

As Introduced

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Representatives Williams, Jarrells

Cosponsors: Representatives Salvo, Brennan, Lear, Klopfenstein, Teska, Thomas, D., Gross, Ray, Newman, Willis, King, Johnson, Ritter, Mathews, A., Click, Daniels, Lorenz, Mathews, T., Bird, John, Claggett, Plummer, Miller, M., Schmidt, Barhorst, McClain, Hall, T., LaRe

To amend section 5747.01 of the Revised Code to	1
allow a personal income tax deduction for	2
certain donations to churches and to name this	3
act the Tithing Protection Act.	4

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

Section 1. That section 5747.01 of the Revised Code be	5
amended to read as follows:	6

Sec. 5747.01. Except as otherwise expressly provided or	7
clearly appearing from the context, any term used in this	8
chapter that is not otherwise defined in this section has the	9
same meaning as when used in a comparable context in the laws of	10
the United States relating to federal income taxes or if not	11
used in a comparable context in those laws, has the same meaning	12
as in section 5733.40 of the Revised Code. Any reference in this	13
chapter to the Internal Revenue Code includes other laws of the	14
United States relating to federal income taxes.	15

As used in this chapter:	16
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(A) "Adjusted gross income" or "Ohio adjusted gross	17
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income" means federal adjusted gross income, as defined and used 18
in the Internal Revenue Code, adjusted as provided in this 19
section: 20

(1) Add interest or dividends on obligations or securities 21
of any state or of any political subdivision or authority of any 22
state, other than this state and its subdivisions and 23
authorities. 24

(2) Add interest or dividends on obligations of any 25
authority, commission, instrumentality, territory, or possession 26
of the United States to the extent that the interest or 27
dividends are exempt from federal income taxes but not from 28
state income taxes. 29

(3) Deduct interest or dividends on obligations of the 30
United States and its territories and possessions or of any 31
authority, commission, or instrumentality of the United States 32
to the extent that the interest or dividends are included in 33
federal adjusted gross income but exempt from state income taxes 34
under the laws of the United States. 35

(4) Deduct disability and survivor's benefits to the 36
extent included in federal adjusted gross income. 37

(5) Deduct the following, to the extent not otherwise 38
deducted or excluded in computing federal or Ohio adjusted gross 39
income: 40

(a) Benefits under Title II of the Social Security Act and 41
tier 1 railroad retirement; 42

(b) Railroad retirement benefits, other than tier 1 43
railroad retirement benefits, to the extent such amounts are 44
exempt from state taxation under federal law. 45

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

(7) Deduct any interest or interest equivalent on public 52
obligations and purchase obligations to the extent that the 53
interest or interest equivalent is included in federal adjusted 54
gross income. 55

(8) Add any loss or deduct any gain resulting from the 56
sale, exchange, or other disposition of public obligations to 57
the extent that the loss has been deducted or the gain has been 58
included in computing federal adjusted gross income. 59

(9) Deduct or add amounts, as provided under section 60
5747.70 of the Revised Code, related to contributions made to or 61
tuition units purchased under a qualified tuition program 62
established pursuant to section 529 of the Internal Revenue 63
Code. 64

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

under part A of Title XVIII of the "Social Security Act," 49 76
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 77
division (A)(10)(a) of this section, "subsidized health plan" 78
means a health plan for which the employer pays any portion of 79
the plan's cost. The deduction allowed under division (A)(10)(a) 80
of this section shall be the net of any related premium refunds, 81
related premium reimbursements, or related insurance premium 82
dividends received during the taxable year. 83

(b) Deduct, to the extent not otherwise deducted or 84
excluded in computing federal or Ohio adjusted gross income 85
during the taxable year, the amount the taxpayer paid during the 86
taxable year, not compensated for by any insurance or otherwise, 87
for medical care of the taxpayer, the taxpayer's spouse, and 88
dependents, to the extent the expenses exceed seven and one-half 89
per cent of the taxpayer's federal adjusted gross income. 90

(c) For purposes of division (A)(10) of this section, 91
"medical care" has the meaning given in section 213 of the 92
Internal Revenue Code, subject to the special rules, 93
limitations, and exclusions set forth therein, and "qualified 94
long-term care" has the same meaning given in section 7702B(c) 95
of the Internal Revenue Code. Solely for purposes of division 96
(A)(10)(a) of this section, "dependent" includes a person who 97
otherwise would be a "qualifying relative" and thus a 98
"dependent" under section 152 of the Internal Revenue Code but 99
for the fact that the person fails to meet the income and 100
support limitations under section 152(d)(1)(B) and (C) of the 101
Internal Revenue Code. 102

(11)(a) Deduct any amount included in federal adjusted 103
gross income solely because the amount represents a 104
reimbursement or refund of expenses that in any year the 105

taxpayer had deducted as an itemized deduction pursuant to 106
section 63 of the Internal Revenue Code and applicable United 107
States department of the treasury regulations. The deduction 108
otherwise allowed under division (A) (11) (a) of this section 109
shall be reduced to the extent the reimbursement is attributable 110
to an amount the taxpayer deducted under this section in any 111
taxable year. 112

(b) Add any amount not otherwise included in Ohio adjusted 113
gross income for any taxable year to the extent that the amount 114
is attributable to the recovery during the taxable year of any 115
amount deducted or excluded in computing federal or Ohio 116
adjusted gross income in any taxable year. 117

(12) Deduct any portion of the deduction described in 118
section 1341(a) (2) of the Internal Revenue Code, for repaying 119
previously reported income received under a claim of right, that 120
meets both of the following requirements: 121

(a) It is allowable for repayment of an item that was 122
included in the taxpayer's adjusted gross income for a prior 123
taxable year and did not qualify for a credit under division (A) 124
or (B) of section 5747.05 of the Revised Code for that year; 125

(b) It does not otherwise reduce the taxpayer's adjusted 126
gross income for the current or any other taxable year. 127

(13) Deduct an amount equal to the deposits made to, and 128
net investment earnings of, a medical savings account during the 129
taxable year, in accordance with section 3924.66 of the Revised 130
Code. The deduction allowed by division (A) (13) of this section 131
does not apply to medical savings account deposits and earnings 132
otherwise deducted or excluded for the current or any other 133
taxable year from the taxpayer's federal adjusted gross income. 134

(14) (a) Add an amount equal to the funds withdrawn from a 135
medical savings account during the taxable year, and the net 136
investment earnings on those funds, when the funds withdrawn 137
were used for any purpose other than to reimburse an account 138
holder for, or to pay, eligible medical expenses, in accordance 139
with section 3924.66 of the Revised Code; 140

(b) Add the amounts distributed from a medical savings 141
account under division (A) (2) of section 3924.68 of the Revised 142
Code during the taxable year. 143

(15) Add any amount claimed as a credit under section 144
5747.059 of the Revised Code to the extent that such amount 145
satisfies either of the following: 146

(a) The amount was deducted or excluded from the 147
computation of the taxpayer's federal adjusted gross income as 148
required to be reported for the taxpayer's taxable year under 149
the Internal Revenue Code; 150

(b) The amount resulted in a reduction of the taxpayer's 151
federal adjusted gross income as required to be reported for any 152
of the taxpayer's taxable years under the Internal Revenue Code. 153

(16) Deduct the amount contributed by the taxpayer to an 154
individual development account program established by a county 155
department of job and family services pursuant to sections 156
329.11 to 329.14 of the Revised Code for the purpose of matching 157
funds deposited by program participants. On request of the tax 158
commissioner, the taxpayer shall provide any information that, 159
in the tax commissioner's opinion, is necessary to establish the 160
amount deducted under division (A) (16) of this section. 161

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 162
(v) of this section, add five-sixths of the amount of 163

depreciation expense allowed by subsection (k) of section 168 of 164
the Internal Revenue Code, including the taxpayer's 165
proportionate or distributive share of the amount of 166
depreciation expense allowed by that subsection to a pass- 167
through entity in which the taxpayer has a direct or indirect 168
ownership interest. 169

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 170
of this section, add five-sixths of the amount of qualifying 171
section 179 depreciation expense, including the taxpayer's 172
proportionate or distributive share of the amount of qualifying 173
section 179 depreciation expense allowed to any pass-through 174
entity in which the taxpayer has a direct or indirect ownership 175
interest. 176

(iii) Subject to division (A) (17) (a) (v) of this section, 177
for taxable years beginning in 2012 or thereafter, if the 178
increase in income taxes withheld by the taxpayer is equal to or 179
greater than ten per cent of income taxes withheld by the 180
taxpayer during the taxpayer's immediately preceding taxable 181
year, "two-thirds" shall be substituted for "five-sixths" for 182
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 183

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

proportionate or distributive shares of such amounts allowed to 194
any such pass-through entities. 195

(v) If a taxpayer directly or indirectly incurs a net 196
operating loss for the taxable year for federal income tax 197
purposes, to the extent such loss resulted from depreciation 198
expense allowed by subsection (k) of section 168 of the Internal 199
Revenue Code and by qualifying section 179 depreciation expense, 200
"the entire" shall be substituted for "five-sixths of the" for 201
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 202

The tax commissioner, under procedures established by the 203
commissioner, may waive the add-backs related to a pass-through 204
entity if the taxpayer owns, directly or indirectly, less than 205
five per cent of the pass-through entity. 206

(b) Nothing in division (A) (17) of this section shall be 207
construed to adjust or modify the adjusted basis of any asset. 208

(c) To the extent the add-back required under division (A) 209
(17) (a) of this section is attributable to property generating 210
nonbusiness income or loss allocated under section 5747.20 of 211
the Revised Code, the add-back shall be situated to the same 212
location as the nonbusiness income or loss generated by the 213
property for the purpose of determining the credit under 214
division (A) of section 5747.05 of the Revised Code. Otherwise, 215
the add-back shall be apportioned, subject to one or more of the 216
four alternative methods of apportionment enumerated in section 217
5747.21 of the Revised Code. 218

(d) For the purposes of division (A) (17) (a) (v) of this 219
section, net operating loss carryback and carryforward shall not 220
include the allowance of any net operating loss deduction 221
carryback or carryforward to the taxable year to the extent such 222

loss resulted from depreciation allowed by section 168(k) of the 223
Internal Revenue Code and by the qualifying section 179 224
depreciation expense amount. 225

(e) For the purposes of divisions (A) (17) and (18) of this 226
section: 227

(i) "Income taxes withheld" means the total amount 228
withheld and remitted under sections 5747.06 and 5747.07 of the 229
Revised Code by an employer during the employer's taxable year. 230

(ii) "Increase in income taxes withheld" means the amount 231
by which the amount of income taxes withheld by an employer 232
during the employer's current taxable year exceeds the amount of 233
income taxes withheld by that employer during the employer's 234
immediately preceding taxable year. 235

(iii) "Qualifying section 179 depreciation expense" means 236
the difference between (I) the amount of depreciation expense 237
directly or indirectly allowed to a taxpayer under section 179 238
of the Internal Revised Code, and (II) the amount of 239
depreciation expense directly or indirectly allowed to the 240
taxpayer under section 179 of the Internal Revenue Code as that 241
section existed on December 31, 2002. 242

(18) (a) If the taxpayer was required to add an amount 243
under division (A) (17) (a) of this section for a taxable year, 244
deduct one of the following: 245

(i) One-fifth of the amount so added for each of the five 246
succeeding taxable years if the amount so added was five-sixths 247
of qualifying section 179 depreciation expense or depreciation 248
expense allowed by subsection (k) of section 168 of the Internal 249
Revenue Code; 250

(ii) One-half of the amount so added for each of the two 251

succeeding taxable years if the amount so added was two-thirds 252
of such depreciation expense; 253

(iii) One-sixth of the amount so added for each of the six 254
succeeding taxable years if the entire amount of such 255
depreciation expense was so added. 256

(b) If the amount deducted under division (A) (18) (a) of 257
this section is attributable to an add-back allocated under 258
division (A) (17) (c) of this section, the amount deducted shall 259
be situated to the same location. Otherwise, the add-back shall 260
be apportioned using the apportionment factors for the taxable 261
year in which the deduction is taken, subject to one or more of 262
the four alternative methods of apportionment enumerated in 263
section 5747.21 of the Revised Code. 264

(c) No deduction is available under division (A) (18) (a) of 265
this section with regard to any depreciation allowed by section 266
168(k) of the Internal Revenue Code and by the qualifying 267
section 179 depreciation expense amount to the extent that such 268
depreciation results in or increases a federal net operating 269
loss carryback or carryforward. If no such deduction is 270
available for a taxable year, the taxpayer may carry forward the 271
amount not deducted in such taxable year to the next taxable 272
year and add that amount to any deduction otherwise available 273
under division (A) (18) (a) of this section for that next taxable 274
year. The carryforward of amounts not so deducted shall continue 275
until the entire addition required by division (A) (17) (a) of 276
this section has been deducted. 277

(19) Deduct, to the extent not otherwise deducted or 278
excluded in computing federal or Ohio adjusted gross income for 279
the taxable year, the amount the taxpayer received during the 280
taxable year as reimbursement for life insurance premiums under 281

section 5919.31 of the Revised Code. 282

(20) Deduct, to the extent not otherwise deducted or 283
excluded in computing federal or Ohio adjusted gross income for 284
the taxable year, the amount the taxpayer received during the 285
taxable year as a death benefit paid by the adjutant general 286
under section 5919.33 of the Revised Code. 287

(21) Deduct, to the extent included in federal adjusted 288
gross income and not otherwise allowable as a deduction or 289
exclusion in computing federal or Ohio adjusted gross income for 290
the taxable year, military pay and allowances received by the 291
taxpayer during the taxable year for active duty service in the 292
United States army, air force, navy, marine corps, or coast 293
guard or reserve components thereof or the national guard. The 294
deduction may not be claimed for military pay and allowances 295
received by the taxpayer while the taxpayer is stationed in this 296
state. 297

(22) Deduct, to the extent not otherwise allowable as a 298
deduction or exclusion in computing federal or Ohio adjusted 299
gross income for the taxable year and not otherwise compensated 300
for by any other source, the amount of qualified organ donation 301
expenses incurred by the taxpayer during the taxable year, not 302
to exceed ten thousand dollars. A taxpayer may deduct qualified 303
organ donation expenses only once for all taxable years 304
beginning with taxable years beginning in 2007. 305

For the purposes of division (A) (22) of this section: 306

(a) "Human organ" means all or any portion of a human 307
liver, pancreas, kidney, intestine, or lung, and any portion of 308
human bone marrow. 309

(b) "Qualified organ donation expenses" means travel 310

expenses, lodging expenses, and wages and salary forgone by a 311
taxpayer in connection with the taxpayer's donation, while 312
living, of one or more of the taxpayer's human organs to another 313
human being. 314

(23) Deduct, to the extent not otherwise deducted or 315
excluded in computing federal or Ohio adjusted gross income for 316
the taxable year, amounts received by the taxpayer as retired 317
personnel pay for service in the uniformed services or reserve 318
components thereof, or the national guard, or received by the 319
surviving spouse or former spouse of such a taxpayer under the 320
survivor benefit plan on account of such a taxpayer's death. If 321
the taxpayer receives income on account of retirement paid under 322
the federal civil service retirement system or federal employees 323
retirement system, or under any successor retirement program 324
enacted by the congress of the United States that is established 325
and maintained for retired employees of the United States 326
government, and such retirement income is based, in whole or in 327
part, on credit for the taxpayer's uniformed service, the 328
deduction allowed under this division shall include only that 329
portion of such retirement income that is attributable to the 330
taxpayer's uniformed service, to the extent that portion of such 331
retirement income is otherwise included in federal adjusted 332
gross income and is not otherwise deducted under this section. 333
Any amount deducted under division (A) (23) of this section is 334
not included in a taxpayer's adjusted gross income for the 335
purposes of section 5747.055 of the Revised Code. No amount may 336
be deducted under division (A) (23) of this section on the basis 337
of which a credit was claimed under section 5747.055 of the 338
Revised Code. 339

(24) Deduct, to the extent not otherwise deducted or 340
excluded in computing federal or Ohio adjusted gross income for 341

the taxable year, the amount the taxpayer received during the 342
taxable year from the military injury relief fund created in 343
section 5902.05 of the Revised Code. 344

(25) Deduct, to the extent not otherwise deducted or 345
excluded in computing federal or Ohio adjusted gross income for 346
the taxable year, the amount the taxpayer received as a veterans 347
bonus during the taxable year from the Ohio department of 348
veterans services as authorized by Section 2r of Article VIII, 349
Ohio Constitution. 350

(26) Deduct, to the extent not otherwise deducted or 351
excluded in computing federal or Ohio adjusted gross income for 352
the taxable year, any income derived from a transfer agreement 353
or from the enterprise transferred under that agreement under 354
section 4313.02 of the Revised Code. 355

(27) Deduct, to the extent not otherwise deducted or 356
excluded in computing federal or Ohio adjusted gross income for 357
the taxable year, Ohio college opportunity or federal Pell grant 358
amounts received by the taxpayer or the taxpayer's spouse or 359
dependent pursuant to section 3333.122 of the Revised Code or 20 360
U.S.C. 1070a, et seq., and used to pay room or board furnished 361
by the educational institution for which the grant was awarded 362
at the institution's facilities, including meal plans 363
administered by the institution. For the purposes of this 364
division, receipt of a grant includes the distribution of a 365
grant directly to an educational institution and the crediting 366
of the grant to the enrollee's account with the institution. 367

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

thousand dollars for each spouse if spouses file separate 372
returns under section 5747.08 of the Revised Code or two hundred 373
fifty thousand dollars for all other individuals. 374

(29) Deduct, as provided under section 5747.78 of the 375
Revised Code, contributions to ABLE savings accounts made in 376
accordance with sections 113.50 to 113.56 of the Revised Code. 377

(30) (a) Deduct, to the extent not otherwise deducted or 378
excluded in computing federal or Ohio adjusted gross income 379
during the taxable year, all of the following: 380

(i) Compensation paid to a qualifying employee described 381
in division (A) (14) (a) of section 5703.94 of the Revised Code to 382
the extent such compensation is for disaster work conducted in 383
this state during a disaster response period pursuant to a 384
qualifying solicitation received by the employee's employer; 385

(ii) Compensation paid to a qualifying employee described 386
in division (A) (14) (b) of section 5703.94 of the Revised Code to 387
the extent such compensation is for disaster work conducted in 388
this state by the employee during the disaster response period 389
on critical infrastructure owned or used by the employee's 390
employer; 391

(iii) Income received by an out-of-state disaster business 392
for disaster work conducted in this state during a disaster 393
response period, or, if the out-of-state disaster business is a 394
pass-through entity, a taxpayer's distributive share of the 395
pass-through entity's income from the business conducting 396
disaster work in this state during a disaster response period, 397
if, in either case, the disaster work is conducted pursuant to a 398
qualifying solicitation received by the business. 399

(b) All terms used in division (A) (30) of this section 400

have the same meanings as in section 5703.94 of the Revised 401
Code. 402

(31) For a taxpayer who is a qualifying Ohio educator, 403
deduct, to the extent not otherwise deducted or excluded in 404
computing federal or Ohio adjusted gross income for the taxable 405
year, the lesser of two hundred fifty dollars or the amount of 406
expenses described in subsections (a)(2)(D)(i) and (ii) of 407
section 62 of the Internal Revenue Code paid or incurred by the 408
taxpayer during the taxpayer's taxable year in excess of the 409
amount the taxpayer is authorized to deduct for that taxable 410
year under subsection (a)(2)(D) of that section. 411

(32) Deduct, to the extent not otherwise deducted or 412
excluded in computing federal or Ohio adjusted gross income for 413
the taxable year, amounts received by the taxpayer as a 414
disability severance payment, computed under 10 U.S.C. 1212, 415
following discharge or release under honorable conditions from 416
the armed forces of the United States, as defined in section 417
5907.01 of the Revised Code. 418

(33) Deduct, to the extent not otherwise deducted or 419
excluded in computing federal adjusted gross income or Ohio 420
adjusted gross income, amounts not subject to tax due to an 421
agreement entered into under division (A)(2) of section 5747.05 422
of the Revised Code. 423

(34) Deduct amounts as provided under section 5747.79 of 424
the Revised Code related to the taxpayer's qualifying capital 425
gains and deductible payroll. 426

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

deducting any such gains under division (A) (28) of this section. 430

(35) (a) For taxable years beginning in or after 2026, 431
deduct, to the extent not otherwise deducted or excluded in 432
computing federal or Ohio adjusted gross income for the taxable 433
year: 434

(i) One hundred per cent of the capital gain received by 435
the taxpayer in the taxable year from a qualifying interest in 436
an Ohio venture capital operating company attributable to the 437
company's investments in Ohio businesses during the period for 438
which the company was an Ohio venture operating company; and 439

(ii) Fifty per cent of the capital gain received by the 440
taxpayer in the taxable year from a qualifying interest in an 441
Ohio venture capital operating company attributable to the 442
company's investments in all other businesses during the period 443
for which the company was an Ohio venture operating company. 444

(b) Add amounts previously deducted by the taxpayer under 445
division (A) (35) (a) of this section if the director of 446
development certifies to the tax commissioner that the 447
requirements for the deduction were not met. 448

(c) All terms used in division (A) (35) of this section 449
have the same meanings as in section 122.851 of the Revised 450
Code. 451

(d) To the extent a capital gain described in division (A) 452
(35) (a) of this section is business income, the taxpayer shall 453
apply that division before applying division (A) (28) of this 454
section. 455

(36) Add, to the extent not otherwise included in 456
computing federal or Ohio adjusted gross income for any taxable 457
year, the taxpayer's proportionate share of the amount of the 458

tax levied under section 5747.38 of the Revised Code and paid by 459
an electing pass-through entity for the taxable year. 460

Notwithstanding any provision of the Revised Code to the 461
contrary, the portion of the addition required by division (A) 462
(36) of this section related to the apportioned business income 463
of the pass-through entity shall be considered business income 464
under division (B) of this section. Such addition is eligible 465
for the deduction in division (A) (28) of this section, subject 466
to the applicable dollar limitations, and the tax rate 467
prescribed by division (A) (4) (a) of section 5747.02 of the 468
Revised Code. The taxpayer shall provide, upon request of the 469
tax commissioner, any documentation necessary to verify the 470
portion of the addition that is business income under this 471
division. 472

(37) Deduct, to the extent not otherwise deducted or 473
excluded in computing federal or Ohio adjusted gross income for 474
the taxable year, amounts delivered to a qualifying institution 475
pursuant to section 3333.128 of the Revised Code for the benefit 476
of the taxpayer or the taxpayer's spouse or dependent. 477

(38) Deduct, to the extent not otherwise deducted or 478
excluded in computing federal or Ohio adjusted gross income for 479
the taxable year, amounts received under the Ohio adoption grant 480
program pursuant to section 5101.191 of the Revised Code. 481

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

derailment, if such amounts are provided by any of the 489
following: 490

(a) A federal, state, or local government agency; 491

(b) A railroad company, as that term is defined in section 492
5727.01 of the Revised Code; 493

(c) Any subsidiary, insurer, or agent of a railroad 494
company or any related person. 495

Notwithstanding any provision to the contrary, the 496
derailment is not required to meet the definition of a 497
"qualified disaster" pursuant to section 139 of the Internal 498
Revenue Code to qualify for the deduction under this section. 499

(40) Deduct, to the extent included in federal adjusted 500
gross income, income attributable to loan repayments on behalf 501
of the taxpayer under the rural practice incentive program under 502
section 3333.135 of the Revised Code. 503

(41) Add any income taxes deducted in computing federal or 504
Ohio adjusted gross income to the extent the income taxes were 505
derived from income subject to a tax levied in another state or 506
the District of Columbia when such tax was enacted for purposes 507
of complying with internal revenue service notice 2020-75. 508

Notwithstanding any provision of the Revised Code to the 509
contrary, the portion of the addition required by division (A) 510
(41) of this section related to the apportioned business income 511
of the pass-through entity shall be considered business income 512
under division (B) of this section. Such addition is eligible 513
for the deduction in division (A) (28) of this section, subject 514
to the applicable dollar limitations, and the tax rate 515
prescribed by division (A) (4) (a) of section 5747.02 of the 516
Revised Code. The taxpayer shall provide, upon request of the 517

tax commissioner, any documentation necessary to verify the 518
portion of the addition that is business income under this 519
division. 520

(42) Deduct amounts contributed to a homeownership savings 521
account and calculated pursuant to divisions (B) and (C) of 522
section 5747.85 of the Revised Code. 523

(43) If the taxpayer is the account owner, add the amount 524
of funds withdrawn from a homeownership savings account not used 525
for eligible expenses, regardless of who deposited those funds. 526
As used in division (A) (43) of this section, "homeownership 527
savings account," "account owner," and "eligible expenses" have 528
the same meanings as in section 5747.85 of the Revised Code. 529

(44) If the taxpayer has elected to itemize deductions 530
under section 63 of the Internal Revenue Code for the taxable 531
year and to the extent not otherwise deducted or excluded in 532
computing federal adjusted gross income for the taxable year, 533
deduct amounts that the taxpayer deducts as a charitable 534
contribution to a church or a convention or association of 535
churches under section 170 of the Internal Revenue Code for the 536
taxable year. 537

(B) "Business income" means income, including gain or 538
loss, arising from transactions, activities, and sources in the 539
regular course of a trade or business and includes income, gain, 540
or loss from real property, tangible property, and intangible 541
property if the acquisition, rental, management, and disposition 542
of the property constitute integral parts of the regular course 543
of a trade or business operation. "Business income" includes 544
income, including gain or loss, from a partial or complete 545
liquidation of a business, including, but not limited to, gain 546
or loss from the sale or other disposition of goodwill or the 547

sale of an equity or ownership interest in a business. 548

As used in this division, the "sale of an equity or 549
ownership interest in a business" means sales to which either or 550
both of the following apply: 551

(1) The sale is treated for federal income tax purposes as 552
the sale of assets. 553

(2) The seller materially participated, as described in 26 554
C.F.R. 1.469-5T, in the activities of the business during the 555
taxable year in which the sale occurs or during any of the five 556
preceding taxable years. 557

(C) "Nonbusiness income" means all income other than 558
business income and may include, but is not limited to, 559
compensation, rents and royalties from real or tangible personal 560
property, capital gains, interest, dividends and distributions, 561
patent or copyright royalties, or lottery winnings, prizes, and 562
awards. 563

(D) "Compensation" means any form of remuneration paid to 564
an employee for personal services. 565

(E) "Fiduciary" means a guardian, trustee, executor, 566
administrator, receiver, conservator, or any other person acting 567
in any fiduciary capacity for any individual, trust, or estate. 568

(F) "Fiscal year" means an accounting period of twelve 569
months ending on the last day of any month other than December. 570

(G) "Individual" means any natural person. 571

(H) "Internal Revenue Code" means the "Internal Revenue 572
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 573

(I) "Resident" means any of the following: 574

(1) An individual who is domiciled in this state, subject 575
to section 5747.24 of the Revised Code; 576

(2) The estate of a decedent who at the time of death was 577
domiciled in this state. The domicile tests of section 5747.24 578
of the Revised Code are not controlling for purposes of division 579
(I) (2) of this section. 580

(3) A trust that, in whole or part, resides in this state. 581
If only part of a trust resides in this state, the trust is a 582
resident only with respect to that part. 583

For the purposes of division (I) (3) of this section: 584

(a) A trust resides in this state for the trust's current 585
taxable year to the extent, as described in division (I) (3) (d) 586
of this section, that the trust consists directly or indirectly, 587
in whole or in part, of assets, net of any related liabilities, 588
that were transferred, or caused to be transferred, directly or 589
indirectly, to the trust by any of the following: 590

(i) A person, a court, or a governmental entity or 591
instrumentality on account of the death of a decedent, but only 592
if the trust is described in division (I) (3) (e) (i) or (ii) of 593
this section; 594

(ii) A person who was domiciled in this state for the 595
purposes of this chapter when the person directly or indirectly 596
transferred assets to an irrevocable trust, but only if at least 597
one of the trust's qualifying beneficiaries is domiciled in this 598
state for the purposes of this chapter during all or some 599
portion of the trust's current taxable year; 600

(iii) A person who was domiciled in this state for the 601
purposes of this chapter when the trust document or instrument 602
or part of the trust document or instrument became irrevocable, 603

but only if at least one of the trust's qualifying beneficiaries 604
is a resident domiciled in this state for the purposes of this 605
chapter during all or some portion of the trust's current 606
taxable year. If a trust document or instrument became 607
irrevocable upon the death of a person who at the time of death 608
was domiciled in this state for purposes of this chapter, that 609
person is a person described in division (I)(3)(a)(iii) of this 610
section. 611

(b) A trust is irrevocable to the extent that the 612
transferor is not considered to be the owner of the net assets 613
of the trust under sections 671 to 678 of the Internal Revenue 614
Code. 615

(c) With respect to a trust other than a charitable lead 616
trust, "qualifying beneficiary" has the same meaning as 617
"potential current beneficiary" as defined in section 1361(e)(2) 618
of the Internal Revenue Code, and with respect to a charitable 619
lead trust "qualifying beneficiary" is any current, future, or 620
contingent beneficiary, but with respect to any trust 621
"qualifying beneficiary" excludes a person or a governmental 622
entity or instrumentality to any of which a contribution would 623
qualify for the charitable deduction under section 170 of the 624
Internal Revenue Code. 625

(d) For the purposes of division (I)(3)(a) of this 626
section, the extent to which a trust consists directly or 627
indirectly, in whole or in part, of assets, net of any related 628
liabilities, that were transferred directly or indirectly, in 629
whole or part, to the trust by any of the sources enumerated in 630
that division shall be ascertained by multiplying the fair 631
market value of the trust's assets, net of related liabilities, 632
by the qualifying ratio, which shall be computed as follows: 633

(i) The first time the trust receives assets, the 634
numerator of the qualifying ratio is the fair market value of 635
those assets at that time, net of any related liabilities, from 636
sources enumerated in division (I) (3) (a) of this section. The 637
denominator of the qualifying ratio is the fair market value of 638
all the trust's assets at that time, net of any related 639
liabilities. 640

(ii) Each subsequent time the trust receives assets, a 641
revised qualifying ratio shall be computed. The numerator of the 642
revised qualifying ratio is the sum of (1) the fair market value 643
of the trust's assets immediately prior to the subsequent 644
transfer, net of any related liabilities, multiplied by the 645
qualifying ratio last computed without regard to the subsequent 646
transfer, and (2) the fair market value of the subsequently 647
transferred assets at the time transferred, net of any related 648
liabilities, from sources enumerated in division (I) (3) (a) of 649
this section. The denominator of the revised qualifying ratio is 650
the fair market value of all the trust's assets immediately 651
after the subsequent transfer, net of any related liabilities. 652

(iii) Whether a transfer to the trust is by or from any of 653
the sources enumerated in division (I) (3) (a) of this section 654
shall be ascertained without regard to the domicile of the 655
trust's beneficiaries. 656

(e) For the purposes of division (I) (3) (a) (i) of this 657
section: 658

(i) A trust is described in division (I) (3) (e) (i) of this 659
section if the trust is a testamentary trust and the testator of 660
that testamentary trust was domiciled in this state at the time 661
of the testator's death for purposes of the taxes levied under 662
Chapter 5731. of the Revised Code. 663

(ii) A trust is described in division (I)(3)(e)(ii) of 664
this section if the transfer is a qualifying transfer described 665
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 666
trust is an irrevocable inter vivos trust, and at least one of 667
the trust's qualifying beneficiaries is domiciled in this state 668
for purposes of this chapter during all or some portion of the 669
trust's current taxable year. 670

(f) For the purposes of division (I)(3)(e)(ii) of this 671
section, a "qualifying transfer" is a transfer of assets, net of 672
any related liabilities, directly or indirectly to a trust, if 673
the transfer is described in any of the following: 674

(i) The transfer is made to a trust, created by the 675
decedent before the decedent's death and while the decedent was 676
domiciled in this state for the purposes of this chapter, and, 677
prior to the death of the decedent, the trust became irrevocable 678
while the decedent was domiciled in this state for the purposes 679
of this chapter. 680

(ii) The transfer is made to a trust to which the 681
decedent, prior to the decedent's death, had directly or 682
indirectly transferred assets, net of any related liabilities, 683
while the decedent was domiciled in this state for the purposes 684
of this chapter, and prior to the death of the decedent the 685
trust became irrevocable while the decedent was domiciled in 686
this state for the purposes of this chapter. 687

(iii) The transfer is made on account of a contractual 688
relationship existing directly or indirectly between the 689
transferor and either the decedent or the estate of the decedent 690
at any time prior to the date of the decedent's death, and the 691
decedent was domiciled in this state at the time of death for 692
purposes of the taxes levied under Chapter 5731. of the Revised 693

Code. 694

(iv) The transfer is made to a trust on account of a 695
contractual relationship existing directly or indirectly between 696
the transferor and another person who at the time of the 697
decedent's death was domiciled in this state for purposes of 698
this chapter. 699

(v) The transfer is made to a trust on account of the will 700
of a testator who was domiciled in this state at the time of the 701
testator's death for purposes of the taxes levied under Chapter 702
5731. of the Revised Code. 703

(vi) The transfer is made to a trust created by or caused 704
to be created by a court, and the trust was directly or 705
indirectly created in connection with or as a result of the 706
death of an individual who, for purposes of the taxes levied 707
under Chapter 5731. of the Revised Code, was domiciled in this 708
state at the time of the individual's death. 709

(g) The tax commissioner may adopt rules to ascertain the 710
part of a trust residing in this state. 711

(J) "Nonresident" means an individual or estate that is 712
not a resident. An individual who is a resident for only part of 713
a taxable year is a nonresident for the remainder of that 714
taxable year. 715

(K) "Pass-through entity" has the same meaning as in 716
section 5733.04 of the Revised Code. 717

(L) "Return" means the notifications and reports required 718
to be filed pursuant to this chapter for the purpose of 719
reporting the tax due and includes declarations of estimated tax 720
when so required. 721

(M) "Taxable year" means the calendar year or the 722
taxpayer's fiscal year ending during the calendar year, or 723
fractional part thereof, upon which the adjusted gross income is 724
calculated pursuant to this chapter. 725

(N) "Taxpayer" means any person subject to the tax imposed 726
by section 5747.02 of the Revised Code or any pass-through 727
entity that makes the election under division (D) of section 728
5747.08 of the Revised Code. 729

(O) "Dependents" means one of the following: 730

(1) For taxable years beginning on or after January 1, 731
2018, and before January 1, 2026, dependents as defined in the 732
Internal Revenue Code; 733

(2) For all other taxable years, dependents as defined in 734
the Internal Revenue Code and as claimed in the taxpayer's 735
federal income tax return for the taxable year or which the 736
taxpayer would have been permitted to claim had the taxpayer 737
filed a federal income tax return. 738

(P) "Principal county of employment" means, in the case of 739
a nonresident, the county within the state in which a taxpayer 740
performs services for an employer or, if those services are 741
performed in more than one county, the county in which the major 742
portion of the services are performed. 743

(Q) As used in sections 5747.50 to 5747.55 of the Revised 744
Code: 745

(1) "Subdivision" means any county, municipal corporation, 746
park district, or township. 747

(2) "Essential local government purposes" includes all 748
functions that any subdivision is required by general law to 749

exercise, including like functions that are exercised under a 750
charter adopted pursuant to the Ohio Constitution. 751

(R) "Overpayment" means any amount already paid that 752
exceeds the figure determined to be the correct amount of the 753
tax. 754

(S) "Taxable income" or "Ohio taxable income" applies only 755
to estates and trusts, and means federal taxable income, as 756
defined and used in the Internal Revenue Code, adjusted as 757
follows: 758

(1) Add interest or dividends, net of ordinary, necessary, 759
and reasonable expenses not deducted in computing federal 760
taxable income, on obligations or securities of any state or of 761
any political subdivision or authority of any state, other than 762
this state and its subdivisions and authorities, but only to the 763
extent that such net amount is not otherwise includible in Ohio 764
taxable income and is described in either division (S)(1)(a) or 765
(b) of this section: 766

(a) The net amount is not attributable to the S portion of 767
an electing small business trust and has not been distributed to 768
beneficiaries for the taxable year; 769

(b) The net amount is attributable to the S portion of an 770
electing small business trust for the taxable year. 771

(2) Add interest or dividends, net of ordinary, necessary, 772
and reasonable expenses not deducted in computing federal 773
taxable income, on obligations of any authority, commission, 774
instrumentality, territory, or possession of the United States 775
to the extent that the interest or dividends are exempt from 776
federal income taxes but not from state income taxes, but only 777
to the extent that such net amount is not otherwise includible 778

in Ohio taxable income and is described in either division (S) 779
(1) (a) or (b) of this section; 780

(3) Add the amount of personal exemption allowed to the 781
estate pursuant to section 642(b) of the Internal Revenue Code; 782

(4) Deduct interest or dividends, net of related expenses 783
deducted in computing federal taxable income, on obligations of 784
the United States and its territories and possessions or of any 785
authority, commission, or instrumentality of the United States 786
to the extent that the interest or dividends are exempt from 787
state taxes under the laws of the United States, but only to the 788
extent that such amount is included in federal taxable income 789
and is described in either division (S) (1) (a) or (b) of this 790
section; 791

(5) Deduct the amount of wages and salaries, if any, not 792
otherwise allowable as a deduction but that would have been 793
allowable as a deduction in computing federal taxable income for 794
the taxable year, had the work opportunity tax credit allowed 795
under sections 38, 51, and 52 of the Internal Revenue Code not 796
been in effect, but only to the extent such amount relates 797
either to income included in federal taxable income for the 798
taxable year or to income of the S portion of an electing small 799
business trust for the taxable year; 800

(6) Deduct any interest or interest equivalent, net of 801
related expenses deducted in computing federal taxable income, 802
on public obligations and purchase obligations, but only to the 803
extent that such net amount relates either to income included in 804
federal taxable income for the taxable year or to income of the 805
S portion of an electing small business trust for the taxable 806
year; 807

(7) Add any loss or deduct any gain resulting from sale, 808
exchange, or other disposition of public obligations to the 809
extent that such loss has been deducted or such gain has been 810
included in computing either federal taxable income or income of 811
the S portion of an electing small business trust for the 812
taxable year; 813

(8) Except in the case of the final return of an estate, 814
add any amount deducted by the taxpayer on both its Ohio estate 815
tax return pursuant to section 5731.14 of the Revised Code, and 816
on its federal income tax return in determining federal taxable 817
income; 818

(9) (a) Deduct any amount included in federal taxable 819
income solely because the amount represents a reimbursement or 820
refund of expenses that in a previous year the decedent had 821
deducted as an itemized deduction pursuant to section 63 of the 822
Internal Revenue Code and applicable treasury regulations. The 823
deduction otherwise allowed under division (S) (9) (a) of this 824
section shall be reduced to the extent the reimbursement is 825
attributable to an amount the taxpayer or decedent deducted 826
under this section in any taxable year. 827

(b) Add any amount not otherwise included in Ohio taxable 828
income for any taxable year to the extent that the amount is 829
attributable to the recovery during the taxable year of any 830
amount deducted or excluded in computing federal or Ohio taxable 831
income in any taxable year, but only to the extent such amount 832
has not been distributed to beneficiaries for the taxable year. 833

(10) Deduct any portion of the deduction described in 834
section 1341(a) (2) of the Internal Revenue Code, for repaying 835
previously reported income received under a claim of right, that 836
meets both of the following requirements: 837

(a) It is allowable for repayment of an item that was 838
included in the taxpayer's taxable income or the decedent's 839
adjusted gross income for a prior taxable year and did not 840
qualify for a credit under division (A) or (B) of section 841
5747.05 of the Revised Code for that year. 842

(b) It does not otherwise reduce the taxpayer's taxable 843
income or the decedent's adjusted gross income for the current 844
or any other taxable year. 845

(11) Add any amount claimed as a credit under section 846
5747.059 of the Revised Code to the extent that the amount 847
satisfies either of the following: 848

(a) The amount was deducted or excluded from the 849
computation of the taxpayer's federal taxable income as required 850
to be reported for the taxpayer's taxable year under the 851
Internal Revenue Code; 852

(b) The amount resulted in a reduction in the taxpayer's 853
federal taxable income as required to be reported for any of the 854
taxpayer's taxable years under the Internal Revenue Code. 855

(12) Deduct any amount, net of related expenses deducted 856
in computing federal taxable income, that a trust is required to 857
report as farm income on its federal income tax return, but only 858
if the assets of the trust include at least ten acres of land 859
satisfying the definition of "land devoted exclusively to 860
agricultural use" under section 5713.30 of the Revised Code, 861
regardless of whether the land is valued for tax purposes as 862
such land under sections 5713.30 to 5713.38 of the Revised Code. 863
If the trust is a pass-through entity investor, section 5747.231 864
of the Revised Code applies in ascertaining if the trust is 865
eligible to claim the deduction provided by division (S) (12) of 866

this section in connection with the pass-through entity's farm 867
income. 868

Except for farm income attributable to the S portion of an 869
electing small business trust, the deduction provided by 870
division (S) (12) of this section is allowed only to the extent 871
that the trust has not distributed such farm income. 872

(13) Add the net amount of income described in section 873
641(c) of the Internal Revenue Code to the extent that amount is 874
not included in federal taxable income. 875

(14) Deduct the amount the taxpayer would be required to 876
deduct under division (A) (18) of this section if the taxpayer's 877
Ohio taxable income ~~were~~was computed in the same manner as an 878
individual's Ohio adjusted gross income is computed under this 879
section. 880

(15) Add, to the extent not otherwise included in 881
computing taxable income or Ohio taxable income for any taxable 882
year, the taxpayer's proportionate share of the amount of the 883
tax levied under section 5747.38 of the Revised Code and paid by 884
an electing pass-through entity for the taxable year. 885

(16) Add any income taxes deducted in computing federal 886
taxable income or Ohio taxable income to the extent the income 887
taxes were derived from income subject to a tax levied in 888
another state or the District of Columbia when such tax was 889
enacted for purposes of complying with internal revenue service 890
notice 2020-75. 891

(T) "School district income" and "school district income 892
tax" have the same meanings as in section 5748.01 of the Revised 893
Code. 894

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 895

(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

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

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

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

(Y) "Month" means a calendar month.

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

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

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

(a) The book value of the qualifying investee's physical 924
assets in this state and everywhere, as of the last day of the 925
qualifying investee's fiscal or calendar year ending immediately 926
prior to the date on which the trust recognizes the gain or 927
loss, is available to the trust. 928

(b) The requirements of section 5747.011 of the Revised 929
Code are satisfied for the trust's taxable year in which the 930
trust recognizes the gain or loss. 931

Any gain or loss that is not a qualifying trust amount is 932
modified business income, qualifying investment income, or 933
modified nonbusiness income, as the case may be. 934

(3) "Modified nonbusiness income" means a trust's Ohio 935
taxable income other than modified business income, other than 936
the qualifying trust amount, and other than qualifying 937
investment income, as defined in section 5747.012 of the Revised 938
Code, to the extent such qualifying investment income is not 939
otherwise part of modified business income. 940

(4) "Modified Ohio taxable income" applies only to trusts, 941
and means the sum of the amounts described in divisions (AA) (4) 942
(a) to (c) of this section: 943

(a) The fraction, calculated under section 5747.013, and 944
applying section 5747.231 of the Revised Code, multiplied by the 945
sum of the following amounts: 946

(i) The trust's modified business income; 947

(ii) The trust's qualifying investment income, as defined 948
in section 5747.012 of the Revised Code, but only to the extent 949
the qualifying investment income does not otherwise constitute 950
modified business income and does not otherwise constitute a 951
qualifying trust amount. 952

(b) The qualifying trust amount multiplied by a fraction, 953
the numerator of which is the sum of the book value of the 954
qualifying investee's physical assets in this state on the last 955
day of the qualifying investee's fiscal or calendar year ending 956
immediately prior to the day on which the trust recognizes the 957
qualifying trust amount, and the denominator of which is the sum 958
of the book value of the qualifying investee's total physical 959
assets everywhere on the last day of the qualifying investee's 960
fiscal or calendar year ending immediately prior to the day on 961
which the trust recognizes the qualifying trust amount. If, for 962
a taxable year, the trust recognizes a qualifying trust amount 963
with respect to more than one qualifying investee, the amount 964
described in division (AA) (4) (b) of this section shall equal the 965
sum of the products so computed for each such qualifying 966
investee. 967

(c) (i) With respect to a trust or portion of a trust that 968
is a resident as ascertained in accordance with division (I) (3) 969
(d) of this section, its modified nonbusiness income. 970

(ii) With respect to a trust or portion of a trust that is 971
not a resident as ascertained in accordance with division (I) (3) 972
(d) of this section, the amount of its modified nonbusiness 973
income satisfying the descriptions in divisions (B) (2) to (5) of 974
section 5747.20 of the Revised Code, except as otherwise 975
provided in division (AA) (4) (c) (ii) of this section. With 976
respect to a trust or portion of a trust that is not a resident 977
as ascertained in accordance with division (I) (3) (d) of this 978
section, the trust's portion of modified nonbusiness income 979
recognized from the sale, exchange, or other disposition of a 980
debt interest in or equity interest in a section 5747.212 981
entity, as defined in section 5747.212 of the Revised Code, 982
without regard to division (A) of that section, shall not be 983

allocated to this state in accordance with section 5747.20 of 984
the Revised Code but shall be apportioned to this state in 985
accordance with division (B) of section 5747.212 of the Revised 986
Code without regard to division (A) of that section. 987

If the allocation and apportionment of a trust's income 988
under divisions (AA) (4) (a) and (c) of this section do not fairly 989
represent the modified Ohio taxable income of the trust in this 990
state, the alternative methods described in division (C) of 991
section 5747.21 of the Revised Code may be applied in the manner 992
and to the same extent provided in that section. 993

(5) (a) Except as set forth in division (AA) (5) (b) of this 994
section, "qualifying investee" means a person in which a trust 995
has an equity or ownership interest, or a person or unit of 996
government the debt obligations of either of which are owned by 997
a trust. For the purposes of division (AA) (2) (a) of this section 998
and for the purpose of computing the fraction described in 999
division (AA) (4) (b) of this section, all of the following apply: 1000

(i) If the qualifying investee is a member of a qualifying 1001
controlled group on the last day of the qualifying investee's 1002
fiscal or calendar year ending immediately prior to the date on 1003
which the trust recognizes the gain or loss, then "qualifying 1004
investee" includes all persons in the qualifying controlled 1005
group on such last day. 1006

(ii) If the qualifying investee, or if the qualifying 1007
investee and any members of the qualifying controlled group of 1008
which the qualifying investee is a member on the last day of the 1009
qualifying investee's fiscal or calendar year ending immediately 1010
prior to the date on which the trust recognizes the gain or 1011
loss, separately or cumulatively own, directly or indirectly, on 1012
the last day of the qualifying investee's fiscal or calendar 1013

year ending immediately prior to the date on which the trust 1014
recognizes the qualifying trust amount, more than fifty per cent 1015
of the equity of a pass-through entity, then the qualifying 1016
investee and the other members are deemed to own the 1017
proportionate share of the pass-through entity's physical assets 1018
which the pass-through entity directly or indirectly owns on the 1019
last day of the pass-through entity's calendar or fiscal year 1020
ending within or with the last day of the qualifying investee's 1021
fiscal or calendar year ending immediately prior to the date on 1022
which the trust recognizes the qualifying trust amount. 1023

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1024
section, "upper level pass-through entity" means a pass-through 1025
entity directly or indirectly owning any equity of another pass- 1026
through entity, and "lower level pass-through entity" means that 1027
other pass-through entity. 1028

An upper level pass-through entity, whether or not it is 1029
also a qualifying investee, is deemed to own, on the last day of 1030
the upper level pass-through entity's calendar or fiscal year, 1031
the proportionate share of the lower level pass-through entity's 1032
physical assets that the lower level pass-through entity 1033
directly or indirectly owns on the last day of the lower level 1034
pass-through entity's calendar or fiscal year ending within or 1035
with the last day of the upper level pass-through entity's 1036
fiscal or calendar year. If the upper level pass-through entity 1037
directly and indirectly owns less than fifty per cent of the 1038
equity of the lower level pass-through entity on each day of the 1039
upper level pass-through entity's calendar or fiscal year in 1040
which or with which ends the calendar or fiscal year of the 1041
lower level pass-through entity and if, based upon clear and 1042
convincing evidence, complete information about the location and 1043
cost of the physical assets of the lower pass-through entity is 1044

not available to the upper level pass-through entity, then 1045
solely for purposes of ascertaining if a gain or loss 1046
constitutes a qualifying trust amount, the upper level pass- 1047
through entity shall be deemed as owning no equity of the lower 1048
level pass-through entity for each day during the upper level 1049
pass-through entity's calendar or fiscal year in which or with 1050
which ends the lower level pass-through entity's calendar or 1051
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1052
shall be construed to provide for any deduction or exclusion in 1053
computing any trust's Ohio taxable income. 1054

(b) With respect to a trust that is not a resident for the 1055
taxable year and with respect to a part of a trust that is not a 1056
resident for the taxable year, "qualifying investee" for that 1057
taxable year does not include a C corporation if both of the 1058
following apply: 1059

(i) During the taxable year the trust or part of the trust 1060
recognizes a gain or loss from the sale, exchange, or other 1061
disposition of equity or ownership interests in, or debt 1062
obligations of, the C corporation. 1063

(ii) Such gain or loss constitutes nonbusiness income. 1064

(6) "Available" means information is such that a person is 1065
able to learn of the information by the due date plus 1066
extensions, if any, for filing the return for the taxable year 1067
in which the trust recognizes the gain or loss. 1068

(BB) "Qualifying controlled group" has the same meaning as 1069
in section 5733.04 of the Revised Code. 1070

(CC) "Related member" has the same meaning as in section 1071
5733.042 of the Revised Code. 1072

(DD) (1) For the purposes of division (DD) of this section: 1073

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

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

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

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

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

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

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

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

(3) A "qualifying pre-income tax trust election" is an
election by a pre-income tax trust to subject to the tax imposed
by section 5751.02 of the Revised Code the pre-income tax trust
and all pass-through entities of which the trust owns or

controls, directly, indirectly, or constructively through 1102
related interests, five per cent or more of the ownership or 1103
equity interests. The trustee shall notify the tax commissioner 1104
in writing of the election on or before April 15, 2006. The 1105
election, if timely made, shall be effective on and after 1106
January 1, 2006, and shall apply for all tax periods and tax 1107
years until revoked by the trustee of the trust. 1108

(4) A "pre-income tax trust" is a trust that satisfies all 1109
of the following requirements: 1110

(a) The document or instrument creating the trust was 1111
executed by the grantor before January 1, 1972; 1112

(b) The trust became irrevocable upon the creation of the 1113
trust; and 1114

(c) The grantor was domiciled in this state at the time 1115
the trust was created. 1116

(FF) "Uniformed services" means all of the following: 1117

(1) "Armed forces of the United States" as defined in 1118
section 5907.01 of the Revised Code; 1119

(2) The commissioned corps of the national oceanic and 1120
atmospheric administration; 1121

(3) The commissioned corps of the public health service. 1122

(GG) "Taxable business income" means the amount by which 1123
an individual's business income that is included in federal 1124
adjusted gross income exceeds the amount of business income the 1125
individual is authorized to deduct under division (A) (28) of 1126
this section for the taxable year. 1127

(HH) "Employer" does not include a franchisor with respect 1128

to the franchisor's relationship with a franchisee or an 1129
employee of a franchisee, unless the franchisor agrees to assume 1130
that role in writing or a court of competent jurisdiction 1131
determines that the franchisor exercises a type or degree of 1132
control over the franchisee or the franchisee's employees that 1133
is not customarily exercised by a franchisor for the purpose of 1134
protecting the franchisor's trademark, brand, or both. For 1135
purposes of this division, "franchisor" and "franchisee" have 1136
the same meanings as in 16 C.F.R. 436.1. 1137

(II) "Modified adjusted gross income" means Ohio adjusted 1138
gross income plus any amount deducted under divisions (A) (28) 1139
and (34) of this section for the taxable year. 1140

(JJ) "Qualifying Ohio educator" means an individual who, 1141
for a taxable year, qualifies as an eligible educator, as that 1142
term is defined in section 62 of the Internal Revenue Code, and 1143
who holds a certificate, license, or permit described in Chapter 1144
3319. or section 3301.071 of the Revised Code. 1145

Section 2. That existing section 5747.01 of the Revised 1146
Code is hereby repealed. 1147

Section 3. The amendment of section 5747.01 of the Revised 1148
Code by this act applies to taxable years ending on or after the 1149
effective date of this section. 1150

Section 4. This act shall be known as the Tithing 1151
Protection Act. 1152

Section 5. Section 5747.01 of the Revised Code is 1153
presented in this act as a composite of the section as amended 1154
by both H.B. 101 and S.B. 154 of the 135th General Assembly. The 1155
General Assembly, applying the principle stated in division (B) 1156
of section 1.52 of the Revised Code that amendments are to be 1157

harmonized if reasonably capable of simultaneous operation,	1158
finds that the composite is the resulting version of the section	1159
in effect prior to the effective date of the section as	1160
presented in this act.	1161