

As Introduced

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Representatives Fischer, Santucci

**Cosponsors: Representatives Ferguson, Lorenz, Thomas, D., Williams, King,
Gross, Dean, Creech, Schmidt, Johnson, Brennan, Miller, K., Klopfenstein**

A BILL

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

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

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

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

As used in this chapter: 15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of such depreciation expense;	252
(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.	253 254 255
(b) If the amount deducted under division (A) (18) (a) of this section is attributable to an add-back allocated under division (A) (17) (c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.	256 257 258 259 260 261 262 263
(c) No deduction is available under division (A) (18) (a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A) (18) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A) (17) (a) of this section has been deducted.	264 265 266 267 268 269 270 271 272 273 274 275 276
(19) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.	277 278 279 280 281

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Code. 401

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

(32) Deduct, to the extent not otherwise deducted or 411
excluded in computing federal or Ohio adjusted gross income for 412
the taxable year, amounts received by the taxpayer as a 413
disability severance payment, computed under 10 U.S.C. 1212, 414
following discharge or release under honorable conditions from 415
the armed forces of the United States, as defined in section 416
5907.01 of the Revised Code. 417

(33) Deduct, to the extent not otherwise deducted or 418
excluded in computing federal adjusted gross income or Ohio 419
adjusted gross income, amounts not subject to tax due to an 420
agreement entered into under division (A)(2) of section 5747.05 421
of the Revised Code. 422

(34) Deduct amounts as provided under section 5747.79 of 423
the Revised Code related to the taxpayer's qualifying capital 424
gains and deductible payroll. 425

To the extent a qualifying capital gain described under 426
division (A)(34) of this section is business income, the 427
taxpayer shall deduct those gains under this division before 428
deducting any such gains under division (A)(28) of this section. 429

(35) (a) For taxable years beginning in or after 2026, 430
deduct, to the extent not otherwise deducted or excluded in 431
computing federal or Ohio adjusted gross income for the taxable 432
year: 433

(i) One hundred per cent of the capital gain received by 434
the taxpayer in the taxable year from a qualifying interest in 435
an Ohio venture capital operating company attributable to the 436
company's investments in Ohio businesses during the period for 437
which the company was an Ohio venture operating company; and 438

(ii) Fifty per cent of the capital gain received by the 439
taxpayer in the taxable year from a qualifying interest in an 440
Ohio venture capital operating company attributable to the 441
company's investments in all other businesses during the period 442
for which the company was an Ohio venture operating company. 443

(b) Add amounts previously deducted by the taxpayer under 444
division (A) (35) (a) of this section if the director of 445
development certifies to the tax commissioner that the 446
requirements for the deduction were not met. 447

(c) All terms used in division (A) (35) of this section 448
have the same meanings as in section 122.851 of the Revised 449
Code. 450

(d) To the extent a capital gain described in division (A) 451
(35) (a) of this section is business income, the taxpayer shall 452
apply that division before applying division (A) (28) of this 453
section. 454

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

an electing pass-through entity for the taxable year. 459

Notwithstanding any provision of the Revised Code to the 460
contrary, the portion of the addition required by division (A) 461
(36) of this section related to the apportioned business income 462
of the pass-through entity shall be considered business income 463
under division (B) of this section. Such addition is eligible 464
for the deduction in division (A) (28) of this section, subject 465
to the applicable dollar limitations, and the tax rate 466
prescribed by division (A) (4) (a) of section 5747.02 of the 467
Revised Code. The taxpayer shall provide, upon request of the 468
tax commissioner, any documentation necessary to verify the 469
portion of the addition that is business income under this 470
division. 471

(37) Deduct, to the extent not otherwise deducted or 472
excluded in computing federal or Ohio adjusted gross income for 473
the taxable year, amounts delivered to a qualifying institution 474
pursuant to section 3333.128 of the Revised Code for the benefit 475
of the taxpayer or the taxpayer's spouse or dependent. 476

(38) Deduct, to the extent not otherwise deducted or 477
excluded in computing federal or Ohio adjusted gross income for 478
the taxable year, amounts received under the Ohio adoption grant 479
program pursuant to section 5101.191 of the Revised Code. 480

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

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

portion of the addition that is business income under this 518
division. 519

(42) Deduct amounts contributed to a homeownership savings 520
account and calculated pursuant to divisions (B) and (C) of 521
section 5747.85 of the Revised Code. 522

(43) If the taxpayer is the account owner, add the amount 523
of funds withdrawn from a homeownership savings account not used 524
for eligible expenses, regardless of who deposited those funds. 525
As used in division (A) (43) of this section, "homeownership 526
savings account," "account owner," and "eligible expenses" have 527
the same meanings as in section 5747.85 of the Revised Code. 528

(44) Deduct, for the first taxable year ending after the 529
effective date of this amendment and for each of the following 530
seven taxable years, overtime wages paid in accordance with 531
section 4111.03 of the Revised Code or 29 U.S.C. 207, but only 532
to the extent not otherwise deducted or excluded in computing 533
federal or Ohio adjusted gross income for that taxable year. 534

(B) "Business income" means income, including gain or 535
loss, arising from transactions, activities, and sources in the 536
regular course of a trade or business and includes income, gain, 537
or loss from real property, tangible property, and intangible 538
property if the acquisition, rental, management, and disposition 539
of the property constitute integral parts of the regular course 540
of a trade or business operation. "Business income" includes 541
income, including gain or loss, from a partial or complete 542
liquidation of a business, including, but not limited to, gain 543
or loss from the sale or other disposition of goodwill or the 544
sale of an equity or ownership interest in a business. 545

As used in this division, the "sale of an equity or 546

ownership interest in a business" means sales to which either or	547
both of the following apply:	548
(1) The sale is treated for federal income tax purposes as	549
the sale of assets.	550
(2) The seller materially participated, as described in 26	551
C.F.R. 1.469-5T, in the activities of the business during the	552
taxable year in which the sale occurs or during any of the five	553
preceding taxable years.	554
(C) "Nonbusiness income" means all income other than	555
business income and may include, but is not limited to,	556
compensation, rents and royalties from real or tangible personal	557
property, capital gains, interest, dividends and distributions,	558
patent or copyright royalties, or lottery winnings, prizes, and	559
awards.	560
(D) "Compensation" means any form of remuneration paid to	561
an employee for personal services.	562
(E) "Fiduciary" means a guardian, trustee, executor,	563
administrator, receiver, conservator, or any other person acting	564
in any fiduciary capacity for any individual, trust, or estate.	565
(F) "Fiscal year" means an accounting period of twelve	566
months ending on the last day of any month other than December.	567
(G) "Individual" means any natural person.	568
(H) "Internal Revenue Code" means the "Internal Revenue	569
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	570
(I) "Resident" means any of the following:	571
(1) An individual who is domiciled in this state, subject	572
to section 5747.24 of the Revised Code;	573

(2) The estate of a decedent who at the time of death was 574
domiciled in this state. The domicile tests of section 5747.24 575
of the Revised Code are not controlling for purposes of division 576
(I) (2) of this section. 577

(3) A trust that, in whole or part, resides in this state. 578
If only part of a trust resides in this state, the trust is a 579
resident only with respect to that part. 580

For the purposes of division (I) (3) of this section: 581

(a) A trust resides in this state for the trust's current 582
taxable year to the extent, as described in division (I) (3) (d) 583
of this section, that the trust consists directly or indirectly, 584
in whole or in part, of assets, net of any related liabilities, 585
that were transferred, or caused to be transferred, directly or 586
indirectly, to the trust by any of the following: 587

(i) A person, a court, or a governmental entity or 588
instrumentality on account of the death of a decedent, but only 589
if the trust is described in division (I) (3) (e) (i) or (ii) of 590
this section; 591

(ii) A person who was domiciled in this state for the 592
purposes of this chapter when the person directly or indirectly 593
transferred assets to an irrevocable trust, but only if at least 594
one of the trust's qualifying beneficiaries is domiciled in this 595
state for the purposes of this chapter during all or some 596
portion of the trust's current taxable year; 597

(iii) A person who was domiciled in this state for the 598
purposes of this chapter when the trust document or instrument 599
or part of the trust document or instrument became irrevocable, 600
but only if at least one of the trust's qualifying beneficiaries 601
is a resident domiciled in this state for the purposes of this 602

chapter during all or some portion of the trust's current 603
taxable year. If a trust document or instrument became 604
irrevocable upon the death of a person who at the time of death 605
was domiciled in this state for purposes of this chapter, that 606
person is a person described in division (I) (3) (a) (iii) of this 607
section. 608

(b) A trust is irrevocable to the extent that the 609
transferor is not considered to be the owner of the net assets 610
of the trust under sections 671 to 678 of the Internal Revenue 611
Code. 612

(c) With respect to a trust other than a charitable lead 613
trust, "qualifying beneficiary" has the same meaning as 614
"potential current beneficiary" as defined in section 1361(e) (2) 615
of the Internal Revenue Code, and with respect to a charitable 616
lead trust "qualifying beneficiary" is any current, future, or 617
contingent beneficiary, but with respect to any trust 618
"qualifying beneficiary" excludes a person or a governmental 619
entity or instrumentality to any of which a contribution would 620
qualify for the charitable deduction under section 170 of the 621
Internal Revenue Code. 622

(d) For the purposes of division (I) (3) (a) of this 623
section, the extent to which a trust consists directly or 624
indirectly, in whole or in part, of assets, net of any related 625
liabilities, that were transferred directly or indirectly, in 626
whole or part, to the trust by any of the sources enumerated in 627
that division shall be ascertained by multiplying the fair 628
market value of the trust's assets, net of related liabilities, 629
by the qualifying ratio, which shall be computed as follows: 630

(i) The first time the trust receives assets, the 631
numerator of the qualifying ratio is the fair market value of 632

those assets at that time, net of any related liabilities, from 633
sources enumerated in division (I) (3) (a) of this section. The 634
denominator of the qualifying ratio is the fair market value of 635
all the trust's assets at that time, net of any related 636
liabilities. 637

(ii) Each subsequent time the trust receives assets, a 638
revised qualifying ratio shall be computed. The numerator of the 639
revised qualifying ratio is the sum of (1) the fair market value 640
of the trust's assets immediately prior to the subsequent 641
transfer, net of any related liabilities, multiplied by the 642
qualifying ratio last computed without regard to the subsequent 643
transfer, and (2) the fair market value of the subsequently 644
transferred assets at the time transferred, net of any related 645
liabilities, from sources enumerated in division (I) (3) (a) of 646
this section. The denominator of the revised qualifying ratio is 647
the fair market value of all the trust's assets immediately 648
after the subsequent transfer, net of any related liabilities. 649

(iii) Whether a transfer to the trust is by or from any of 650
the sources enumerated in division (I) (3) (a) of this section 651
shall be ascertained without regard to the domicile of the 652
trust's beneficiaries. 653

(e) For the purposes of division (I) (3) (a) (i) of this 654
section: 655

(i) A trust is described in division (I) (3) (e) (i) of this 656
section if the trust is a testamentary trust and the testator of 657
that testamentary trust was domiciled in this state at the time 658
of the testator's death for purposes of the taxes levied under 659
Chapter 5731. of the Revised Code. 660

(ii) A trust is described in division (I) (3) (e) (ii) of 661

this section if the transfer is a qualifying transfer described 662
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 663
trust is an irrevocable inter vivos trust, and at least one of 664
the trust's qualifying beneficiaries is domiciled in this state 665
for purposes of this chapter during all or some portion of the 666
trust's current taxable year. 667

(f) For the purposes of division (I) (3) (e) (ii) of this 668
section, a "qualifying transfer" is a transfer of assets, net of 669
any related liabilities, directly or indirectly to a trust, if 670
the transfer is described in any of the following: 671

(i) The transfer is made to a trust, created by the 672
decedent before the decedent's death and while the decedent was 673
domiciled in this state for the purposes of this chapter, and, 674
prior to the death of the decedent, the trust became irrevocable 675
while the decedent was domiciled in this state for the purposes 676
of this chapter. 677

(ii) The transfer is made to a trust to which the 678
decedent, prior to the decedent's death, had directly or 679
indirectly transferred assets, net of any related liabilities, 680
while the decedent was domiciled in this state for the purposes 681
of this chapter, and prior to the death of the decedent the 682
trust became irrevocable while the decedent was domiciled in 683
this state for the purposes of this chapter. 684

(iii) The transfer is made on account of a contractual 685
relationship existing directly or indirectly between the 686
transferor and either the decedent or the estate of the decedent 687
at any time prior to the date of the decedent's death, and the 688
decedent was domiciled in this state at the time of death for 689
purposes of the taxes levied under Chapter 5731. of the Revised 690
Code. 691

(iv) The transfer is made to a trust on account of a 692
contractual relationship existing directly or indirectly between 693
the transferor and another person who at the time of the 694
decedent's death was domiciled in this state for purposes of 695
this chapter. 696

(v) The transfer is made to a trust on account of the will 697
of a testator who was domiciled in this state at the time of the 698
testator's death for purposes of the taxes levied under Chapter 699
5731. of the Revised Code. 700

(vi) The transfer is made to a trust created by or caused 701
to be created by a court, and the trust was directly or 702
indirectly created in connection with or as a result of the 703
death of an individual who, for purposes of the taxes levied 704
under Chapter 5731. of the Revised Code, was domiciled in this 705
state at the time of the individual's death. 706

(g) The tax commissioner may adopt rules to ascertain the 707
part of a trust residing in this state. 708

(J) "Nonresident" means an individual or estate that is 709
not a resident. An individual who is a resident for only part of 710
a taxable year is a nonresident for the remainder of that 711
taxable year. 712

(K) "Pass-through entity" has the same meaning as in 713
section 5733.04 of the Revised Code. 714

(L) "Return" means the notifications and reports required 715
to be filed pursuant to this chapter for the purpose of 716
reporting the tax due and includes declarations of estimated tax 717
when so required. 718

(M) "Taxable year" means the calendar year or the 719
taxpayer's fiscal year ending during the calendar year, or 720

fractional part thereof, upon which the adjusted gross income is 721
calculated pursuant to this chapter. 722

(N) "Taxpayer" means any person subject to the tax imposed 723
by section 5747.02 of the Revised Code or any pass-through 724
entity that makes the election under division (D) of section 725
5747.08 of the Revised Code. 726

(O) "Dependents" means one of the following: 727

(1) For taxable years beginning on or after January 1, 728
2018, and before January 1, 2026, dependents as defined in the 729
Internal Revenue Code; 730

(2) For all other taxable years, dependents as defined in 731
the Internal Revenue Code and as claimed in the taxpayer's 732
federal income tax return for the taxable year or which the 733
taxpayer would have been permitted to claim had the taxpayer 734
filed a federal income tax return. 735

(P) "Principal county of employment" means, in the case of 736
a nonresident, the county within the state in which a taxpayer 737
performs services for an employer or, if those services are 738
performed in more than one county, the county in which the major 739
portion of the services are performed. 740

(Q) As used in sections 5747.50 to 5747.55 of the Revised 741
Code: 742

(1) "Subdivision" means any county, municipal corporation, 743
park district, or township. 744

(2) "Essential local government purposes" includes all 745
functions that any subdivision is required by general law to 746
exercise, including like functions that are exercised under a 747
charter adopted pursuant to the Ohio Constitution. 748

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

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

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

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

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

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

(3) Add the amount of personal exemption allowed to the	778
estate pursuant to section 642(b) of the Internal Revenue Code;	779
(4) Deduct interest or dividends, net of related expenses	780
deducted in computing federal taxable income, on obligations of	781
the United States and its territories and possessions or of any	782
authority, commission, or instrumentality of the United States	783
to the extent that the interest or dividends are exempt from	784
state taxes under the laws of the United States, but only to the	785
extent that such amount is included in federal taxable income	786
and is described in either division (S) (1) (a) or (b) of this	787
section;	788
(5) Deduct the amount of wages and salaries, if any, not	789
otherwise allowable as a deduction but that would have been	790
allowable as a deduction in computing federal taxable income for	791
the taxable year, had the work opportunity tax credit allowed	792
under sections 38, 51, and 52 of the Internal Revenue Code not	793
been in effect, but only to the extent such amount relates	794
either to income included in federal taxable income for the	795
taxable year or to income of the S portion of an electing small	796
business trust for the taxable year;	797
(6) Deduct any interest or interest equivalent, net of	798
related expenses deducted in computing federal taxable income,	799
on public obligations and purchase obligations, but only to the	800
extent that such net amount relates either to income included in	801
federal taxable income for the taxable year or to income of the	802
S portion of an electing small business trust for the taxable	803
year;	804
(7) Add any loss or deduct any gain resulting from sale,	805
exchange, or other disposition of public obligations to the	806
extent that such loss has been deducted or such gain has been	807

included in computing either federal taxable income or income of 808
the S portion of an electing small business trust for the 809
taxable year; 810

(8) Except in the case of the final return of an estate, 811
add any amount deducted by the taxpayer on both its Ohio estate 812
tax return pursuant to section 5731.14 of the Revised Code, and 813
on its federal income tax return in determining federal taxable 814
income; 815

(9) (a) Deduct any amount included in federal taxable 816
income solely because the amount represents a reimbursement or 817
refund of expenses that in a previous year the decedent had 818
deducted as an itemized deduction pursuant to section 63 of the 819
Internal Revenue Code and applicable treasury regulations. The 820
deduction otherwise allowed under division (S) (9) (a) of this 821
section shall be reduced to the extent the reimbursement is 822
attributable to an amount the taxpayer or decedent deducted 823
under this section in any taxable year. 824

(b) Add any amount not otherwise included in Ohio taxable 825
income for any taxable year to the extent that the amount is 826
attributable to the recovery during the taxable year of any 827
amount deducted or excluded in computing federal or Ohio taxable 828
income in any taxable year, but only to the extent such amount 829
has not been distributed to beneficiaries for the taxable year. 830

(10) Deduct any portion of the deduction described in 831
section 1341(a) (2) of the Internal Revenue Code, for repaying 832
previously reported income received under a claim of right, that 833
meets both of the following requirements: 834

(a) It is allowable for repayment of an item that was 835
included in the taxpayer's taxable income or the decedent's 836

adjusted gross income for a prior taxable year and did not 837
qualify for a credit under division (A) or (B) of section 838
5747.05 of the Revised Code for that year. 839

(b) It does not otherwise reduce the taxpayer's taxable 840
income or the decedent's adjusted gross income for the current 841
or any other taxable year. 842

(11) Add any amount claimed as a credit under section 843
5747.059 of the Revised Code to the extent that the amount 844
satisfies either of the following: 845

(a) The amount was deducted or excluded from the 846
computation of the taxpayer's federal taxable income as required 847
to be reported for the taxpayer's taxable year under the 848
Internal Revenue Code; 849

(b) The amount resulted in a reduction in the taxpayer's 850
federal taxable income as required to be reported for any of the 851
taxpayer's taxable years under the Internal Revenue Code. 852

(12) Deduct any amount, net of related expenses deducted 853
in computing federal taxable income, that a trust is required to 854
report as farm income on its federal income tax return, but only 855
if the assets of the trust include at least ten acres of land 856
satisfying the definition of "land devoted exclusively to 857
agricultural use" under section 5713.30 of the Revised Code, 858
regardless of whether the land is valued for tax purposes as 859
such land under sections 5713.30 to 5713.38 of the Revised Code. 860
If the trust is a pass-through entity investor, section 5747.231 861
of the Revised Code applies in ascertaining if the trust is 862
eligible to claim the deduction provided by division (S)(12) of 863
this section in connection with the pass-through entity's farm 864
income. 865

Except for farm income attributable to the S portion of an 866
electing small business trust, the deduction provided by 867
division (S) (12) of this section is allowed only to the extent 868
that the trust has not distributed such farm income. 869

(13) Add the net amount of income described in section 870
641(c) of the Internal Revenue Code to the extent that amount is 871
not included in federal taxable income. 872

(14) Deduct the amount the taxpayer would be required to 873
deduct under division (A) (18) of this section if the taxpayer's 874
Ohio taxable income ~~were~~ was computed in the same manner as an 875
individual's Ohio adjusted gross income is computed under this 876
section. 877

(15) Add, to the extent not otherwise included in 878
computing taxable income or Ohio taxable income for any taxable 879
year, the taxpayer's proportionate share of the amount of the 880
tax levied under section 5747.38 of the Revised Code and paid by 881
an electing pass-through entity for the taxable year. 882

(16) Add any income taxes deducted in computing federal 883
taxable income or Ohio taxable income to the extent the income 884
taxes were derived from income subject to a tax levied in 885
another state or the District of Columbia when such tax was 886
enacted for purposes of complying with internal revenue service 887
notice 2020-75. 888

(T) "School district income" and "school district income 889
tax" have the same meanings as in section 5748.01 of the Revised 890
Code. 891

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 892
(7) of this section, "public obligations," "purchase 893
obligations," and "interest or interest equivalent" have the 894

same meanings as in section 5709.76 of the Revised Code. 895

(V) "Limited liability company" means any limited 896
liability company formed under former Chapter 1705. of the 897
Revised Code as that chapter existed prior to February 11, 2022, 898
Chapter 1706. of the Revised Code, or the laws of any other 899
state. 900

(W) "Pass-through entity investor" means any person who, 901
during any portion of a taxable year of a pass-through entity, 902
is a partner, member, shareholder, or equity investor in that 903
pass-through entity. 904

(X) "Banking day" has the same meaning as in section 905
1304.01 of the Revised Code. 906

(Y) "Month" means a calendar month. 907

(Z) "Quarter" means the first three months, the second 908
three months, the third three months, or the last three months 909
of the taxpayer's taxable year. 910

(AA) (1) "Modified business income" means the business 911
income included in a trust's Ohio taxable income after such 912
taxable income is first reduced by the qualifying trust amount, 913
if any. 914

(2) "Qualifying trust amount" of a trust means capital 915
gains and losses from the sale, exchange, or other disposition 916
of equity or ownership interests in, or debt obligations of, a 917
qualifying investee to the extent included in the trust's Ohio 918
taxable income, but only if the following requirements are 919
satisfied: 920

(a) The book value of the qualifying investee's physical 921
assets in this state and everywhere, as of the last day of the 922

qualifying investee's fiscal or calendar year ending immediately 923
prior to the date on which the trust recognizes the gain or 924
loss, is available to the trust. 925

(b) The requirements of section 5747.011 of the Revised 926
Code are satisfied for the trust's taxable year in which the 927
trust recognizes the gain or loss. 928

Any gain or loss that is not a qualifying trust amount is 929
modified business income, qualifying investment income, or 930
modified nonbusiness income, as the case may be. 931

(3) "Modified nonbusiness income" means a trust's Ohio 932
taxable income other than modified business income, other than 933
the qualifying trust amount, and other than qualifying 934
investment income, as defined in section 5747.012 of the Revised 935
Code, to the extent such qualifying investment income is not 936
otherwise part of modified business income. 937

(4) "Modified Ohio taxable income" applies only to trusts, 938
and means the sum of the amounts described in divisions (AA) (4) 939
(a) to (c) of this section: 940

(a) The fraction, calculated under section 5747.013, and 941
applying section 5747.231 of the Revised Code, multiplied by the 942
sum of the following amounts: 943

(i) The trust's modified business income; 944

(ii) The trust's qualifying investment income, as defined 945
in section 5747.012 of the Revised Code, but only to the extent 946
the qualifying investment income does not otherwise constitute 947
modified business income and does not otherwise constitute a 948
qualifying trust amount. 949

(b) The qualifying trust amount multiplied by a fraction, 950

the numerator of which is the sum of the book value of the 951
qualifying investee's physical assets in this state on the last 952
day of the qualifying investee's fiscal or calendar year ending 953
immediately prior to the day on which the trust recognizes the 954
qualifying trust amount, and the denominator of which is the sum 955
of the book value of the qualifying investee's total physical 956
assets everywhere on the last day of the qualifying investee's 957
fiscal or calendar year ending immediately prior to the day on 958
which the trust recognizes the qualifying trust amount. If, for 959
a taxable year, the trust recognizes a qualifying trust amount 960
with respect to more than one qualifying investee, the amount 961
described in division (AA) (4) (b) of this section shall equal the 962
sum of the products so computed for each such qualifying 963
investee. 964

(c) (i) With respect to a trust or portion of a trust that 965
is a resident as ascertained in accordance with division (I) (3) 966
(d) of this section, its modified nonbusiness income. 967

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

the Revised Code but shall be apportioned to this state in 982
accordance with division (B) of section 5747.212 of the Revised 983
Code without regard to division (A) of that section. 984

If the allocation and apportionment of a trust's income 985
under divisions (AA) (4) (a) and (c) of this section do not fairly 986
represent the modified Ohio taxable income of the trust in this 987
state, the alternative methods described in division (C) of 988
section 5747.21 of the Revised Code may be applied in the manner 989
and to the same extent provided in that section. 990

(5) (a) Except as set forth in division (AA) (5) (b) of this 991
section, "qualifying investee" means a person in which a trust 992
has an equity or ownership interest, or a person or unit of 993
government the debt obligations of either of which are owned by 994
a trust. For the purposes of division (AA) (2) (a) of this section 995
and for the purpose of computing the fraction described in 996
division (AA) (4) (b) of this section, all of the following apply: 997

(i) If the qualifying investee is a member of a qualifying 998
controlled group on the last day of the qualifying investee's 999
fiscal or calendar year ending immediately prior to the date on 1000
which the trust recognizes the gain or loss, then "qualifying 1001
investee" includes all persons in the qualifying controlled 1002
group on such last day. 1003

(ii) If the qualifying investee, or if the qualifying 1004
investee and any members of the qualifying controlled group of 1005
which the qualifying investee is a member on the last day of the 1006
qualifying investee's fiscal or calendar year ending immediately 1007
prior to the date on which the trust recognizes the gain or 1008
loss, separately or cumulatively own, directly or indirectly, on 1009
the last day of the qualifying investee's fiscal or calendar 1010
year ending immediately prior to the date on which the trust 1011

recognizes the qualifying trust amount, more than fifty per cent 1012
of the equity of a pass-through entity, then the qualifying 1013
investee and the other members are deemed to own the 1014
proportionate share of the pass-through entity's physical assets 1015
which the pass-through entity directly or indirectly owns on the 1016
last day of the pass-through entity's calendar or fiscal year 1017
ending within or with the last day of the qualifying investee's 1018
fiscal or calendar year ending immediately prior to the date on 1019
which the trust recognizes the qualifying trust amount. 1020

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1021
section, "upper level pass-through entity" means a pass-through 1022
entity directly or indirectly owning any equity of another pass- 1023
through entity, and "lower level pass-through entity" means that 1024
other pass-through entity. 1025

An upper level pass-through entity, whether or not it is 1026
also a qualifying investee, is deemed to own, on the last day of 1027
the upper level pass-through entity's calendar or fiscal year, 1028
the proportionate share of the lower level pass-through entity's 1029
physical assets that the lower level pass-through entity 1030
directly or indirectly owns on the last day of the lower level 1031
pass-through entity's calendar or fiscal year ending within or 1032
with the last day of the upper level pass-through entity's 1033
fiscal or calendar year. If the upper level pass-through entity 1034
directly and indirectly owns less than fifty per cent of the 1035
equity of the lower level pass-through entity on each day of the 1036
upper level pass-through entity's calendar or fiscal year in 1037
which or with which ends the calendar or fiscal year of the 1038
lower level pass-through entity and if, based upon clear and 1039
convincing evidence, complete information about the location and 1040
cost of the physical assets of the lower pass-through entity is 1041
not available to the upper level pass-through entity, then 1042

solely for purposes of ascertaining if a gain or loss 1043
constitutes a qualifying trust amount, the upper level pass- 1044
through entity shall be deemed as owning no equity of the lower 1045
level pass-through entity for each day during the upper level 1046
pass-through entity's calendar or fiscal year in which or with 1047
which ends the lower level pass-through entity's calendar or 1048
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1049
shall be construed to provide for any deduction or exclusion in 1050
computing any trust's Ohio taxable income. 1051

(b) With respect to a trust that is not a resident for the 1052
taxable year and with respect to a part of a trust that is not a 1053
resident for the taxable year, "qualifying investee" for that 1054
taxable year does not include a C corporation if both of the 1055
following apply: 1056

(i) During the taxable year the trust or part of the trust 1057
recognizes a gain or loss from the sale, exchange, or other 1058
disposition of equity or ownership interests in, or debt 1059
obligations of, the C corporation. 1060

(ii) Such gain or loss constitutes nonbusiness income. 1061

(6) "Available" means information is such that a person is 1062
able to learn of the information by the due date plus 1063
extensions, if any, for filing the return for the taxable year 1064
in which the trust recognizes the gain or loss. 1065

(BB) "Qualifying controlled group" has the same meaning as 1066
in section 5733.04 of the Revised Code. 1067

(CC) "Related member" has the same meaning as in section 1068
5733.042 of the Revised Code. 1069

(DD) (1) For the purposes of division (DD) of this section: 1070

(a) "Qualifying person" means any person other than a qualifying corporation.	1071 1072
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1073 1074 1075
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	1076 1077 1078 1079
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	1080 1081 1082 1083 1084
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	1085 1086 1087
(EE) For purposes of this chapter and Chapter 5751. of the Revised Code:	1088 1089
(1) "Trust" does not include a qualified pre-income tax trust.	1090 1091
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (EE) (3) of this section.	1092 1093 1094
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or	1095 1096 1097 1098

controls, directly, indirectly, or constructively through 1099
related interests, five per cent or more of the ownership or 1100
equity interests. The trustee shall notify the tax commissioner 1101
in writing of the election on or before April 15, 2006. The 1102
election, if timely made, shall be effective on and after 1103
January 1, 2006, and shall apply for all tax periods and tax 1104
years until revoked by the trustee of the trust. 1105

(4) A "pre-income tax trust" is a trust that satisfies all 1106
of the following requirements: 1107

(a) The document or instrument creating the trust was 1108
executed by the grantor before January 1, 1972; 1109

(b) The trust became irrevocable upon the creation of the 1110
trust; and 1111

(c) The grantor was domiciled in this state at the time 1112
the trust was created. 1113

(FF) "Uniformed services" means all of the following: 1114

(1) "Armed forces of the United States" as defined in 1115
section 5907.01 of the Revised Code; 1116

(2) The commissioned corps of the national oceanic and 1117
atmospheric administration; 1118

(3) The commissioned corps of the public health service. 1119

(GG) "Taxable business income" means the amount by which 1120
an individual's business income that is included in federal 1121
adjusted gross income exceeds the amount of business income the 1122
individual is authorized to deduct under division (A) (28) of 1123
this section for the taxable year. 1124

(HH) "Employer" does not include a franchisor with respect 1125

to the franchisor's relationship with a franchisee or an 1126
employee of a franchisee, unless the franchisor agrees to assume 1127
that role in writing or a court of competent jurisdiction 1128
determines that the franchisor exercises a type or degree of 1129
control over the franchisee or the franchisee's employees that 1130
is not customarily exercised by a franchisor for the purpose of 1131
protecting the franchisor's trademark, brand, or both. For 1132
purposes of this division, "franchisor" and "franchisee" have 1133
the same meanings as in 16 C.F.R. 436.1. 1134

(II) "Modified adjusted gross income" means Ohio adjusted 1135
gross income plus any amount deducted under divisions (A) (28)– 1136
~~and, (34), and (44)~~ of this section for the taxable year. 1137

(JJ) "Qualifying Ohio educator" means an individual who, 1138
for a taxable year, qualifies as an eligible educator, as that 1139
term is defined in section 62 of the Internal Revenue Code, and 1140
who holds a certificate, license, or permit described in Chapter 1141
3319. or section 3301.071 of the Revised Code. 1142

Section 2. That existing section 5747.01 of the Revised 1143
Code is hereby repealed. 1144

Section 3. The amendment by this act of section 5747.01 of 1145
the Revised Code applies to taxable years ending on or after the 1146
effective date of this section. 1147

Section 4. Section 5747.01 of the Revised Code is 1148
presented in this act as a composite of the section as amended 1149
by both H.B. 101 and S.B. 154 of the 135th General Assembly. The 1150
General Assembly, applying the principle stated in division (B) 1151
of section 1.52 of the Revised Code that amendments are to be 1152
harmonized if reasonably capable of simultaneous operation, 1153
finds that the composite is the resulting version of the section 1154

in effect prior to the effective date of the section as
presented in this act.

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