made to a trust, created by the 915
decedent before the decedent's death and while the decedent was 916
domiciled in this state for the purposes of this chapter, and, 917
prior to the death of the decedent, the trust became irrevocable 918
while the decedent was domiciled in this state for the purposes 919
of this chapter. 920

(ii) The transfer is made to a trust to which the 921
decedent, prior to the decedent's death, had directly or 922
indirectly transferred assets, net of any related liabilities, 923
while the decedent was domiciled in this state for the purposes 924
of this chapter, and prior to the death of the decedent the 925
trust became irrevocable while the decedent was domiciled in 926
this state for the purposes of this chapter. 927

(iii) The transfer is made on account of a contractual 928
relationship existing directly or indirectly between the 929
transferor and either the decedent or the estate of the decedent 930
at any time prior to the date of the decedent's death, and the 931
decedent was domiciled in this state at the time of death for 932
purposes of the taxes levied under Chapter 5731. of the Revised 933
Code. 934

(iv) The transfer is made to a trust on account of a 935
contractual relationship existing directly or indirectly between 936
the transferor and another person who at the time of the 937
decedent's death was domiciled in this state for purposes of 938
this chapter. 939

(v) The transfer is made to a trust on account of the will 940
of a testator who was domiciled in this state at the time of the 941
testator's death for purposes of the taxes levied under Chapter 942
5731. of the Revised Code. 943

(vi) The transfer is made to a trust created by or caused 944
to be created by a court, and the trust was directly or 945
indirectly created in connection with or as a result of the 946
death of an individual who, for purposes of the taxes levied 947
under Chapter 5731. of the Revised Code, was domiciled in this 948
state at the time of the individual's death. 949

(g) The tax commissioner may adopt rules to ascertain the 950
part of a trust residing in this state. 951

(J) "Nonresident" means an individual or estate that is 952
not a resident. An individual who is a resident for only part of 953
a taxable year is a nonresident for the remainder of that 954
taxable year. 955

(K) "Pass-through entity" has the same meaning as in 956

section 5733.04 of the Revised Code. 957

(L) "Return" means the notifications and reports required 958
to be filed pursuant to this chapter for the purpose of 959
reporting the tax due and includes declarations of estimated tax 960
when so required. 961

(M) "Taxable year" means the calendar year or the 962
taxpayer's fiscal year ending during the calendar year, or 963
fractional part thereof, upon which the adjusted gross income is 964
calculated pursuant to this chapter. 965

(N) "Taxpayer" means any person subject to the tax imposed 966
by section 5747.02 of the Revised Code or any pass-through 967
entity that makes the election under division (D) of section 968
5747.08 of the Revised Code. 969

(O) "Dependents" means one of the following: 970

(1) For taxable years beginning on or after January 1, 971
2018, and before January 1, 2026, dependents as defined in the 972
Internal Revenue Code; 973

(2) For all other taxable years, dependents as defined in 974
the Internal Revenue Code and as claimed in the taxpayer's 975
federal income tax return for the taxable year or which the 976
taxpayer would have been permitted to claim had the taxpayer 977
filed a federal income tax return. 978

(P) "Principal county of employment" means, in the case of 979
a nonresident, the county within the state in which a taxpayer 980
performs services for an employer or, if those services are 981
performed in more than one county, the county in which the major 982
portion of the services are performed. 983

(Q) As used in sections 5747.50 to 5747.55 of the Revised 984

Code: 985

(1) "Subdivision" means any county, municipal corporation, 986
park district, or township. 987

(2) "Essential local government purposes" includes all 988
functions that any subdivision is required by general law to 989
exercise, including like functions that are exercised under a 990
charter adopted pursuant to the Ohio Constitution. 991

(R) "Overpayment" means any amount already paid that 992
exceeds the figure determined to be the correct amount of the 993
tax. 994

(S) "Taxable income" or "Ohio taxable income" applies only 995
to estates and trusts, and means federal taxable income, as 996
defined and used in the Internal Revenue Code, adjusted as 997
follows: 998

(1) Add interest or dividends, net of ordinary, necessary, 999
and reasonable expenses not deducted in computing federal 1000
taxable income, on obligations or securities of any state or of 1001
any political subdivision or authority of any state, other than 1002
this state and its subdivisions and authorities, but only to the 1003
extent that such net amount is not otherwise includible in Ohio 1004
taxable income and is described in either division (S)(1)(a) or 1005
(b) of this section: 1006

(a) The net amount is not attributable to the S portion of 1007
an electing small business trust and has not been distributed to 1008
beneficiaries for the taxable year; 1009

(b) The net amount is attributable to the S portion of an 1010
electing small business trust for the taxable year. 1011

(2) Add interest or dividends, net of ordinary, necessary, 1012

and reasonable expenses not deducted in computing federal 1013
taxable income, on obligations of any authority, commission, 1014
instrumentality, territory, or possession of the United States 1015
to the extent that the interest or dividends are exempt from 1016
federal income taxes but not from state income taxes, but only 1017
to the extent that such net amount is not otherwise includible 1018
in Ohio taxable income and is described in either division (S) 1019
(1) (a) or (b) of this section; 1020

(3) Add the amount of personal exemption allowed to the 1021
estate pursuant to section 642(b) of the Internal Revenue Code; 1022

(4) Deduct interest or dividends, net of related expenses 1023
deducted in computing federal taxable income, on obligations of 1024
the United States and its territories and possessions or of any 1025
authority, commission, or instrumentality of the United States 1026
to the extent that the interest or dividends are exempt from 1027
state taxes under the laws of the United States, but only to the 1028
extent that such amount is included in federal taxable income 1029
and is described in either division (S) (1) (a) or (b) of this 1030
section; 1031

(5) Deduct the amount of wages and salaries, if any, not 1032
otherwise allowable as a deduction but that would have been 1033
allowable as a deduction in computing federal taxable income for 1034
the taxable year, had the work opportunity tax credit allowed 1035
under sections 38, 51, and 52 of the Internal Revenue Code not 1036
been in effect, but only to the extent such amount relates 1037
either to income included in federal taxable income for the 1038
taxable year or to income of the S portion of an electing small 1039
business trust for the taxable year; 1040

(6) Deduct any interest or interest equivalent, net of 1041
related expenses deducted in computing federal taxable income, 1042

on public obligations and purchase obligations, but only to the 1043
extent that such net amount relates either to income included in 1044
federal taxable income for the taxable year or to income of the 1045
S portion of an electing small business trust for the taxable 1046
year; 1047

(7) Add any loss or deduct any gain resulting from sale, 1048
exchange, or other disposition of public obligations to the 1049
extent that such loss has been deducted or such gain has been 1050
included in computing either federal taxable income or income of 1051
the S portion of an electing small business trust for the 1052
taxable year; 1053

(8) Except in the case of the final return of an estate, 1054
add any amount deducted by the taxpayer on both its Ohio estate 1055
tax return pursuant to section 5731.14 of the Revised Code, and 1056
on its federal income tax return in determining federal taxable 1057
income; 1058

(9) (a) Deduct any amount included in federal taxable 1059
income solely because the amount represents a reimbursement or 1060
refund of expenses that in a previous year the decedent had 1061
deducted as an itemized deduction pursuant to section 63 of the 1062
Internal Revenue Code and applicable treasury regulations. The 1063
deduction otherwise allowed under division (S) (9) (a) of this 1064
section shall be reduced to the extent the reimbursement is 1065
attributable to an amount the taxpayer or decedent deducted 1066
under this section in any taxable year. 1067

(b) Add any amount not otherwise included in Ohio taxable 1068
income for any taxable year to the extent that the amount is 1069
attributable to the recovery during the taxable year of any 1070
amount deducted or excluded in computing federal or Ohio taxable 1071
income in any taxable year, but only to the extent such amount 1072

has not been distributed to beneficiaries for the taxable year. 1073

(10) Deduct any portion of the deduction described in 1074
section 1341(a)(2) of the Internal Revenue Code, for repaying 1075
previously reported income received under a claim of right, that 1076
meets both of the following requirements: 1077

(a) It is allowable for repayment of an item that was 1078
included in the taxpayer's taxable income or the decedent's 1079
adjusted gross income for a prior taxable year and did not 1080
qualify for a credit under division (A) or (B) of section 1081
5747.05 of the Revised Code for that year. 1082

(b) It does not otherwise reduce the taxpayer's taxable 1083
income or the decedent's adjusted gross income for the current 1084
or any other taxable year. 1085

(11) Add any amount claimed as a credit under section 1086
5747.059 of the Revised Code to the extent that the amount 1087
satisfies either of the following: 1088

(a) The amount was deducted or excluded from the 1089
computation of the taxpayer's federal taxable income as required 1090
to be reported for the taxpayer's taxable year under the 1091
Internal Revenue Code; 1092

(b) The amount resulted in a reduction in the taxpayer's 1093
federal taxable income as required to be reported for any of the 1094
taxpayer's taxable years under the Internal Revenue Code. 1095

(12) Deduct any amount, net of related expenses deducted 1096
in computing federal taxable income, that a trust is required to 1097
report as farm income on its federal income tax return, but only 1098
if the assets of the trust include at least ten acres of land 1099
satisfying the definition of "land devoted exclusively to 1100
agricultural use" under section 5713.30 of the Revised Code, 1101

regardless of whether the land is valued for tax purposes as 1102
such land under sections 5713.30 to 5713.38 of the Revised Code. 1103
If the trust is a pass-through entity investor, section 5747.231 1104
of the Revised Code applies in ascertaining if the trust is 1105
eligible to claim the deduction provided by division (S)(12) of 1106
this section in connection with the pass-through entity's farm 1107
income. 1108

Except for farm income attributable to the S portion of an 1109
electing small business trust, the deduction provided by 1110
division (S)(12) of this section is allowed only to the extent 1111
that the trust has not distributed such farm income. 1112

(13) Add the net amount of income described in section 1113
641(c) of the Internal Revenue Code to the extent that amount is 1114
not included in federal taxable income. 1115

(14) Deduct the amount the taxpayer would be required to 1116
deduct under division (A)(18) of this section if the taxpayer's 1117
Ohio taxable income ~~were~~was computed in the same manner as an 1118
individual's Ohio adjusted gross income is computed under this 1119
section. 1120

(15) Add, to the extent not otherwise included in 1121
computing taxable income or Ohio taxable income for any taxable 1122
year, the taxpayer's proportionate share of the amount of the 1123
tax levied under section 5747.38 of the Revised Code and paid by 1124
an electing pass-through entity for the taxable year. 1125

(16) Add any income taxes deducted in computing federal 1126
taxable income or Ohio taxable income to the extent the income 1127
taxes were derived from income subject to a tax levied in 1128
another state or the District of Columbia when such tax was 1129
enacted for purposes of complying with internal revenue service 1130

notice 2020-75. 1131

(T) "School district income" and "school district income 1132
tax" have the same meanings as in section 5748.01 of the Revised 1133
Code. 1134

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1135
(7) of this section, "public obligations," "purchase 1136
obligations," and "interest or interest equivalent" have the 1137
same meanings as in section 5709.76 of the Revised Code. 1138

(V) "Limited liability company" means any limited 1139
liability company formed under former Chapter 1705. of the 1140
Revised Code as that chapter existed prior to February 11, 2022, 1141
Chapter 1706. of the Revised Code, or the laws of any other 1142
state. 1143

(W) "Pass-through entity investor" means any person who, 1144
during any portion of a taxable year of a pass-through entity, 1145
is a partner, member, shareholder, or equity investor in that 1146
pass-through entity. 1147

(X) "Banking day" has the same meaning as in section 1148
1304.01 of the Revised Code. 1149

(Y) "Month" means a calendar month. 1150

(Z) "Quarter" means the first three months, the second 1151
three months, the third three months, or the last three months 1152
of the taxpayer's taxable year. 1153

(AA) (1) "Modified business income" means the business 1154
income included in a trust's Ohio taxable income after such 1155
taxable income is first reduced by the qualifying trust amount, 1156
if any. 1157

(2) "Qualifying trust amount" of a trust means capital 1158

gains and losses from the sale, exchange, or other disposition 1159
of equity or ownership interests in, or debt obligations of, a 1160
qualifying investee to the extent included in the trust's Ohio 1161
taxable income, but only if the following requirements are 1162
satisfied: 1163

(a) The book value of the qualifying investee's physical 1164
assets in this state and everywhere, as of the last day of the 1165
qualifying investee's fiscal or calendar year ending immediately 1166
prior to the date on which the trust recognizes the gain or 1167
loss, is available to the trust. 1168

(b) The requirements of section 5747.011 of the Revised 1169
Code are satisfied for the trust's taxable year in which the 1170
trust recognizes the gain or loss. 1171

Any gain or loss that is not a qualifying trust amount is 1172
modified business income, qualifying investment income, or 1173
modified nonbusiness income, as the case may be. 1174

(3) "Modified nonbusiness income" means a trust's Ohio 1175
taxable income other than modified business income, other than 1176
the qualifying trust amount, and other than qualifying 1177
investment income, as defined in section 5747.012 of the Revised 1178
Code, to the extent such qualifying investment income is not 1179
otherwise part of modified business income. 1180

(4) "Modified Ohio taxable income" applies only to trusts, 1181
and means the sum of the amounts described in divisions (AA) (4) 1182
(a) to (c) of this section: 1183

(a) The fraction, calculated under section 5747.013, and 1184
applying section 5747.231 of the Revised Code, multiplied by the 1185
sum of the following amounts: 1186

(i) The trust's modified business income; 1187

(ii) The trust's qualifying investment income, as defined 1188
in section 5747.012 of the Revised Code, but only to the extent 1189
the qualifying investment income does not otherwise constitute 1190
modified business income and does not otherwise constitute a 1191
qualifying trust amount. 1192

(b) The qualifying trust amount multiplied by a fraction, 1193
the numerator of which is the sum of the book value of the 1194
qualifying investee's physical assets in this state on the last 1195
day of the qualifying investee's fiscal or calendar year ending 1196
immediately prior to the day on which the trust recognizes the 1197
qualifying trust amount, and the denominator of which is the sum 1198
of the book value of the qualifying investee's total physical 1199
assets everywhere on the last day of the qualifying investee's 1200
fiscal or calendar year ending immediately prior to the day on 1201
which the trust recognizes the qualifying trust amount. If, for 1202
a taxable year, the trust recognizes a qualifying trust amount 1203
with respect to more than one qualifying investee, the amount 1204
described in division (AA) (4) (b) of this section shall equal the 1205
sum of the products so computed for each such qualifying 1206
investee. 1207

(c) (i) With respect to a trust or portion of a trust that 1208
is a resident as ascertained in accordance with division (I) (3) 1209
(d) of this section, its modified nonbusiness income. 1210

(ii) With respect to a trust or portion of a trust that is 1211
not a resident as ascertained in accordance with division (I) (3) 1212
(d) of this section, the amount of its modified nonbusiness 1213
income satisfying the descriptions in divisions (B) (2) to (5) of 1214
section 5747.20 of the Revised Code, except as otherwise 1215
provided in division (AA) (4) (c) (ii) of this section. With 1216
respect to a trust or portion of a trust that is not a resident 1217

as ascertained in accordance with division (I) (3) (d) of this 1218
section, the trust's portion of modified nonbusiness income 1219
recognized from the sale, exchange, or other disposition of a 1220
debt interest in or equity interest in a section 5747.212 1221
entity, as defined in section 5747.212 of the Revised Code, 1222
without regard to division (A) of that section, shall not be 1223
allocated to this state in accordance with section 5747.20 of 1224
the Revised Code but shall be apportioned to this state in 1225
accordance with division (B) of section 5747.212 of the Revised 1226
Code without regard to division (A) of that section. 1227

If the allocation and apportionment of a trust's income 1228
under divisions (AA) (4) (a) and (c) of this section do not fairly 1229
represent the modified Ohio taxable income of the trust in this 1230
state, the alternative methods described in division (C) of 1231
section 5747.21 of the Revised Code may be applied in the manner 1232
and to the same extent provided in that section. 1233

(5) (a) Except as set forth in division (AA) (5) (b) of this 1234
section, "qualifying investee" means a person in which a trust 1235
has an equity or ownership interest, or a person or unit of 1236
government the debt obligations of either of which are owned by 1237
a trust. For the purposes of division (AA) (2) (a) of this section 1238
and for the purpose of computing the fraction described in 1239
division (AA) (4) (b) of this section, all of the following apply: 1240

(i) If the qualifying investee is a member of a qualifying 1241
controlled group on the last day of the qualifying investee's 1242
fiscal or calendar year ending immediately prior to the date on 1243
which the trust recognizes the gain or loss, then "qualifying 1244
investee" includes all persons in the qualifying controlled 1245
group on such last day. 1246

(ii) If the qualifying investee, or if the qualifying 1247

investee and any members of the qualifying controlled group of 1248
which the qualifying investee is a member on the last day of the 1249
qualifying investee's fiscal or calendar year ending immediately 1250
prior to the date on which the trust recognizes the gain or 1251
loss, separately or cumulatively own, directly or indirectly, on 1252
the last day of the qualifying investee's fiscal or calendar 1253
year ending immediately prior to the date on which the trust 1254
recognizes the qualifying trust amount, more than fifty per cent 1255
of the equity of a pass-through entity, then the qualifying 1256
investee and the other members are deemed to own the 1257
proportionate share of the pass-through entity's physical assets 1258
which the pass-through entity directly or indirectly owns on the 1259
last day of the pass-through entity's calendar or fiscal year 1260
ending within or with the last day of the qualifying investee's 1261
fiscal or calendar year ending immediately prior to the date on 1262
which the trust recognizes the qualifying trust amount. 1263

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1264
section, "upper level pass-through entity" means a pass-through 1265
entity directly or indirectly owning any equity of another pass- 1266
through entity, and "lower level pass-through entity" means that 1267
other pass-through entity. 1268

An upper level pass-through entity, whether or not it is 1269
also a qualifying investee, is deemed to own, on the last day of 1270
the upper level pass-through entity's calendar or fiscal year, 1271
the proportionate share of the lower level pass-through entity's 1272
physical assets that the lower level pass-through entity 1273
directly or indirectly owns on the last day of the lower level 1274
pass-through entity's calendar or fiscal year ending within or 1275
with the last day of the upper level pass-through entity's 1276
fiscal or calendar year. If the upper level pass-through entity 1277
directly and indirectly owns less than fifty per cent of the 1278

equity of the lower level pass-through entity on each day of the 1279
upper level pass-through entity's calendar or fiscal year in 1280
which or with which ends the calendar or fiscal year of the 1281
lower level pass-through entity and if, based upon clear and 1282
convincing evidence, complete information about the location and 1283
cost of the physical assets of the lower pass-through entity is 1284
not available to the upper level pass-through entity, then 1285
solely for purposes of ascertaining if a gain or loss 1286
constitutes a qualifying trust amount, the upper level pass- 1287
through entity shall be deemed as owning no equity of the lower 1288
level pass-through entity for each day during the upper level 1289
pass-through entity's calendar or fiscal year in which or with 1290
which ends the lower level pass-through entity's calendar or 1291
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1292
shall be construed to provide for any deduction or exclusion in 1293
computing any trust's Ohio taxable income. 1294

(b) With respect to a trust that is not a resident for the 1295
taxable year and with respect to a part of a trust that is not a 1296
resident for the taxable year, "qualifying investee" for that 1297
taxable year does not include a C corporation if both of the 1298
following apply: 1299

(i) During the taxable year the trust or part of the trust 1300
recognizes a gain or loss from the sale, exchange, or other 1301
disposition of equity or ownership interests in, or debt 1302
obligations of, the C corporation. 1303

(ii) Such gain or loss constitutes nonbusiness income. 1304

(6) "Available" means information is such that a person is 1305
able to learn of the information by the due date plus 1306
extensions, if any, for filing the return for the taxable year 1307
in which the trust recognizes the gain or loss. 1308

(BB) "Qualifying controlled group" has the same meaning as 1309
in section 5733.04 of the Revised Code. 1310

(CC) "Related member" has the same meaning as in section 1311
5733.042 of the Revised Code. 1312

(DD) (1) For the purposes of division (DD) of this section: 1313

(a) "Qualifying person" means any person other than a 1314
qualifying corporation. 1315

(b) "Qualifying corporation" means any person classified 1316
for federal income tax purposes as an association taxable as a 1317
corporation, except either of the following: 1318

(i) A corporation that has made an election under 1319
subchapter S, chapter one, subtitle A, of the Internal Revenue 1320
Code for its taxable year ending within, or on the last day of, 1321
the investor's taxable year; 1322

(ii) A subsidiary that is wholly owned by any corporation 1323
that has made an election under subchapter S, chapter one, 1324
subtitle A of the Internal Revenue Code for its taxable year 1325
ending within, or on the last day of, the investor's taxable 1326
year. 1327

(2) For the purposes of this chapter, unless expressly 1328
stated otherwise, no qualifying person indirectly owns any asset 1329
directly or indirectly owned by any qualifying corporation. 1330

(EE) For purposes of this chapter and Chapter 5751. of the 1331
Revised Code: 1332

(1) "Trust" does not include a qualified pre-income tax 1333
trust. 1334

(2) A "qualified pre-income tax trust" is any pre-income 1335

tax trust that makes a qualifying pre-income tax trust election 1336
as described in division (EE) (3) of this section. 1337

(3) A "qualifying pre-income tax trust election" is an 1338
election by a pre-income tax trust to subject to the tax imposed 1339
by section 5751.02 of the Revised Code the pre-income tax trust 1340
and all pass-through entities of which the trust owns or 1341
controls, directly, indirectly, or constructively through 1342
related interests, five per cent or more of the ownership or 1343
equity interests. The trustee shall notify the tax commissioner 1344
in writing of the election on or before April 15, 2006. The 1345
election, if timely made, shall be effective on and after 1346
January 1, 2006, and shall apply for all tax periods and tax 1347
years until revoked by the trustee of the trust. 1348

(4) A "pre-income tax trust" is a trust that satisfies all 1349
of the following requirements: 1350

(a) The document or instrument creating the trust was 1351
executed by the grantor before January 1, 1972; 1352

(b) The trust became irrevocable upon the creation of the 1353
trust; and 1354

(c) The grantor was domiciled in this state at the time 1355
the trust was created. 1356

(FF) "Uniformed services" has the same meaning as in 10 1357
U.S.C. 101. 1358

(GG) "Taxable business income" means the amount by which 1359
an individual's business income that is included in federal 1360
adjusted gross income exceeds the amount of business income the 1361
individual is authorized to deduct under division (A) (28) of 1362
this section for the taxable year. 1363

(HH) "Employer" does not include a franchisor with respect 1364
to the franchisor's relationship with a franchisee or an 1365
employee of a franchisee, unless the franchisor agrees to assume 1366
that role in writing or a court of competent jurisdiction 1367
determines that the franchisor exercises a type or degree of 1368
control over the franchisee or the franchisee's employees that 1369
is not customarily exercised by a franchisor for the purpose of 1370
protecting the franchisor's trademark, brand, or both. For 1371
purposes of this division, "franchisor" and "franchisee" have 1372
the same meanings as in 16 C.F.R. 436.1. 1373

(II) "Modified adjusted gross income" means Ohio adjusted 1374
gross income plus any amount deducted under divisions (A) (28) 1375
and (34) of this section for the taxable year. 1376

(JJ) "Qualifying Ohio educator" means an individual who, 1377
for a taxable year, qualifies as an eligible educator, as that 1378
term is defined in section 62 of the Internal Revenue Code, and 1379
who holds a certificate, license, or permit described in Chapter 1380
3319. or section 3301.071 of the Revised Code. 1381

Section 2. That existing sections 1716.01 and 5747.01 of 1382
the Revised Code are hereby repealed. 1383

Section 3. The amendment by this act of section 5747.01 of 1384
the Revised Code applies to taxable years ending on or after the 1385
effective date of this section. 1386

Section 4. The amendment or enactment by this act of 1387
sections 1716.01, 1716.22, 3333.96, and 5747.01 of the Revised 1388
Code shall be known as the Health Care Sharing Ministries 1389
Freedom to Share Act. 1390