

As Introduced

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H. B. No. 617

Representative Young

To amend sections 718.01 and 5747.01 and to repeal 1
section 5747.79 of the Revised Code to exempt 2
capital gains from state and municipal income 3
taxation and to name this act the Ohio Capital 4
Gains Tax Repeal Act. 5

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

Section 1. That sections 718.01 and 5747.01 of the Revised 6
Code be amended to read as follows: 7

Sec. 718.01. Any term used in this chapter that is not 8
otherwise defined in this chapter has the same meaning as when 9
used in a comparable context in laws of the United States 10
relating to federal income taxation or in Title LVII of the 11
Revised Code, unless a different meaning is clearly required. 12
Except as provided in section 718.81 of the Revised Code, if a 13
term used in this chapter that is not otherwise defined in this 14
chapter is used in a comparable context in both the laws of the 15
United States relating to federal income tax and in Title LVII 16
of the Revised Code and the use is not consistent, then the use 17
of the term in the laws of the United States relating to federal 18
income tax shall control over the use of the term in Title LVII 19
of the Revised Code. 20

Except as otherwise provided in section 718.81 of the 21
Revised Code, as used in this chapter: 22

(A) (1) "Municipal taxable income" means the following: 23

(a) For a person other than an individual, income 24
apportioned or situated to the municipal corporation under 25
section 718.02 of the Revised Code, as applicable, reduced by 26
any pre-2017 net operating loss carryforward available to the 27
person for the municipal corporation. 28

(b) (i) For an individual who is a resident of a municipal 29
corporation other than a qualified municipal corporation, income 30
reduced by exempt income and any net capital gain that is not 31
exempt income to the extent otherwise included in income, then 32
reduced as provided in division (A) (2) of this section, and 33
further reduced by any pre-2017 net operating loss carryforward 34
available to the individual for the municipal corporation. 35

(ii) For an individual who is a resident of a qualified 36
municipal corporation, Ohio adjusted gross income reduced by 37
income exempted, and increased by deductions excluded, by the 38
qualified municipal corporation from the qualified municipal 39
corporation's tax. If a qualified municipal corporation, on or 40
before December 31, 2013, exempts income earned by individuals 41
who are not residents of the qualified municipal corporation and 42
net profit of persons that are not wholly located within the 43
qualified municipal corporation, such individual or person shall 44
have no municipal taxable income for the purposes of the tax 45
levied by the qualified municipal corporation and may be 46
exempted by the qualified municipal corporation from the 47
requirements of section 718.03 of the Revised Code. 48

(c) For an individual who is a nonresident of a municipal 49

corporation, income reduced by exempt income and any net capital 50
gain that is not exempt income to the extent otherwise included 51
in income and then, as applicable, apportioned or sitused to the 52
municipal corporation under section 718.02 of the Revised Code, 53
then reduced as provided in division (A)(2) of this section, and 54
further reduced by any pre-2017 net operating loss carryforward 55
available to the individual for the municipal corporation. 56

(2) In computing the municipal taxable income of a 57
taxpayer who is an individual, the taxpayer may subtract, as 58
provided in division (A)(1)(b)(i) or (c) of this section, the 59
amount of the individual's employee business expenses reported 60
on the individual's form 2106 that the individual deducted for 61
federal income tax purposes for the taxable year, subject to the 62
limitation imposed by section 67 of the Internal Revenue Code. 63
For the municipal corporation in which the taxpayer is a 64
resident, the taxpayer may deduct all such expenses allowed for 65
federal income tax purposes. For a municipal corporation in 66
which the taxpayer is not a resident, the taxpayer may deduct 67
such expenses only to the extent the expenses are related to the 68
taxpayer's performance of personal services in that nonresident 69
municipal corporation. 70

(B) "Income" means the following: 71

(1)(a) For residents, all income, salaries, qualifying 72
wages, commissions, and other compensation from whatever source 73
earned or received by the resident, including the resident's 74
distributive share of the net profit of pass-through entities 75
owned directly or indirectly by the resident and any net profit 76
of the resident, except as provided in division (D)(5) of this 77
section. 78

(b) For the purposes of division (B)(1)(a) of this 79

section: 80

(i) Any net operating loss of the resident incurred in the 81
taxable year and the resident's distributive share of any net 82
operating loss generated in the same taxable year and 83
attributable to the resident's ownership interest in a pass- 84
through entity shall be allowed as a deduction, for that taxable 85
year and the following five taxable years, against any other net 86
profit of the resident or the resident's distributive share of 87
any net profit attributable to the resident's ownership interest 88
in a pass-through entity until fully utilized, subject to 89
division (B) (1) (d) of this section; 90

(ii) The resident's distributive share of the net profit 91
of each pass-through entity owned directly or indirectly by the 92
resident shall be calculated without regard to any net operating 93
loss that is carried forward by that entity from a prior taxable 94
year and applied to reduce the entity's net profit for the 95
current taxable year. 96

(c) Division (B) (1) (b) of this section does not apply with 97
respect to any net profit or net operating loss attributable to 98
an ownership interest in an S corporation unless shareholders' 99
distributive shares of net profits from S corporations are 100
subject to tax in the municipal corporation as provided in 101
division (C) (14) (b) or (c) of this section. 102

(d) Any amount of a net operating loss used to reduce a 103
taxpayer's net profit for a taxable year shall reduce the amount 104
of net operating loss that may be carried forward to any 105
subsequent year for use by that taxpayer. In no event shall the 106
cumulative deductions for all taxable years with respect to a 107
taxpayer's net operating loss exceed the original amount of that 108
net operating loss available to that taxpayer. 109

(2) In the case of nonresidents, all income, salaries, 110
qualifying wages, commissions, and other compensation from 111
whatever source earned or received by the nonresident for work 112
done, services performed or rendered, or activities conducted in 113
the municipal corporation, including any net profit of the 114
nonresident, but excluding the nonresident's distributive share 115
of the net profit or loss of only pass-through entities owned 116
directly or indirectly by the nonresident. 117

(3) For taxpayers that are not individuals, net profit of 118
the taxpayer; 119

(4) Lottery, sweepstakes, gambling and sports winnings, 120
winnings from games of chance, and prizes and awards. If the 121
taxpayer is a professional gambler for federal income tax 122
purposes, the taxpayer may deduct related wagering losses and 123
expenses to the extent authorized under the Internal Revenue 124
Code and claimed against such winnings. 125

(C) "Exempt income" means all of the following: 126

(1) The military pay or allowances of members of the armed 127
forces of the United States or members of their reserve 128
components, including the national guard of any state. As used 129
in division (C)(1) of this section, "armed forces" has the same 130
meaning as in 10 U.S.C. 101. 131

(2) (a) Except as provided in division (C)(2)(b) of this 132
section, intangible income; 133

(b) A municipal corporation that taxed any type of 134
intangible income on March 29, 1988, pursuant to Section 3 of 135
S.B. 238 of the 116th general assembly, may continue to tax that 136
type of income if a majority of the electors of the municipal 137
corporation voting on the question of whether to permit the 138

taxation of that type of intangible income after 1988 voted in 139
favor thereof at an election held on November 8, 1988. 140

(3) Social security benefits, railroad retirement 141
benefits, unemployment compensation, pensions, retirement 142
benefit payments, payments from annuities, and similar payments 143
made to an employee or to the beneficiary of an employee under a 144
retirement program or plan, disability payments received from 145
private industry or local, state, or federal governments or from 146
charitable, religious or educational organizations, and the 147
proceeds of sickness, accident, or liability insurance policies. 148
As used in division (C)(3) of this section, "unemployment 149
compensation" does not include supplemental unemployment 150
compensation described in section 3402(o)(2) of the Internal 151
Revenue Code. 152

(4) The income of religious, fraternal, charitable, 153
scientific, literary, or educational institutions to the extent 154
such income is derived from tax-exempt real estate, tax-exempt 155
tangible or intangible property, or tax-exempt activities. 156

(5) Compensation paid under section 3501.28 or 3501.36 of 157
the Revised Code to a person serving as a precinct election 158
official to the extent that such compensation does not exceed 159
one thousand dollars for the taxable year. Such compensation in 160
excess of one thousand dollars for the taxable year may be 161
subject to taxation by a municipal corporation. A municipal 162
corporation shall not require the payer of such compensation to 163
withhold any tax from that compensation. 164

(6) Dues, contributions, and similar payments received by 165
charitable, religious, educational, or literary organizations or 166
labor unions, lodges, and similar organizations; 167

(7) Alimony and child support received;	168
(8) Compensation for personal injuries or for damages to	169
property from insurance proceeds or otherwise, excluding	170
compensation paid for lost salaries or wages or compensation	171
from punitive damages;	172
(9) Income of a public utility when that public utility is	173
subject to the tax levied under section 5727.24 or 5727.30 of	174
the Revised Code. Division (C) (9) of this section does not apply	175
for purposes of Chapter 5745. of the Revised Code.	176
(10) Gains from involuntary conversions, interest on	177
federal obligations, items of income subject to a tax levied by	178
the state and that a municipal corporation is specifically	179
prohibited by law from taxing, and income of a decedent's estate	180
during the period of administration except such income from the	181
operation of a trade or business;	182
(11) Compensation or allowances excluded from federal	183
gross income under section 107 of the Internal Revenue Code;	184
(12) Employee compensation that is not qualifying wages as	185
defined in division (R) of this section;	186
(13) Compensation paid to a person employed within the	187
boundaries of a United States air force base under the	188
jurisdiction of the United States air force that is used for the	189
housing of members of the United States air force and is a	190
center for air force operations, unless the person is subject to	191
taxation because of residence or domicile. If the compensation	192
is subject to taxation because of residence or domicile, tax on	193
such income shall be payable only to the municipal corporation	194
of residence or domicile.	195
(14) (a) Except as provided in division (C) (14) (b) or (c)	196

of this section, an S corporation shareholder's distributive 197
share of net profits of the S corporation, other than any part 198
of the distributive share of net profits that represents wages 199
as defined in section 3121(a) of the Internal Revenue Code or 200
net earnings from self-employment as defined in section 1402(a) 201
of the Internal Revenue Code. 202

(b) If, pursuant to division (H) of former section 718.01 203
of the Revised Code as it existed before March 11, 2004, a 204
majority of the electors of a municipal corporation voted in 205
favor of the question at an election held on November 4, 2003, 206
the municipal corporation may continue after 2002 to tax an S 207
corporation shareholder's distributive share of net profits of 208
an S corporation. 209

(c) If, on December 6, 2002, a municipal corporation was 210
imposing, assessing, and collecting a tax on an S corporation 211
shareholder's distributive share of net profits of the S 212
corporation to the extent the distributive share would be 213
allocated or apportioned to this state under divisions (B) (1) 214
and (2) of section 5733.05 of the Revised Code if the S 215
corporation were a corporation subject to taxes imposed under 216
Chapter 5733. of the Revised Code, the municipal corporation may 217
continue to impose the tax on such distributive shares to the 218
extent such shares would be so allocated or apportioned to this 219
state only until December 31, 2004, unless a majority of the 220
electors of the municipal corporation voting on the question of 221
continuing to tax such shares after that date voted in favor of 222
that question at an election held November 2, 2004. If a 223
majority of those electors voted in favor of the question, the 224
municipal corporation may continue after December 31, 2004, to 225
impose the tax on such distributive shares only to the extent 226
such shares would be so allocated or apportioned to this state. 227

(d) A municipal corporation shall be deemed to have 228
elected to tax S corporation shareholders' distributive shares 229
of net profits of the S corporation in the hands of the 230
shareholders if a majority of the electors of a municipal 231
corporation voted in favor of a question at an election held 232
under division (C) (14) (b) or (c) of this section. The municipal 233
corporation shall specify by resolution or ordinance that the 234
tax applies to the distributive share of a shareholder of an S 235
corporation in the hands of the shareholder of the S 236
corporation. 237

(15) The income of individuals under eighteen years of 238
age. 239

(16) (a) Except as provided in divisions (C) (16) (b), (c), 240
and (d) of this section, qualifying wages described in division 241
(B) (1) or (E) of section 718.011 of the Revised Code to the 242
extent the qualifying wages are not subject to withholding for 243
the municipal corporation under either of those divisions. 244

(b) The exemption provided in division (C) (16) (a) of this 245
section does not apply with respect to the municipal corporation 246
in which the employee resided at the time the employee earned 247
the qualifying wages. 248

(c) The exemption provided in division (C) (16) (a) of this 249
section does not apply to qualifying wages that an employer 250
elects to withhold under division (D) (2) of section 718.011 of 251
the Revised Code. 252

(d) The exemption provided in division (C) (16) (a) of this 253
section does not apply to qualifying wages if both of the 254
following conditions apply: 255

(i) For qualifying wages described in division (B) (1) of 256

section 718.011 of the Revised Code, the employee's employer 257
withholds and remits tax on the qualifying wages to the 258
municipal corporation in which the employee's principal place of 259
work is situated, or, for qualifying wages described in division 260
(E) of section 718.011 of the Revised Code, the employee's 261
employer withholds and remits tax on the qualifying wages to the 262
municipal corporation in which the employer's fixed location is 263
located; 264

(ii) The employee receives a refund of the tax described 265
in division (C) (16) (d) (i) of this section on the basis of the 266
employee not performing services in that municipal corporation. 267

(17) (a) Except as provided in division (C) (17) (b) or (c) 268
of this section, compensation that is not qualifying wages paid 269
to a nonresident individual for personal services performed in 270
the municipal corporation on not more than twenty days in a 271
taxable year. 272

(b) The exemption provided in division (C) (17) (a) of this 273
section does not apply under either of the following 274
circumstances: 275

(i) The individual's base of operation is located in the 276
municipal corporation. 277

(ii) The individual is a professional athlete, 278
professional entertainer, or public figure, and the compensation 279
is paid for the performance of services in the individual's 280
capacity as a professional athlete, professional entertainer, or 281
public figure. For purposes of division (C) (17) (b) (ii) of this 282
section, "professional athlete," "professional entertainer," and 283
"public figure" have the same meanings as in section 718.011 of 284
the Revised Code. 285

(c) Compensation to which division (C) (17) of this section 286
applies shall be treated as earned or received at the 287
individual's base of operation. If the individual does not have 288
a base of operation, the compensation shall be treated as earned 289
or received where the individual is domiciled. 290

(d) For purposes of division (C) (17) of this section, 291
"base of operation" means the location where an individual owns 292
or rents an office, storefront, or similar facility to which the 293
individual regularly reports and at which the individual 294
regularly performs personal services for compensation. 295

(18) Compensation paid to a person for personal services 296
performed for a political subdivision on property owned by the 297
political subdivision, regardless of whether the compensation is 298
received by an employee of the subdivision or another person 299
performing services for the subdivision under a contract with 300
the subdivision, if the property on which services are performed 301
is annexed to a municipal corporation pursuant to section 302
709.023 of the Revised Code on or after March 27, 2013, unless 303
the person is subject to such taxation because of residence. If 304
the compensation is subject to taxation because of residence, 305
municipal income tax shall be payable only to the municipal 306
corporation of residence. 307

(19) In the case of a tax administered, collected, and 308
enforced by a municipal corporation pursuant to an agreement 309
with the board of directors of a joint economic development 310
district under section 715.72 of the Revised Code, the net 311
profits of a business, and the income of the employees of that 312
business, exempted from the tax under division (Q) of that 313
section. 314

(20) All of the following: 315

(a) Income derived from disaster work conducted in this 316
state by an out-of-state disaster business during a disaster 317
response period pursuant to a qualifying solicitation received 318
by the business; 319

(b) Income of a qualifying employee described in division 320
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 321
such income is derived from disaster work conducted in this 322
state by the employee during a disaster response period pursuant 323
to a qualifying solicitation received by the employee's 324
employer; 325

(c) Income of a qualifying employee described in division 326
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 327
such income is derived from disaster work conducted in this 328
state by the employee during a disaster response period on 329
critical infrastructure owned or used by the employee's 330
employer. 331

(21) Income the taxation of which is prohibited by the 332
constitution or laws of the United States. 333

Any item of income that is exempt income of a pass-through 334
entity under division (C) of this section is exempt income of 335
each owner of the pass-through entity to the extent of that 336
owner's distributive or proportionate share of that item of the 337
entity's income. 338

(D) (1) "Net profit" for a person who is an individual 339
means the individual's net profit required to be reported on 340
schedule C, schedule E, or schedule F reduced by any net 341
operating loss carried forward. For the purposes of division (D) 342
(1) of this section, the net operating loss carried forward 343
shall be calculated and deducted in the same manner as provided 344

in division (D) (3) of this section. 345

(2) "Net profit" for a person other than an individual 346
means adjusted federal taxable income reduced by any net 347
operating loss incurred by the person in a taxable year 348
beginning on or after January 1, 2017, subject to the 349
limitations of division (D) (3) of this section. 350

(3) (a) The amount of such net operating loss shall be 351
deducted from net profit to the extent necessary to reduce 352
municipal taxable income to zero, with any remaining unused 353
portion of the net operating loss carried forward to not more 354
than five consecutive taxable years following the taxable year 355
in which the loss was incurred, but in no case for more years 356
than necessary for the deduction to be fully utilized. 357

(b) No person shall use the deduction allowed by division 358
(D) (3) of this section to offset qualifying wages. 359

(c) (i) For taxable years beginning in 2018, 2019, 2020, 360
2021, or 2022, a person may not deduct, for purposes of an 361
income tax levied by a municipal corporation that levies an 362
income tax before January 1, 2016, more than fifty per cent of 363
the amount of the deduction otherwise allowed by division (D) (3) 364
of this section. 365

(ii) For taxable years beginning in 2023 or thereafter, a 366
person may deduct, for purposes of an income tax levied by a 367
municipal corporation that levies an income tax before January 368
1, 2016, the full amount allowed by division (D) (3) of this 369
section without regard to the limitation of division (D) (3) (c) 370
(i) of this section. 371

(d) Any pre-2017 net operating loss carryforward deduction 372
that is available may be utilized before a taxpayer may deduct 373

any amount pursuant to division (D) (3) of this section. 374

(e) Nothing in division (D) (3) (c) (i) of this section 375
precludes a person from carrying forward, for use with respect 376
to any return filed for a taxable year beginning after 2018, any 377
amount of net operating loss that was not fully utilized by 378
operation of division (D) (3) (c) (i) of this section. To the 379
extent that an amount of net operating loss that was not fully 380
utilized in one or more taxable years by operation of division 381
(D) (3) (c) (i) of this section is carried forward for use with 382
respect to a return filed for a taxable year beginning in 2019, 383
2020, 2021, or 2022, the limitation described in division (D) (3) 384
(c) (i) of this section shall apply to the amount carried 385
forward. 386

(4) For the purposes of this chapter, and notwithstanding 387
division (D) (2) of this section, net profit of a disregarded 388
entity shall not be taxable as against that disregarded entity, 389
but shall instead be included in the net profit of the owner of 390
the disregarded entity. 391

(5) For the purposes of this chapter, and notwithstanding 392
any other provision of this chapter, the net profit of a 393
publicly traded partnership that makes the election described in 394
division (D) (5) of this section shall be taxed as if the 395
partnership were a C corporation, and shall not be treated as 396
the net profit or income of any owner of the partnership. 397

A publicly traded partnership that is treated as a 398
partnership for federal income tax purposes and that is subject 399
to tax on its net profits in one or more municipal corporations 400
in this state may elect to be treated as a C corporation for 401
municipal income tax purposes. The publicly traded partnership 402
shall make the election in every municipal corporation in which 403

the partnership is subject to taxation on its net profits. The 404
election shall be made on the annual tax return filed in each 405
such municipal corporation. The publicly traded partnership 406
shall not be required to file the election with any municipal 407
corporation in which the partnership is not subject to taxation 408
on its net profits, but division (D)(5) of this section applies 409
to all municipal corporations in which an individual owner of 410
the partnership resides. 411

(E) "Adjusted federal taxable income," for a person 412
required to file as a C corporation, or for a person that has 413
elected to be taxed as a C corporation under division (D)(5) of 414
this section, means a C corporation's federal taxable income 415
before net operating losses and special deductions as determined 416
under the Internal Revenue Code, adjusted as follows: 417

(1) Deduct intangible income to the extent included in 418
federal taxable income. The deduction shall be allowed 419
regardless of whether the intangible income relates to assets 420
used in a trade or business or assets held for the production of 421
income. 422

(2) Add an amount equal to five per cent of intangible 423
income deducted under division (E)(1) of this section, but 424
excluding that portion of intangible income directly related to 425
the sale, exchange, or other disposition of property described 426
in section 1221 of the Internal Revenue Code; 427

(3) Add any losses allowed as a deduction in the 428
computation of federal taxable income if the losses directly 429
relate to the sale, exchange, or other disposition of an asset 430
described in section 1221 or 1231 of the Internal Revenue Code; 431

(4) (a) Except as provided in division (E)(4)(b) of this 432

section, deduct income and gain included in federal taxable 433
income to the extent the income and gain directly relate to the 434
sale, exchange, or other disposition of an asset described in 435
section 1221 or 1231 of the Internal Revenue Code; 436

(b) Division (E)(4)(a) of this section does not apply to 437
the extent the income or gain is income or gain described in 438
section 1245 or 1250 of the Internal Revenue Code. 439

(5) Add taxes on or measured by net income allowed as a 440
deduction in the computation of federal taxable income; 441

(6) In the case of a real estate investment trust or 442
regulated investment company, add all amounts with respect to 443
dividends to, distributions to, or amounts set aside for or 444
credited to the benefit of investors and allowed as a deduction 445
in the computation of federal taxable income; 446

(7) Deduct, to the extent not otherwise deducted or 447
excluded in computing federal taxable income, any income derived 448
from a transfer agreement or from the enterprise transferred 449
under that agreement under section 4313.02 of the Revised Code; 450

(8) Deduct exempt income to the extent not otherwise 451
deducted or excluded in computing adjusted federal taxable 452
income. 453

(9) Deduct any net profit of a pass-through entity owned 454
directly or indirectly by the taxpayer and included in the 455
taxpayer's federal taxable income unless an affiliated group of 456
corporations includes that net profit in the group's federal 457
taxable income in accordance with division (E)(3)(b) of section 458
718.06 of the Revised Code. 459

(10) Add any loss incurred by a pass-through entity owned 460
directly or indirectly by the taxpayer and included in the 461

taxpayer's federal taxable income unless an affiliated group of 462
corporations includes that loss in the group's federal taxable 463
income in accordance with division (E) (3) (b) of section 718.06 464
of the Revised Code. 465

If the taxpayer is not a C corporation, is not a 466
disregarded entity that has made the election described in 467
division (L) (2) of this section, is not a publicly traded 468
partnership that has made the election described in division (D) 469
(5) of this section, and is not an individual, the taxpayer 470
shall compute adjusted federal taxable income under this section 471
as if the taxpayer were a C corporation, except guaranteed 472
payments and other similar amounts paid or accrued to a partner, 473
former partner, shareholder, former shareholder, member, or 474
former member shall not be allowed as a deductible expense 475
unless such payments are a pension or retirement benefit payment 476
paid to a retired partner, retired shareholder, or retired 477
member or are in consideration for the use of capital and 478
treated as payment of interest under section 469 of the Internal 479
Revenue Code or United States treasury regulations. Amounts paid 480
or accrued to a qualified self-employed retirement plan with 481
respect to a partner, former partner, shareholder, former 482
shareholder, member, or former member of the taxpayer, amounts 483
paid or accrued to or for health insurance for a partner, former 484
partner, shareholder, former shareholder, member, or former 485
member, and amounts paid or accrued to or for life insurance for 486
a partner, former partner, shareholder, former shareholder, 487
member, or former member shall not be allowed as a deduction. 488

Nothing in division (E) of this section shall be construed 489
as allowing the taxpayer to add or deduct any amount more than 490
once or shall be construed as allowing any taxpayer to deduct 491
any amount paid to or accrued for purposes of federal self- 492

employment tax.	493
(F) "Schedule C" means internal revenue service schedule C	494
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	495
Code.	496
(G) "Schedule E" means internal revenue service schedule E	497
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	498
Code.	499
(H) "Schedule F" means internal revenue service schedule F	500
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	501
Code.	502
(I) "Internal Revenue Code" has the same meaning as in	503
section 5747.01 of the Revised Code.	504
(J) "Resident" means an individual who is domiciled in the	505
municipal corporation as determined under section 718.012 of the	506
Revised Code.	507
(K) "Nonresident" means an individual that is not a	508
resident.	509
(L) (1) "Taxpayer" means a person subject to a tax levied	510
on income by a municipal corporation in accordance with this	511
chapter. "Taxpayer" does not include a grantor trust or, except	512
as provided in division (L) (2) (a) of this section, a disregarded	513
entity.	514
(2) (a) A single member limited liability company that is a	515
disregarded entity for federal tax purposes may be a separate	516
taxpayer from its single member in all Ohio municipal	517
corporations in which it either filed as a separate taxpayer or	518
did not file for its taxable year ending in 2003, if all of the	519
following conditions are met:	520

(i) The limited liability company's single member is also 521
a limited liability company. 522

(ii) The limited liability company and its single member 523
were formed and doing business in one or more Ohio municipal 524
corporations for at least five years before January 1, 2004. 525

(iii) Not later than December 31, 2004, the limited 526
liability company and its single member each made an election to 527
be treated as a separate taxpayer under division (L) of this 528
section as this section existed on December 31, 2004. 529

(iv) The limited liability company was not formed for the 530
purpose of evading or reducing Ohio municipal corporation income 531
tax liability of the limited liability company or its single 532
member. 533

(v) The Ohio municipal corporation that was the primary 534
place of business of the sole member of the limited liability 535
company consented to the election. 536

(b) For purposes of division (L) (2) (a) (v) of this section, 537
a municipal corporation was the primary place of business of a 538
limited liability company if, for the limited liability 539
company's taxable year ending in 2003, its income tax liability 540
was greater in that municipal corporation than in any other 541
municipal corporation in Ohio, and that tax liability to that 542
municipal corporation for its taxable year ending in 2003 was at 543
least four hundred thousand dollars. 544

(M) "Person" includes individuals, firms, companies, joint 545
stock companies, business trusts, estates, trusts, partnerships, 546
limited liability partnerships, limited liability companies, 547
associations, C corporations, S corporations, governmental 548
entities, and any other entity. 549

(N) "Pass-through entity" means a partnership not treated 550
as an association taxable as a C corporation for federal income 551
tax purposes, a limited liability company not treated as an 552
association taxable as a C corporation for federal income tax 553
purposes, an S corporation, or any other class of entity from 554
which the income or profits of the entity are given pass-through 555
treatment for federal income tax purposes. "Pass-through entity" 556
does not include a trust, estate, grantor of a grantor trust, or 557
disregarded entity. 558

(O) "S corporation" means a person that has made an 559
election under subchapter S of Chapter 1 of Subtitle A of the 560
Internal Revenue Code for its taxable year. 561

(P) "Single member limited liability company" means a 562
limited liability company that has one direct member. 563

(Q) "Limited liability company" means a limited liability 564
company formed under former Chapter 1705. of the Revised Code as 565
that chapter existed prior to February 11, 2022, Chapter 1706. 566
of the Revised Code, or the laws of another state. 567

(R) "Qualifying wages" means wages, as defined in section 568
3121(a) of the Internal Revenue Code, without regard to any wage 569
limitations, adjusted as follows: 570

(1) Deduct the following amounts: 571

(a) Any amount included in wages if the amount constitutes 572
compensation attributable to a plan or program described in 573
section 125 of the Internal Revenue Code. 574

(b) Any amount included in wages if the amount constitutes 575
payment on account of a disability related to sickness or an 576
accident paid by a party unrelated to the employer, agent of an 577
employer, or other payer. 578

(c) Any amount attributable to a nonqualified deferred 579
compensation plan or program described in section 3121(v) (2) (C) 580
of the Internal Revenue Code if the compensation is included in 581
wages and the municipal corporation has, by resolution or 582
ordinance adopted before January 1, 2016, exempted the amount 583
from withholding and tax. 584

(d) Any amount included in wages if the amount arises from 585
the sale, exchange, or other disposition of a stock option, the 586
exercise of a stock option, or the sale, exchange, or other 587
disposition of stock purchased under a stock option and the 588
municipal corporation has, by resolution or ordinance adopted 589
before January 1, 2016, exempted the amount from withholding and 590
tax. 591

(e) Any amount included in wages that is exempt income. 592

(2) Add the following amounts: 593

(a) Any amount not included in wages solely because the 594
employee was employed by the employer before April 1, 1986. 595

(b) Any amount not included in wages because the amount 596
arises from the sale, exchange, or other disposition of a stock 597
option, the exercise of a stock option, or the sale, exchange, 598
or other disposition of stock purchased under a stock option and 599
the municipal corporation has not, by resolution or ordinance, 600
exempted the amount from withholding and tax adopted before 601
January 1, 2016. Division (R) (2) (b) of this section applies only 602
to those amounts constituting ordinary income. 603

(c) Any amount not included in wages if the amount is an 604
amount described in section 401(k), 403(b), or 457 of the 605
Internal Revenue Code. Division (R) (2) (c) of this section 606
applies only to employee contributions and employee deferrals. 607

(d) Any amount that is supplemental unemployment 608
compensation benefits described in section 3402(o) (2) of the 609
Internal Revenue Code and not included in wages. 610

(e) Any amount received that is treated as self-employment 611
income for federal tax purposes in accordance with section 612
1402(a) (8) of the Internal Revenue Code. 613

(f) Any amount not included in wages if all of the 614
following apply: 615

(i) For the taxable year the amount is employee 616
compensation that is earned outside of the United States and 617
that either is included in the taxpayer's gross income for 618
federal income tax purposes or would have been included in the 619
taxpayer's gross income for such purposes if the taxpayer did 620
not elect to exclude the income under section 911 of the 621
Internal Revenue Code; 622

(ii) For no preceding taxable year did the amount 623
constitute wages as defined in section 3121(a) of the Internal 624
Revenue Code; 625

(iii) For no succeeding taxable year will the amount 626
constitute wages; and 627

(iv) For any taxable year the amount has not otherwise 628
been added to wages pursuant to either division (R) (2) of this 629
section or section 718.03 of the Revised Code, as that section 630
existed before the effective date of H.B. 5 of the 130th general 631
assembly, March 23, 2015. 632

(S) "Intangible income" means income of any of the 633
following types: income yield, interest, capital gains, 634
dividends, or other income arising from the ownership, sale, 635
exchange, or other disposition of intangible property including, 636

but not limited to, investments, deposits, money, or credits as 637
those terms are defined in Chapter 5701. of the Revised Code, 638
and patents, copyrights, trademarks, tradenames, investments in 639
real estate investment trusts, investments in regulated 640
investment companies, and appreciation on deferred compensation. 641
"Intangible income" does not include prizes, awards, or other 642
income associated with any lottery winnings, gambling winnings, 643
or other similar games of chance. 644

(T) "Taxable year" means the corresponding tax reporting 645
period as prescribed for the taxpayer under the Internal Revenue 646
Code. 647

(U) (1) "Tax administrator" means, subject to division (U) 648
(2) of this section, the individual charged with direct 649
responsibility for administration of an income tax levied by a 650
municipal corporation in accordance with this chapter, and also 651
includes the following: 652

(a) A municipal corporation acting as the agent of another 653
municipal corporation; 654

(b) A person retained by a municipal corporation to 655
administer a tax levied by the municipal corporation, but only 656
if the municipal corporation does not compensate the person in 657
whole or in part on a contingency basis; 658

(c) The central collection agency or the regional income 659
tax agency or their successors in interest, or another entity 660
organized to perform functions similar to those performed by the 661
central collection agency and the regional income tax agency. 662

(2) "Tax administrator" does not include the tax 663
commissioner. 664

(3) A private individual or entity serving in any position 665

described in division (U) (1) (b) or (c) of this section shall 666
have no access to criminal history record information. 667

(V) "Employer" means a person that is an employer for 668
federal income tax purposes. 669

(W) "Employee" means an individual who is an employee for 670
federal income tax purposes. 671

(X) "Other payer" means any person, other than an 672
individual's employer or the employer's agent, that pays an 673
individual any amount included in the federal gross income of 674
the individual. "Other payer" includes casino operators and 675
video lottery terminal sales agents. 676

(Y) "Calendar quarter" means the three-month period ending 677
on the last day of March, June, September, or December. 678

(Z) "Form 2106" means internal revenue service form 2106 679
filed by a taxpayer pursuant to the Internal Revenue Code. 680

(AA) "Municipal corporation" includes a joint economic 681
development district or joint economic development zone that 682
levies an income tax under section 715.691, 715.70, 715.71, or 683
715.72 of the Revised Code. 684

(BB) "Disregarded entity" means a single member limited 685
liability company, a qualifying subchapter S subsidiary, or 686
another entity if the company, subsidiary, or entity is a 687
disregarded entity for federal income tax purposes. 688

(CC) "Generic form" means an electronic or paper form that 689
is not prescribed by a particular municipal corporation and that 690
is designed for reporting taxes withheld by an employer, agent 691
of an employer, or other payer, estimated municipal income 692
taxes, or annual municipal income tax liability or for filing a 693

refund claim. 694

(DD) "Tax return preparer" means any individual described 695
in section 7701(a) (36) of the Internal Revenue Code and 26 696
C.F.R. 301.7701-15. 697

(EE) "Ohio business gateway" means the online computer 698
network system created under section 125.30 of the Revised Code 699
or any successor electronic filing and payment system. 700

(FF) "Local board of tax review" and "board of tax review" 701
mean the entity created under section 718.11 of the Revised 702
Code. 703

(GG) "Net operating loss" means a loss incurred by a 704
person in the operation of a trade or business. "Net operating 705
loss" does not include unutilized losses resulting from basis 706
limitations, at-risk limitations, or passive activity loss 707
limitations. 708

(HH) "Casino operator" and "casino facility" have the same 709
meanings as in section 3772.01 of the Revised Code. 710

(II) "Video lottery terminal" has the same meaning as in 711
section 3770.21 of the Revised Code. 712

(JJ) "Video lottery terminal sales agent" means a lottery 713
sales agent licensed under Chapter 3770. of the Revised Code to 714
conduct video lottery terminals on behalf of the state pursuant 715
to section 3770.21 of the Revised Code. 716

(KK) "Postal service" means the United States postal 717
service. 718

(LL) "Certified mail," "express mail," "United States 719
mail," "postal service," and similar terms include any delivery 720
service authorized pursuant to section 5703.056 of the Revised 721

Code. 722

(MM) "Postmark date," "date of postmark," and similar 723
terms include the date recorded and marked in the manner 724
described in division (B) (3) of section 5703.056 of the Revised 725
Code. 726

(NN) "Related member" means a person that, with respect to 727
the taxpayer during all or any portion of the taxable year, is 728
either a related entity, a component member as defined in 729
section 1563(b) of the Internal Revenue Code, or a person to or 730
from whom there is attribution of stock ownership in accordance 731
with section 1563(e) of the Internal Revenue Code except, for 732
purposes of determining whether a person is a related member 733
under this division, "twenty per cent" shall be substituted for 734
"5 percent" wherever "5 percent" appears in section 1563(e) of 735
the Internal Revenue Code. 736

(OO) "Related entity" means any of the following: 737

(1) An individual stockholder, or a member of the 738
stockholder's family enumerated in section 318 of the Internal 739
Revenue Code, if the stockholder and the members of the 740
stockholder's family own directly, indirectly, beneficially, or 741
constructively, in the aggregate, at least fifty per cent of the 742
value of the taxpayer's outstanding stock; 743

(2) A stockholder, or a stockholder's partnership, estate, 744
trust, or corporation, if the stockholder and the stockholder's 745
partnerships, estates, trusts, or corporations own directly, 746
indirectly, beneficially, or constructively, in the aggregate, 747
at least fifty per cent of the value of the taxpayer's 748
outstanding stock; 749

(3) A corporation, or a party related to the corporation 750

in a manner that would require an attribution of stock from the 751
corporation to the party or from the party to the corporation 752
under division (00) (4) of this section, provided the taxpayer 753
owns directly, indirectly, beneficially, or constructively, at 754
least fifty per cent of the value of the corporation's 755
outstanding stock; 756

(4) The attribution rules described in section 318 of the 757
Internal Revenue Code apply for the purpose of determining 758
whether the ownership requirements in divisions (00) (1) to (3) 759
of this section have been met. 760

(PP) (1) "Assessment" means a written finding by the tax 761
administrator that a person has underpaid municipal income tax, 762
or owes penalty and interest, or any combination of tax, 763
penalty, or interest, to the municipal corporation that 764
commences the person's time limitation for making an appeal to 765
the local board of tax review pursuant to section 718.11 of the 766
Revised Code, and has "ASSESSMENT" written in all capital 767
letters at the top of such finding. 768

(2) "Assessment" does not include an informal notice 769
denying a request for refund issued under division (B) (3) of 770
section 718.19 of the Revised Code, a billing statement 771
notifying a taxpayer of current or past-due balances owed to the 772
municipal corporation, a tax administrator's request for 773
additional information, a notification to the taxpayer of 774
mathematical errors, or a tax administrator's other written 775
correspondence to a person or taxpayer that does not meet the 776
criteria prescribed by division (PP) (1) of this section. 777

(QQ) "Taxpayers' rights and responsibilities" means the 778
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 779
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 780

Revised Code and the responsibilities of taxpayers to file, 781
report, withhold, remit, and pay municipal income tax and 782
otherwise comply with Chapter 718. of the Revised Code and 783
resolutions, ordinances, and rules adopted by a municipal 784
corporation for the imposition and administration of a municipal 785
income tax. 786

(RR) "Qualified municipal corporation" means a municipal 787
corporation that, by resolution or ordinance adopted on or 788
before December 31, 2011, adopted Ohio adjusted gross income, as 789
defined by section 5747.01 of the Revised Code, as the income 790
subject to tax for the purposes of imposing a municipal income 791
tax. 792

(SS) (1) "Pre-2017 net operating loss carryforward" means 793
any net operating loss incurred in a taxable year beginning 794
before January 1, 2017, to the extent such loss was permitted, 795
by a resolution or ordinance of the municipal corporation that 796
was adopted by the municipal corporation before January 1, 2016, 797
to be carried forward and utilized to offset income or net 798
profit generated in such municipal corporation in future taxable 799
years. 800

(2) For the purpose of calculating municipal taxable 801
income, any pre-2017 net operating loss carryforward may be 802
carried forward to any taxable year, including taxable years 803
beginning in 2017 or thereafter, for the number of taxable years 804
provided in the resolution or ordinance or until fully utilized, 805
whichever is earlier. 806

(TT) "Small employer" means any employer that had total 807
revenue of less than five hundred thousand dollars during the 808
preceding taxable year. For purposes of this division, "total 809
revenue" means receipts of any type or kind, including, but not 810

limited to, sales receipts; payments; rents; profits; gains, 811
dividends, and other investment income; compensation; 812
commissions; premiums; money; property; grants; contributions; 813
donations; gifts; program service revenue; patient service 814
revenue; premiums; fees, including premium fees and service 815
fees; tuition payments; unrelated business revenue; 816
reimbursements; any type of payment from a governmental unit, 817
including grants and other allocations; and any other similar 818
receipts reported for federal income tax purposes or under 819
generally accepted accounting principles. "Small employer" does 820
not include the federal government; any state government, 821
including any state agency or instrumentality; any political 822
subdivision; or any entity treated as a government for financial 823
accounting and reporting purposes. 824

(UU) "Audit" means the examination of a person or the 825
inspection of the books, records, memoranda, or accounts of a 826
person for the purpose of determining liability for a municipal 827
income tax. 828

(VV) "Publicly traded partnership" means any partnership, 829
an interest in which is regularly traded on an established 830
securities market. A "publicly traded partnership" may have any 831
number of partners. 832

(WW) "Tax commissioner" means the tax commissioner 833
appointed under section 121.03 of the Revised Code. 834

(XX) "Out-of-state disaster business," "qualifying 835
solicitation," "qualifying employee," "disaster work," "critical 836
infrastructure," and "disaster response period" have the same 837
meanings as in section 5703.94 of the Revised Code. 838

(YY) "Pension" means a retirement benefit plan, regardless 839

of whether the plan satisfies the qualifications described under 840
section 401(a) of the Internal Revenue Code, including amounts 841
that are taxable under the "Federal Insurance Contributions 842
Act," Chapter 21 of the Internal Revenue Code, excluding 843
employee contributions and elective deferrals, and regardless of 844
whether such amounts are paid in the same taxable year in which 845
the amounts are included in the employee's wages, as defined by 846
section 3121(a) of the Internal Revenue Code. 847

(ZZ) "Retirement benefit plan" means an arrangement 848
whereby an entity provides benefits to individuals either on or 849
after their termination of service because of retirement or 850
disability. "Retirement benefit plan" does not include wage 851
continuation payments, severance payments, or payments made for 852
accrued personal or vacation time. 853

(AAA) "Net capital gain" has the same meaning as in 854
section 1222 of the Internal Revenue Code. 855

Sec. 5747.01. Except as otherwise expressly provided or 856
clearly appearing from the context, any term used in this 857
chapter that is not otherwise defined in this section has the 858
same meaning as when used in a comparable context in the laws of 859
the United States relating to federal income taxes or if not 860
used in a comparable context in those laws, has the same meaning 861
as in section 5733.40 of the Revised Code. Any reference in this 862
chapter to the Internal Revenue Code includes other laws of the 863
United States relating to federal income taxes. 864

As used in this chapter: 865

(A) "Adjusted gross income" or "Ohio adjusted gross 866
income" means federal adjusted gross income, as defined and used 867
in the Internal Revenue Code, adjusted as provided in this 868

section: 869

(1) Add interest or dividends on obligations or securities 870
of any state or of any political subdivision or authority of any 871
state, other than this state and its subdivisions and 872
authorities. 873

(2) Add interest or dividends on obligations of any 874
authority, commission, instrumentality, territory, or possession 875
of the United States to the extent that the interest or 876
dividends are exempt from federal income taxes but not from 877
state income taxes. 878

(3) Deduct interest or dividends on obligations of the 879
United States and its territories and possessions or of any 880
authority, commission, or instrumentality of the United States 881
to the extent that the interest or dividends are included in 882
federal adjusted gross income but exempt from state income taxes 883
under the laws of the United States. 884

(4) Deduct disability and survivor's benefits to the 885
extent included in federal adjusted gross income. 886

(5) Deduct the following, to the extent not otherwise 887
deducted or excluded in computing federal or Ohio adjusted gross 888
income: 889

(a) Benefits under Title II of the Social Security Act and 890
tier 1 railroad retirement; 891

(b) Railroad retirement benefits, other than tier 1 892
railroad retirement benefits, to the extent such amounts are 893
exempt from state taxation under federal law. 894

(6) Deduct the amount of wages and salaries, if any, not 895
otherwise allowable as a deduction but that would have been 896

allowable as a deduction in computing federal adjusted gross 897
income for the taxable year, had the work opportunity tax credit 898
allowed and determined under sections 38, 51, and 52 of the 899
Internal Revenue Code not been in effect. 900

(7) Deduct any interest or interest equivalent on public 901
obligations and purchase obligations to the extent that the 902
interest or interest equivalent is included in federal adjusted 903
gross income. 904

(8) Add any loss or deduct any gain resulting from the 905
sale, exchange, or other disposition of public obligations to 906
the extent that the loss has been deducted or the gain has been 907
included in computing federal adjusted gross income. 908

(9) Deduct or add amounts, as provided under section 909
5747.70 of the Revised Code, related to contributions made to or 910
tuition units purchased under a qualified tuition program 911
established pursuant to section 529 of the Internal Revenue 912
Code. 913

(10)(a) Deduct, to the extent not otherwise allowable as a 914
deduction or exclusion in computing federal or Ohio adjusted 915
gross income for the taxable year, the amount the taxpayer paid 916
during the taxable year for medical care insurance and qualified 917
long-term care insurance for the taxpayer, the taxpayer's 918
spouse, and dependents. No deduction for medical care insurance 919
under division (A)(10)(a) of this section shall be allowed 920
either to any taxpayer who is eligible to participate in any 921
subsidized health plan maintained by any employer of the 922
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 923
entitled to, or on application would be entitled to, benefits 924
under part A of Title XVIII of the "Social Security Act," 49 925
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 926

division (A)(10)(a) of this section, "subsidized health plan" 927
means a health plan for which the employer pays any portion of 928
the plan's cost. The deduction allowed under division (A)(10)(a) 929
of this section shall be the net of any related premium refunds, 930
related premium reimbursements, or related insurance premium 931
dividends received during the taxable year. 932

(b) Deduct, to the extent not otherwise deducted or 933
excluded in computing federal or Ohio adjusted gross income 934
during the taxable year, the amount the taxpayer paid during the 935
taxable year, not compensated for by any insurance or otherwise, 936
for medical care of the taxpayer, the taxpayer's spouse, and 937
dependents, to the extent the expenses exceed seven and one-half 938
per cent of the taxpayer's federal adjusted gross income. 939

(c) For purposes of division (A)(10) of this section, 940
"medical care" has the meaning given in section 213 of the 941
Internal Revenue Code, subject to the special rules, 942
limitations, and exclusions set forth therein, and "qualified 943
long-term care" has the same meaning given in section 7702B(c) 944
of the Internal Revenue Code. Solely for purposes of division 945
(A)(10)(a) of this section, "dependent" includes a person who 946
otherwise would be a "qualifying relative" and thus a 947
"dependent" under section 152 of the Internal Revenue Code but 948
for the fact that the person fails to meet the income and 949
support limitations under section 152(d)(1)(B) and (C) of the 950
Internal Revenue Code. 951

(11)(a) Deduct any amount included in federal adjusted 952
gross income solely because the amount represents a 953
reimbursement or refund of expenses that in any year the 954
taxpayer had deducted as an itemized deduction pursuant to 955
section 63 of the Internal Revenue Code and applicable United 956

States department of the treasury regulations. The deduction 957
otherwise allowed under division (A) (11) (a) of this section 958
shall be reduced to the extent the reimbursement is attributable 959
to an amount the taxpayer deducted under this section in any 960
taxable year. 961

(b) Add any amount not otherwise included in Ohio adjusted 962
gross income for any taxable year to the extent that the amount 963
is attributable to the recovery during the taxable year of any 964
amount deducted or excluded in computing federal or Ohio 965
adjusted gross income in any taxable year. 966

(12) Deduct any portion of the deduction described in 967
section 1341(a) (2) of the Internal Revenue Code, for repaying 968
previously reported income received under a claim of right, that 969
meets both of the following requirements: 970

(a) It is allowable for repayment of an item that was 971
included in the taxpayer's adjusted gross income for a prior 972
taxable year and did not qualify for a credit under division (A) 973
or (B) of section 5747.05 of the Revised Code for that year; 974

(b) It does not otherwise reduce the taxpayer's adjusted 975
gross income for the current or any other taxable year. 976

(13) Deduct an amount equal to the deposits made to, and 977
net investment earnings of, a medical savings account during the 978
taxable year, in accordance with section 3924.66 of the Revised 979
Code. The deduction allowed by division (A) (13) of this section 980
does not apply to medical savings account deposits and earnings 981
otherwise deducted or excluded for the current or any other 982
taxable year from the taxpayer's federal adjusted gross income. 983

(14) (a) Add an amount equal to the funds withdrawn from a 984
medical savings account during the taxable year, and the net 985

investment earnings on those funds, when the funds withdrawn 986
were used for any purpose other than to reimburse an account 987
holder for, or to pay, eligible medical expenses, in accordance 988
with section 3924.66 of the Revised Code; 989

(b) Add the amounts distributed from a medical savings 990
account under division (A) (2) of section 3924.68 of the Revised 991
Code during the taxable year. 992

(15) Add any amount claimed as a credit under section 993
5747.059 of the Revised Code to the extent that such amount 994
satisfies either of the following: 995

(a) The amount was deducted or excluded from the 996
computation of the taxpayer's federal adjusted gross income as 997
required to be reported for the taxpayer's taxable year under 998
the Internal Revenue Code; 999

(b) The amount resulted in a reduction of the taxpayer's 1000
federal adjusted gross income as required to be reported for any 1001
of the taxpayer's taxable years under the Internal Revenue Code. 1002

(16) Deduct the amount contributed by the taxpayer to an 1003
individual development account program established by a county 1004
department of job and family services pursuant to sections 1005
329.11 to 329.14 of the Revised Code for the purpose of matching 1006
funds deposited by program participants. On request of the tax 1007
commissioner, the taxpayer shall provide any information that, 1008
in the tax commissioner's opinion, is necessary to establish the 1009
amount deducted under division (A) (16) of this section. 1010

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 1011
(v) of this section, add five-sixths of the amount of 1012
depreciation expense allowed by subsection (k) of section 168 of 1013
the Internal Revenue Code, including the taxpayer's 1014

proportionate or distributive share of the amount of 1015
depreciation expense allowed by that subsection to a pass- 1016
through entity in which the taxpayer has a direct or indirect 1017
ownership interest. 1018

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 1019
of this section, add five-sixths of the amount of qualifying 1020
section 179 depreciation expense, including the taxpayer's 1021
proportionate or distributive share of the amount of qualifying 1022
section 179 depreciation expense allowed to any pass-through 1023
entity in which the taxpayer has a direct or indirect ownership 1024
interest. 1025

(iii) Subject to division (A) (17) (a) (v) of this section, 1026
for taxable years beginning in 2012 or thereafter, if the 1027
increase in income taxes withheld by the taxpayer is equal to or 1028
greater than ten per cent of income taxes withheld by the 1029
taxpayer during the taxpayer's immediately preceding taxable 1030
year, "two-thirds" shall be substituted for "five-sixths" for 1031
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1032

(iv) Subject to division (A) (17) (a) (v) of this section, 1033
for taxable years beginning in 2012 or thereafter, a taxpayer is 1034
not required to add an amount under division (A) (17) of this 1035
section if the increase in income taxes withheld by the taxpayer 1036
and by any pass-through entity in which the taxpayer has a 1037
direct or indirect ownership interest is equal to or greater 1038
than the sum of (I) the amount of qualifying section 179 1039
depreciation expense and (II) the amount of depreciation expense 1040
allowed to the taxpayer by subsection (k) of section 168 of the 1041
Internal Revenue Code, and including the taxpayer's 1042
proportionate or distributive shares of such amounts allowed to 1043
any such pass-through entities. 1044

(v) If a taxpayer directly or indirectly incurs a net 1045
operating loss for the taxable year for federal income tax 1046
purposes, to the extent such loss resulted from depreciation 1047
expense allowed by subsection (k) of section 168 of the Internal 1048
Revenue Code and by qualifying section 179 depreciation expense, 1049
"the entire" shall be substituted for "five-sixths of the" for 1050
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1051

The tax commissioner, under procedures established by the 1052
commissioner, may waive the add-backs related to a pass-through 1053
entity if the taxpayer owns, directly or indirectly, less than 1054
five per cent of the pass-through entity. 1055

(b) Nothing in division (A) (17) of this section shall be 1056
construed to adjust or modify the adjusted basis of any asset. 1057

(c) To the extent the add-back required under division (A) 1058
(17) (a) of this section is attributable to property generating 1059
nonbusiness income or loss allocated under section 5747.20 of 1060
the Revised Code, the add-back shall be situated to the same 1061
location as the nonbusiness income or loss generated by the 1062
property for the purpose of determining the credit under 1063
division (A) of section 5747.05 of the Revised Code. Otherwise, 1064
the add-back shall be apportioned, subject to one or more of the 1065
four alternative methods of apportionment enumerated in section 1066
5747.21 of the Revised Code. 1067

(d) For the purposes of division (A) (17) (a) (v) of this 1068
section, net operating loss carryback and carryforward shall not 1069
include the allowance of any net operating loss deduction 1070
carryback or carryforward to the taxable year to the extent such 1071
loss resulted from depreciation allowed by section 168(k) of the 1072
Internal Revenue Code and by the qualifying section 179 1073
depreciation expense amount. 1074

(e) For the purposes of divisions (A) (17) and (18) of this section: 1075
1076

(i) "Income taxes withheld" means the total amount 1077
withheld and remitted under sections 5747.06 and 5747.07 of the 1078
Revised Code by an employer during the employer's taxable year. 1079

(ii) "Increase in income taxes withheld" means the amount 1080
by which the amount of income taxes withheld by an employer 1081
during the employer's current taxable year exceeds the amount of 1082
income taxes withheld by that employer during the employer's 1083
immediately preceding taxable year. 1084

(iii) "Qualifying section 179 depreciation expense" means 1085
the difference between (I) the amount of depreciation expense 1086
directly or indirectly allowed to a taxpayer under section 179 1087
of the Internal Revised Code, and (II) the amount of 1088
depreciation expense directly or indirectly allowed to the 1089
taxpayer under section 179 of the Internal Revenue Code as that 1090
section existed on December 31, 2002. 1091

(18) (a) If the taxpayer was required to add an amount 1092
under division (A) (17) (a) of this section for a taxable year, 1093
deduct one of the following: 1094

(i) One-fifth of the amount so added for each of the five 1095
succeeding taxable years if the amount so added was five-sixths 1096
of qualifying section 179 depreciation expense or depreciation 1097
expense allowed by subsection (k) of section 168 of the Internal 1098
Revenue Code; 1099

(ii) One-half of the amount so added for each of the two 1100
succeeding taxable years if the amount so added was two-thirds 1101
of such depreciation expense; 1102

(iii) One-sixth of the amount so added for each of the six 1103

succeeding taxable years if the entire amount of such 1104
depreciation expense was so added. 1105

(b) If the amount deducted under division (A) (18) (a) of 1106
this section is attributable to an add-back allocated under 1107
division (A) (17) (c) of this section, the amount deducted shall 1108
be situated to the same location. Otherwise, the deduction shall 1109
be apportioned using the apportionment factors for the taxable 1110
year in which the deduction is taken, subject to one or more of 1111
the four alternative methods of apportionment enumerated in 1112
section 5747.21 of the Revised Code. 1113

(c) No deduction is available under division (A) (18) (a) of 1114
this section with regard to any depreciation allowed by section 1115
168(k) of the Internal Revenue Code and by the qualifying 1116
section 179 depreciation expense amount to the extent that such 1117
depreciation results in or increases a federal net operating 1118
loss carryback or carryforward. If no such deduction is 1119
available for a taxable year, the taxpayer may carry forward the 1120
amount not deducted in such taxable year to the next taxable 1121
year and add that amount to any deduction otherwise available 1122
under division (A) (18) (a) of this section for that next taxable 1123
year. The carryforward of amounts not so deducted shall continue 1124
until the entire addition required by division (A) (17) (a) of 1125
this section has been deducted. 1126

(19) Deduct, to the extent not otherwise deducted or 1127
excluded in computing federal or Ohio adjusted gross income for 1128
the taxable year, the amount the taxpayer received during the 1129
taxable year as reimbursement for life insurance premiums under 1130
section 5919.31 of the Revised Code. 1131

(20) Deduct, to the extent not otherwise deducted or 1132
excluded in computing federal or Ohio adjusted gross income for 1133

the taxable year, the amount the taxpayer received during the 1134
taxable year as a death benefit paid by the adjutant general 1135
under section 5919.33 of the Revised Code. 1136

(21) Deduct, to the extent included in federal adjusted 1137
gross income and not otherwise allowable as a deduction or 1138
exclusion in computing federal or Ohio adjusted gross income for 1139
the taxable year, military pay and allowances received by the 1140
taxpayer during the taxable year for active duty service in the 1141
armed services of the United States, as defined in section 1142
5907.01 of the Revised Code, or reserve components thereof or 1143
the national guard. The deduction may not be claimed for 1144
military pay and allowances received by the taxpayer while the 1145
taxpayer is stationed in this state. 1146

(22) Deduct, to the extent not otherwise allowable as a 1147
deduction or exclusion in computing federal or Ohio adjusted 1148
gross income for the taxable year and not otherwise compensated 1149
for by any other source, the amount of qualified organ donation 1150
expenses incurred by the taxpayer during the taxable year, not 1151
to exceed ten thousand dollars. A taxpayer may deduct qualified 1152
organ donation expenses only once for all taxable years 1153
beginning with taxable years beginning in 2007. 1154

For the purposes of division (A) (22) of this section: 1155

(a) "Human organ" means all or any portion of a human 1156
liver, pancreas, kidney, intestine, or lung, and any portion of 1157
human bone marrow. 1158

(b) "Qualified organ donation expenses" means travel 1159
expenses, lodging expenses, and wages and salary forgone by a 1160
taxpayer in connection with the taxpayer's donation, while 1161
living, of one or more of the taxpayer's human organs to another 1162

human being. 1163

(23) Deduct, to the extent not otherwise deducted or 1164
excluded in computing federal or Ohio adjusted gross income for 1165
the taxable year, amounts received by the taxpayer as retired 1166
personnel pay for service in the uniformed services or reserve 1167
components thereof, or the national guard, or received by the 1168
surviving spouse or former spouse of such a taxpayer under the 1169
survivor benefit plan on account of such a taxpayer's death. If 1170
the taxpayer receives income on account of retirement paid under 1171
the federal civil service retirement system or federal employees 1172
retirement system, or under any successor retirement program 1173
enacted by the congress of the United States that is established 1174
and maintained for retired employees of the United States 1175
government, and such retirement income is based, in whole or in 1176
part, on credit for the taxpayer's uniformed service, the 1177
deduction allowed under this division shall include only that 1178
portion of such retirement income that is attributable to the 1179
taxpayer's uniformed service, to the extent that portion of such 1180
retirement income is otherwise included in federal adjusted 1181
gross income and is not otherwise deducted under this section. 1182
Any amount deducted under division (A) (23) of this section is 1183
not included in a taxpayer's adjusted gross income for the 1184
purposes of section 5747.055 of the Revised Code. No amount may 1185
be deducted under division (A) (23) of this section on the basis 1186
of which a credit was claimed under section 5747.055 of the 1187
Revised Code. 1188

(24) Deduct, to the extent not otherwise deducted or 1189
excluded in computing federal or Ohio adjusted gross income for 1190
the taxable year, the amount the taxpayer received during the 1191
taxable year from the military injury relief fund created in 1192
section 5902.05 of the Revised Code. 1193

(25) Deduct, to the extent not otherwise deducted or 1194
excluded in computing federal or Ohio adjusted gross income for 1195
the taxable year, the amount the taxpayer received as a veterans 1196
bonus during the taxable year from the Ohio department of 1197
veterans services as authorized by Section 2r of Article VIII, 1198
Ohio Constitution. 1199

(26) Deduct, to the extent not otherwise deducted or 1200
excluded in computing federal or Ohio adjusted gross income for 1201
the taxable year, any income derived from a transfer agreement 1202
or from the enterprise transferred under that agreement under 1203
section 4313.02 of the Revised Code. 1204

(27) Deduct, to the extent not otherwise deducted or 1205
excluded in computing federal or Ohio adjusted gross income for 1206
the taxable year, Ohio college opportunity or federal Pell grant 1207
amounts received by the taxpayer or the taxpayer's spouse or 1208
dependent pursuant to section 3333.122 of the Revised Code or 20 1209
U.S.C. 1070a, et seq., and used to pay room or board furnished 1210
by the educational institution for which the grant was awarded 1211
at the institution's facilities, including meal plans 1212
administered by the institution. For the purposes of this 1213
division, receipt of a grant includes the distribution of a 1214
grant directly to an educational institution and the crediting 1215
of the grant to the enrollee's account with the institution. 1216

(28) Deduct from the portion of an individual's federal 1217
adjusted gross income that is business income, to the extent not 1218
otherwise deducted or excluded in computing federal adjusted 1219
gross income for the taxable year, one hundred twenty-five 1220
thousand dollars for each spouse if spouses file separate 1221
returns under section 5747.08 of the Revised Code or two hundred 1222
fifty thousand dollars for all other individuals. 1223

(29) Deduct, as provided under section 5747.78 of the 1224
Revised Code, contributions to ABLE savings accounts made in 1225
accordance with sections 113.50 to 113.56 of the Revised Code. 1226

(30)(a) Deduct, to the extent not otherwise deducted or 1227
excluded in computing federal or Ohio adjusted gross income 1228
during the taxable year, all of the following: 1229

(i) Compensation paid to a qualifying employee described 1230
in division (A)(14)(a) of section 5703.94 of the Revised Code to 1231
the extent such compensation is for disaster work conducted in 1232
this state during a disaster response period pursuant to a 1233
qualifying solicitation received by the employee's employer; 1234

(ii) Compensation paid to a qualifying employee described 1235
in division (A)(14)(b) of section 5703.94 of the Revised Code to 1236
the extent such compensation is for disaster work conducted in 1237
this state by the employee during the disaster response period 1238
on critical infrastructure owned or used by the employee's 1239
employer; 1240

(iii) Income received by an out-of-state disaster business 1241
for disaster work conducted in this state during a disaster 1242
response period, or, if the out-of-state disaster business is a 1243
pass-through entity, a taxpayer's distributive share of the 1244
pass-through entity's income from the business conducting 1245
disaster work in this state during a disaster response period, 1246
if, in either case, the disaster work is conducted pursuant to a 1247
qualifying solicitation received by the business. 1248

(b) All terms used in division (A)(30) of this section 1249
have the same meanings as in section 5703.94 of the Revised 1250
Code. 1251

(31) For a taxpayer who is a qualifying Ohio educator, 1252

deduct, to the extent not otherwise deducted or excluded in 1253
computing federal or Ohio adjusted gross income for the taxable 1254
year, the lesser of three hundred dollars or the amount of 1255
expenses described in subsections (a) (2) (D) (i) and (ii) of 1256
section 62 of the Internal Revenue Code paid or incurred by the 1257
taxpayer during the taxpayer's taxable year in excess of the 1258
amount the taxpayer is authorized to deduct for that taxable 1259
year under subsection (a) (2) (D) of that section. 1260

(32) Deduct, to the extent not otherwise deducted or 1261
excluded in computing federal or Ohio adjusted gross income for 1262
the taxable year, amounts received by the taxpayer as a 1263
disability severance payment, computed under 10 U.S.C. 1212, 1264
following discharge or release under honorable conditions from 1265
the armed forces of the United States, as defined in section 1266
5907.01 of the Revised Code. 1267

(33) Deduct, to the extent not otherwise deducted or 1268
excluded in computing federal adjusted gross income or Ohio 1269
adjusted gross income, amounts not subject to tax due to an 1270
agreement entered into under division (A) (2) of section 5747.05 1271
of the Revised Code. 1272

(34) ~~Deduct amounts as provided under section 5747.79 of~~ 1273
~~the Revised Code related to the taxpayer's qualifying, to the~~ 1274
extent not otherwise deducted or excluded in computing federal 1275
or Ohio adjusted gross income, net capital gains and deductible 1276
payroll as defined in section 1222 of the Internal Revenue Code. 1277

To the extent a ~~qualifying net capital gain described~~ 1278
~~under division (A) (34) of this section~~ is business income, the 1279
taxpayer shall deduct those gains under this division before 1280
deducting any such gains under division (A) (28) of this section. 1281

~~(35)(a) For taxable years beginning in or after 2026,~~ 1282
~~deduct, to the extent not otherwise deducted or excluded in~~ 1283
~~computing federal or Ohio adjusted gross income for the taxable~~ 1284
~~year:—~~ 1285

~~(i) One hundred per cent of the capital gain received by~~ 1286
~~the taxpayer in the taxable year from a qualifying interest in~~ 1287
~~an Ohio venture capital operating company attributable to the~~ 1288
~~company's investments in Ohio businesses during the period for~~ 1289
~~which the company was an Ohio venture operating company; and~~ 1290

~~(ii) Fifty per cent of the capital gain received by the~~ 1291
~~taxpayer in the taxable year from a qualifying interest in an~~ 1292
~~Ohio venture capital operating company attributable to the~~ 1293
~~company's investments in all other businesses during the period~~ 1294
~~for which the company was an Ohio venture operating company.—~~ 1295

~~(b) Add amounts previously deducted by the taxpayer under~~ 1296
~~division (A) (35)(a) of this section if the director of~~ 1297
~~development certifies to the tax commissioner that the~~ 1298
~~requirements for the deduction were not met.—~~ 1299

~~(c) All terms used in division (A) (35) of this section~~ 1300
~~have the same meanings as in section 122.851 of the Revised~~ 1301
~~Code.—~~ 1302

~~(d) To the extent a capital gain described in division (A)~~ 1303
~~(35)(a) of this section is business income, the taxpayer shall~~ 1304
~~apply that division before applying division (A) (28) of this~~ 1305
~~section.—~~ (35) Deduct, to the extent not otherwise deducted or 1306
excluded in computing federal or Ohio adjusted gross income 1307
during the taxable year, up to seven hundred fifty dollars of 1308
contributions the taxpayer makes to a pregnancy resource center 1309
that meets the criteria in division (B) of section 5180.71 of 1310

the Revised Code. 1311

(36) Add, to the extent not otherwise included in 1312
computing federal or Ohio adjusted gross income for any taxable 1313
year, the taxpayer's proportionate share of the amount of the 1314
tax levied under section 5747.38 of the Revised Code and paid by 1315
an electing pass-through entity for the taxable year. 1316

Notwithstanding any provision of the Revised Code to the 1317
contrary, the portion of the addition required by division (A) 1318
(36) of this section related to the apportioned business income 1319
of the pass-through entity shall be considered business income 1320
under division (B) of this section. Such addition is eligible 1321
for the deduction in division (A) (28) of this section, subject 1322
to the applicable dollar limitations, and the tax rate 1323
prescribed by division (A) (4) (a) of section 5747.02 of the 1324
Revised Code. The taxpayer shall provide, upon request of the 1325
tax commissioner, any documentation necessary to verify the 1326
portion of the addition that is business income under this 1327
division. 1328

(37) Deduct, to the extent not otherwise deducted or 1329
excluded in computing federal or Ohio adjusted gross income for 1330
the taxable year, amounts delivered to a qualifying institution 1331
pursuant to section 3333.128 of the Revised Code for the benefit 1332
of the taxpayer or the taxpayer's spouse or dependent. 1333

(38) Deduct, to the extent not otherwise deducted or 1334
excluded in computing federal or Ohio adjusted gross income for 1335
the taxable year, amounts received under the Ohio adoption grant 1336
program pursuant to section 5180.451 of the Revised Code. 1337

(39) Deduct, to the extent included in federal adjusted 1338
gross income, income attributable to amounts provided to a 1339

taxpayer for any of the purposes for which an exclusion would 1340
have been authorized under section 139 of the Internal Revenue 1341
Code if the train derailment near the city of East Palestine on 1342
February 3, 2023, had been a qualified disaster pursuant to that 1343
section, or to compensate for lost business resulting from that 1344
derailment, if such amounts are provided by any of the 1345
following: 1346

(a) A federal, state, or local government agency; 1347

(b) A railroad company, as that term is defined in section 1348
5727.01 of the Revised Code; 1349

(c) Any subsidiary, insurer, or agent of a railroad 1350
company or any related person. 1351

Notwithstanding any provision to the contrary, the 1352
derailment is not required to meet the definition of a 1353
"qualified disaster" pursuant to section 139 of the Internal 1354
Revenue Code to qualify for the deduction under this section. 1355

(40) Deduct, to the extent included in federal adjusted 1356
gross income, income attributable to loan repayments on behalf 1357
of the taxpayer under the rural practice incentive program under 1358
section 3333.135 of the Revised Code. 1359

(41) Add any income taxes deducted in computing federal or 1360
Ohio adjusted gross income to the extent the income taxes were 1361
derived from income subject to a tax levied in another state or 1362
the District of Columbia when such tax was enacted for purposes 1363
of complying with internal revenue service notice 2020-75. 1364

Notwithstanding any provision of the Revised Code to the 1365
contrary, the portion of the addition required by division (A) 1366
(41) of this section related to the apportioned business income 1367
of the pass-through entity shall be considered business income 1368

under division (B) of this section. Such addition is eligible 1369
for the deduction in division (A) (28) of this section, subject 1370
to the applicable dollar limitations, and the tax rate 1371
prescribed by division (A) (4) (a) of section 5747.02 of the 1372
Revised Code. The taxpayer shall provide, upon request of the 1373
tax commissioner, any documentation necessary to verify the 1374
portion of the addition that is business income under this 1375
division. 1376

(42) Deduct amounts contributed to a homeownership savings 1377
account and calculated pursuant to divisions (B) and (C) of 1378
section 5747.85 of the Revised Code. 1379

(43) If the taxpayer is the account owner of a 1380
homeownership savings account, upon withdrawal or transfer of 1381
funds from the account, or closure of the account containing 1382
funds that are not used for eligible expenses, add the amount of 1383
such funds not used for an eligible expense. The addition 1384
required under this division shall not exceed the sum of the 1385
amounts deducted by the taxpayer for such account under division 1386
(A) (42) of this section in any taxable year and the amount of 1387
any funds deposited in the account by a contributor other than 1388
the account owner. As used in division (A) (43) of this section, 1389
"homeownership savings account," "contributor," "account owner," 1390
and "eligible expenses" have the same meanings as in section 1391
5747.85 of the Revised Code. 1392

~~(44) Deduct, to the extent not otherwise deducted or 1393~~
~~excluded in computing federal or Ohio adjusted gross income 1394~~
~~during the taxable year, up to seven hundred fifty dollars of 1395~~
~~contributions the taxpayer makes to a pregnancy resource center 1396~~
~~that meets the criteria in division (B) of section 5101.804 of 1397~~
~~the Revised Code. 1398~~

(B) "Business income" means income, including gain or 1399
loss, arising from transactions, activities, and sources in the 1400
regular course of a trade or business and includes income, gain, 1401
or loss from real property, tangible property, and intangible 1402
property if the acquisition, rental, management, and disposition 1403
of the property constitute integral parts of the regular course 1404
of a trade or business operation. "Business income" includes 1405
income, including gain or loss, from a partial or complete 1406
liquidation of a business, including, but not limited to, gain 1407
or loss from the sale or other disposition of goodwill or the 1408
sale of an equity or ownership interest in a business. 1409

As used in this division, the "sale of an equity or 1410
ownership interest in a business" means sales to which either or 1411
both of the following apply: 1412

(1) The sale is treated for federal income tax purposes as 1413
the sale of assets. 1414

(2) The seller materially participated, as described in 26 1415
C.F.R. 1.469-5T, in the activities of the business during the 1416
taxable year in which the sale occurs or during any of the five 1417
preceding taxable years. 1418

(C) "Nonbusiness income" means all income other than 1419
business income and may include, but is not limited to, 1420
compensation, rents and royalties from real or tangible personal 1421
property, capital gains, interest, dividends and distributions, 1422
patent or copyright royalties, or lottery winnings, prizes, and 1423
awards. 1424

(D) "Compensation" means any form of remuneration paid to 1425
an employee for personal services. 1426

(E) "Fiduciary" means a guardian, trustee, executor, 1427

administrator, receiver, conservator, or any other person acting 1428
in any fiduciary capacity for any individual, trust, or estate. 1429

(F) "Fiscal year" means an accounting period of twelve 1430
months ending on the last day of any month other than December. 1431

(G) "Individual" means any natural person. 1432

(H) "Internal Revenue Code" means the "Internal Revenue 1433
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1434

(I) "Resident" means any of the following: 1435

(1) An individual who is domiciled in this state, subject 1436
to section 5747.24 of the Revised Code; 1437

(2) The estate of a decedent who at the time of death was 1438
domiciled in this state. The domicile tests of section 5747.24 1439
of the Revised Code are not controlling for purposes of division 1440
(I) (2) of this section. 1441

(3) A trust that, in whole or part, resides in this state. 1442
If only part of a trust resides in this state, the trust is a 1443
resident only with respect to that part. 1444

For the purposes of division (I) (3) of this section: 1445

(a) A trust resides in this state for the trust's current 1446
taxable year to the extent, as described in division (I) (3) (d) 1447
of this section, that the trust consists directly or indirectly, 1448
in whole or in part, of assets, net of any related liabilities, 1449
that were transferred, or caused to be transferred, directly or 1450
indirectly, to the trust by any of the following: 1451

(i) A person, a court, or a governmental entity or 1452
instrumentality on account of the death of a decedent, but only 1453
if the trust is described in division (I) (3) (e) (i) or (ii) of 1454

this section; 1455

(ii) A person who was domiciled in this state for the 1456
purposes of this chapter when the person directly or indirectly 1457
transferred assets to an irrevocable trust, but only if at least 1458
one of the trust's qualifying beneficiaries is domiciled in this 1459
state for the purposes of this chapter during all or some 1460
portion of the trust's current taxable year; 1461

(iii) A person who was domiciled in this state for the 1462
purposes of this chapter when the trust document or instrument 1463
or part of the trust document or instrument became irrevocable, 1464
but only if at least one of the trust's qualifying beneficiaries 1465
is a resident domiciled in this state for the purposes of this 1466
chapter during all or some portion of the trust's current 1467
taxable year. If a trust document or instrument became 1468
irrevocable upon the death of a person who at the time of death 1469
was domiciled in this state for purposes of this chapter, that 1470
person is a person described in division (I)(3)(a)(iii) of this 1471
section. 1472

(b) A trust is irrevocable to the extent that the 1473
transferor is not considered to be the owner of the net assets 1474
of the trust under sections 671 to 678 of the Internal Revenue 1475
Code. 1476

(c) With respect to a trust other than a charitable lead 1477
trust, "qualifying beneficiary" has the same meaning as 1478
"potential current beneficiary" as defined in section 1361(e)(2) 1479
of the Internal Revenue Code, and with respect to a charitable 1480
lead trust "qualifying beneficiary" is any current, future, or 1481
contingent beneficiary, but with respect to any trust 1482
"qualifying beneficiary" excludes a person or a governmental 1483
entity or instrumentality to any of which a contribution would 1484

qualify for the charitable deduction under section 170 of the 1485
Internal Revenue Code. 1486

(d) For the purposes of division (I)(3)(a) of this 1487
section, the extent to which a trust consists directly or 1488
indirectly, in whole or in part, of assets, net of any related 1489
liabilities, that were transferred directly or indirectly, in 1490
whole or part, to the trust by any of the sources enumerated in 1491
that division shall be ascertained by multiplying the fair 1492
market value of the trust's assets, net of related liabilities, 1493
by the qualifying ratio, which shall be computed as follows: 1494

(i) The first time the trust receives assets, the 1495
numerator of the qualifying ratio is the fair market value of 1496
those assets at that time, net of any related liabilities, from 1497
sources enumerated in division (I)(3)(a) of this section. The 1498
denominator of the qualifying ratio is the fair market value of 1499
all the trust's assets at that time, net of any related 1500
liabilities. 1501

(ii) Each subsequent time the trust receives assets, a 1502
revised qualifying ratio shall be computed. The numerator of the 1503
revised qualifying ratio is the sum of (1) the fair market value 1504
of the trust's assets immediately prior to the subsequent 1505
transfer, net of any related liabilities, multiplied by the 1506
qualifying ratio last computed without regard to the subsequent 1507
transfer, and (2) the fair market value of the subsequently 1508
transferred assets at the time transferred, net of any related 1509
liabilities, from sources enumerated in division (I)(3)(a) of 1510
this section. The denominator of the revised qualifying ratio is 1511
the fair market value of all the trust's assets immediately 1512
after the subsequent transfer, net of any related liabilities. 1513

(iii) Whether a transfer to the trust is by or from any of 1514

the sources enumerated in division (I) (3) (a) of this section 1515
shall be ascertained without regard to the domicile of the 1516
trust's beneficiaries. 1517

(e) For the purposes of division (I) (3) (a) (i) of this 1518
section: 1519

(i) A trust is described in division (I) (3) (e) (i) of this 1520
section if the trust is a testamentary trust and the testator of 1521
that testamentary trust was domiciled in this state at the time 1522
of the testator's death for purposes of the taxes levied under 1523
Chapter 5731. of the Revised Code. 1524

(ii) A trust is described in division (I) (3) (e) (ii) of 1525
this section if the transfer is a qualifying transfer described 1526
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1527
trust is an irrevocable inter vivos trust, and at least one of 1528
the trust's qualifying beneficiaries is domiciled in this state 1529
for purposes of this chapter during all or some portion of the 1530
trust's current taxable year. 1531

(f) For the purposes of division (I) (3) (e) (ii) of this 1532
section, a "qualifying transfer" is a transfer of assets, net of 1533
any related liabilities, directly or indirectly to a trust, if 1534
the transfer is described in any of the following: 1535

(i) The transfer is made to a trust, created by the 1536
decedent before the decedent's death and while the decedent was 1537
domiciled in this state for the purposes of this chapter, and, 1538
prior to the death of the decedent, the trust became irrevocable 1539
while the decedent was domiciled in this state for the purposes 1540
of this chapter. 1541

(ii) The transfer is made to a trust to which the 1542
decedent, prior to the decedent's death, had directly or 1543

indirectly transferred assets, net of any related liabilities, 1544
while the decedent was domiciled in this state for the purposes 1545
of this chapter, and prior to the death of the decedent the 1546
trust became irrevocable while the decedent was domiciled in 1547
this state for the purposes of this chapter. 1548

(iii) The transfer is made on account of a contractual 1549
relationship existing directly or indirectly between the 1550
transferor and either the decedent or the estate of the decedent 1551
at any time prior to the date of the decedent's death, and the 1552
decedent was domiciled in this state at the time of death for 1553
purposes of the taxes levied under Chapter 5731. of the Revised 1554
Code. 1555

(iv) The transfer is made to a trust on account of a 1556
contractual relationship existing directly or indirectly between 1557
the transferor and another person who at the time of the 1558
decedent's death was domiciled in this state for purposes of 1559
this chapter. 1560

(v) The transfer is made to a trust on account of the will 1561
of a testator who was domiciled in this state at the time of the 1562
testator's death for purposes of the taxes levied under Chapter 1563
5731. of the Revised Code. 1564

(vi) The transfer is made to a trust created by or caused 1565
to be created by a court, and the trust was directly or 1566
indirectly created in connection with or as a result of the 1567
death of an individual who, for purposes of the taxes levied 1568
under Chapter 5731. of the Revised Code, was domiciled in this 1569
state at the time of the individual's death. 1570

(g) The tax commissioner may adopt rules to ascertain the 1571
part of a trust residing in this state. 1572

(J) "Nonresident" means an individual or estate that is 1573
not a resident. An individual who is a resident for only part of 1574
a taxable year is a nonresident for the remainder of that 1575
taxable year. 1576

(K) "Pass-through entity" has the same meaning as in 1577
section 5733.04 of the Revised Code. 1578

(L) "Return" means the notifications and reports required 1579
to be filed pursuant to this chapter for the purpose of 1580
reporting the tax due and includes declarations of estimated tax 1581
when so required. 1582

(M) "Taxable year" means the calendar year or the 1583
taxpayer's fiscal year ending during the calendar year, or 1584
fractional part thereof, upon which the adjusted gross income is 1585
calculated pursuant to this chapter. 1586

(N) "Taxpayer" means any person subject to the tax imposed 1587
by section 5747.02 of the Revised Code or any pass-through 1588
entity that makes the election under division (D) of section 1589
5747.08 of the Revised Code. 1590

(O) "Dependents" means one of the following: 1591

(1) For taxable years beginning on or after January 1, 1592
2018, and before January 1, 2026, dependents as defined in the 1593
Internal Revenue Code; 1594

(2) For all other taxable years, dependents as defined in 1595
the Internal Revenue Code and as claimed in the taxpayer's 1596
federal income tax return for the taxable year or which the 1597
taxpayer would have been permitted to claim had the taxpayer 1598
filed a federal income tax return. 1599

(P) "Principal county of employment" means, in the case of 1600

a nonresident, the county within the state in which a taxpayer
performs services for an employer or, if those services are
performed in more than one county, the county in which the major
portion of the services are performed.

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

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

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

(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; 1630

(b) The net amount is attributable to the S portion of an 1631
electing small business trust for the taxable year. 1632

(2) Add interest or dividends, net of ordinary, necessary, 1633
and reasonable expenses not deducted in computing federal 1634
taxable income, on obligations of any authority, commission, 1635
instrumentality, territory, or possession of the United States 1636
to the extent that the interest or dividends are exempt from 1637
federal income taxes but not from state income taxes, but only 1638
to the extent that such net amount is not otherwise includible 1639
in Ohio taxable income and is described in either division (S) 1640
(1) (a) or (b) of this section; 1641

(3) Add the amount of personal exemption allowed to the 1642
estate pursuant to section 642(b) of the Internal Revenue Code; 1643

(4) Deduct interest or dividends, net of related expenses 1644
deducted in computing federal taxable income, on obligations of 1645
the United States and its territories and possessions or of any 1646
authority, commission, or instrumentality of the United States 1647
to the extent that the interest or dividends are exempt from 1648
state taxes under the laws of the United States, but only to the 1649
extent that such amount is included in federal taxable income 1650
and is described in either division (S) (1) (a) or (b) of this 1651
section; 1652

(5) Deduct the amount of wages and salaries, if any, not 1653
otherwise allowable as a deduction but that would have been 1654
allowable as a deduction in computing federal taxable income for 1655
the taxable year, had the work opportunity tax credit allowed 1656
under sections 38, 51, and 52 of the Internal Revenue Code not 1657
been in effect, but only to the extent such amount relates 1658

either to income included in federal taxable income for the 1659
taxable year or to income of the S portion of an electing small 1660
business trust for the taxable year; 1661

(6) Deduct any interest or interest equivalent, net of 1662
related expenses deducted in computing federal taxable income, 1663
on public obligations and purchase obligations, but only to the 1664
extent that such net amount relates either to income included in 1665
federal taxable income for the taxable year or to income of the 1666
S portion of an electing small business trust for the taxable 1667
year; 1668

(7) Add any loss or deduct any gain resulting from sale, 1669
exchange, or other disposition of public obligations to the 1670
extent that such loss has been deducted or such gain has been 1671
included in computing either federal taxable income or income of 1672
the S portion of an electing small business trust for the 1673
taxable year; 1674

(8) Except in the case of the final return of an estate, 1675
add any amount deducted by the taxpayer on both its Ohio estate 1676
tax return pursuant to section 5731.14 of the Revised Code, and 1677
on its federal income tax return in determining federal taxable 1678
income; 1679

(9) (a) Deduct any amount included in federal taxable 1680
income solely because the amount represents a reimbursement or 1681
refund of expenses that in a previous year the decedent had 1682
deducted as an itemized deduction pursuant to section 63 of the 1683
Internal Revenue Code and applicable treasury regulations. The 1684
deduction otherwise allowed under division (S) (9) (a) of this 1685
section shall be reduced to the extent the reimbursement is 1686
attributable to an amount the taxpayer or decedent deducted 1687
under this section in any taxable year. 1688

(b) Add any amount not otherwise included in Ohio taxable 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 taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) 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 taxable income or the decedent'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 taxable income or the decedent's adjusted gross income for the current or any other taxable year.

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

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

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

(12) Deduct any amount, net of related expenses deducted

in computing federal taxable income, that a trust is required to 1718
report as farm income on its federal income tax return, but only 1719
if the assets of the trust include at least ten acres of land 1720
satisfying the definition of "land devoted exclusively to 1721
agricultural use" under section 5713.30 of the Revised Code, 1722
regardless of whether the land is valued for tax purposes as 1723
such land under sections 5713.30 to 5713.38 of the Revised Code. 1724
If the trust is a pass-through entity investor, section 5747.231 1725
of the Revised Code applies in ascertaining if the trust is 1726
eligible to claim the deduction provided by division (S)(12) of 1727
this section in connection with the pass-through entity's farm 1728
income. 1729

Except for farm income attributable to the S portion of an 1730
electing small business trust, the deduction provided by 1731
division (S)(12) of this section is allowed only to the extent 1732
that the trust has not distributed such farm income. 1733

(13) Add the net amount of income described in section 1734
641(c) of the Internal Revenue Code to the extent that amount is 1735
not included in federal taxable income. 1736

(14) Add or deduct the amount the taxpayer would be 1737
required to add or deduct under division (A)(17) or (18) of this 1738
section if the taxpayer's Ohio taxable income was computed in 1739
the same manner as an individual's Ohio adjusted gross income is 1740
computed under this section. 1741

(15) Add, to the extent not otherwise included in 1742
computing taxable income or Ohio taxable income for any taxable 1743
year, the taxpayer's proportionate share of the amount of the 1744
tax levied under section 5747.38 of the Revised Code and paid by 1745
an electing pass-through entity for the taxable year. 1746

(16) Add any income taxes deducted in computing federal 1747
taxable income or Ohio taxable income to the extent the income 1748
taxes were derived from income subject to a tax levied in 1749
another state or the District of Columbia when such tax was 1750
enacted for purposes of complying with internal revenue service 1751
notice 2020-75. 1752

(T) "School district income" and "school district income 1753
tax" have the same meanings as in section 5748.01 of the Revised 1754
Code. 1755

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1756
(7) of this section, "public obligations," "purchase 1757
obligations," and "interest or interest equivalent" have the 1758
same meanings as in section 5709.76 of the Revised Code. 1759

(V) "Limited liability company" means any limited 1760
liability company formed under former Chapter 1705. of the 1761
Revised Code as that chapter existed prior to February 11, 2022, 1762
Chapter 1706. of the Revised Code, or the laws of any other 1763
state. 1764

(W) "Pass-through entity investor" means any person who, 1765
during any portion of a taxable year of a pass-through entity, 1766
is a partner, member, shareholder, or equity investor in that 1767
pass-through entity. 1768

(X) "Banking day" has the same meaning as in section 1769
1304.01 of the Revised Code. 1770

(Y) "Month" means a calendar month. 1771

(Z) "Quarter" means the first three months, the second 1772
three months, the third three months, or the last three months 1773
of the taxpayer's taxable year. 1774

(AA) (1) "Modified business income" means the business 1775
income included in a trust's Ohio taxable income after such 1776
taxable income is first reduced by the qualifying trust amount, 1777
if any. 1778

(2) "Qualifying trust amount" of a trust means capital 1779
gains and losses from the sale, exchange, or other disposition 1780
of equity or ownership interests in, or debt obligations of, a 1781
qualifying investee to the extent included in the trust's Ohio 1782
taxable income, but only if the following requirements are 1783
satisfied: 1784

(a) The book value of the qualifying investee's physical 1785
assets in this state and everywhere, as of the last day of the 1786
qualifying investee's fiscal or calendar year ending immediately 1787
prior to the date on which the trust recognizes the gain or 1788
loss, is available to the trust. 1789

(b) The requirements of section 5747.011 of the Revised 1790
Code are satisfied for the trust's taxable year in which the 1791
trust recognizes the gain or loss. 1792

Any gain or loss that is not a qualifying trust amount is 1793
modified business income, qualifying investment income, or 1794
modified nonbusiness income, as the case may be. 1795

(3) "Modified nonbusiness income" means a trust's Ohio 1796
taxable income other than modified business income, other than 1797
the qualifying trust amount, and other than qualifying 1798
investment income, as defined in section 5747.012 of the Revised 1799
Code, to the extent such qualifying investment income is not 1800
otherwise part of modified business income. 1801

(4) "Modified Ohio taxable income" applies only to trusts, 1802
and means the sum of the amounts described in divisions (AA) (4) 1803

(a) to (c) of this section: 1804

(a) The fraction, calculated under section 5747.013, and 1805
applying section 5747.231 of the Revised Code, multiplied by the 1806
sum of the following amounts: 1807

(i) The trust's modified business income; 1808

(ii) The trust's qualifying investment income, as defined 1809
in section 5747.012 of the Revised Code, but only to the extent 1810
the qualifying investment income does not otherwise constitute 1811
modified business income and does not otherwise constitute a 1812
qualifying trust amount. 1813

(b) The qualifying trust amount multiplied by a fraction, 1814
the numerator of which is the sum of the book value of the 1815
qualifying investee's physical assets in this state on the last 1816
day of the qualifying investee's fiscal or calendar year ending 1817
immediately prior to the day on which the trust recognizes the 1818
qualifying trust amount, and the denominator of which is the sum 1819
of the book value of the qualifying investee's total physical 1820
assets everywhere on the last day of the qualifying investee's 1821
fiscal or calendar year ending immediately prior to the day on 1822
which the trust recognizes the qualifying trust amount. If, for 1823
a taxable year, the trust recognizes a qualifying trust amount 1824
with respect to more than one qualifying investee, the amount 1825
described in division (AA) (4) (b) of this section shall equal the 1826
sum of the products so computed for each such qualifying 1827
investee. 1828

(c) (i) With respect to a trust or portion of a trust that 1829
is a resident as ascertained in accordance with division (I) (3) 1830

(d) of this section, its modified nonbusiness income. 1831

(ii) With respect to a trust or portion of a trust that is 1832

not a resident as ascertained in accordance with division (I) (3) 1833
(d) of this section, the amount of its modified nonbusiness 1834
income satisfying the descriptions in divisions (B) (2) to (5) of 1835
section 5747.20 of the Revised Code, except as otherwise 1836
provided in division (AA) (4) (c) (ii) of this section. With 1837
respect to a trust or portion of a trust that is not a resident 1838
as ascertained in accordance with division (I) (3) (d) of this 1839
section, the trust's portion of modified nonbusiness income 1840
recognized from the sale, exchange, or other disposition of a 1841
debt interest in or equity interest in a section 5747.212 1842
entity, as defined in section 5747.212 of the Revised Code, 1843
without regard to division (A) of that section, shall not be 1844
allocated to this state in accordance with section 5747.20 of 1845
the Revised Code but shall be apportioned to this state in 1846
accordance with division (B) of section 5747.212 of the Revised 1847
Code without regard to division (A) of that section. 1848

If the allocation and apportionment of a trust's income 1849
under divisions (AA) (4) (a) and (c) of this section do not fairly 1850
represent the modified Ohio taxable income of the trust in this 1851
state, the alternative methods described in division (C) of 1852
section 5747.21 of the Revised Code may be applied in the manner 1853
and to the same extent provided in that section. 1854

(5) (a) Except as set forth in division (AA) (5) (b) of this 1855
section, "qualifying investee" means a person in which a trust 1856
has an equity or ownership interest, or a person or unit of 1857
government the debt obligations of either of which are owned by 1858
a trust. For the purposes of division (AA) (2) (a) of this section 1859
and for the purpose of computing the fraction described in 1860
division (AA) (4) (b) of this section, all of the following apply: 1861

(i) If the qualifying investee is a member of a qualifying 1862

controlled group on the last day of the qualifying investee's 1863
fiscal or calendar year ending immediately prior to the date on 1864
which the trust recognizes the gain or loss, then "qualifying 1865
investee" includes all persons in the qualifying controlled 1866
group on such last day. 1867

(ii) If the qualifying investee, or if the qualifying 1868
investee and any members of the qualifying controlled group of 1869
which the qualifying investee is a member on the last day of the 1870
qualifying investee's fiscal or calendar year ending immediately 1871
prior to the date on which the trust recognizes the gain or 1872
loss, separately or cumulatively own, directly or indirectly, on 1873
the last day of the qualifying investee's fiscal or calendar 1874
year ending immediately prior to the date on which the trust 1875
recognizes the qualifying trust amount, more than fifty per cent 1876
of the equity of a pass-through entity, then the qualifying 1877
investee and the other members are deemed to own the 1878
proportionate share of the pass-through entity's physical assets 1879
which the pass-through entity directly or indirectly owns on the 1880
last day of the pass-through entity's calendar or fiscal year 1881
ending within or with the last day of the qualifying investee's 1882
fiscal or calendar year ending immediately prior to the date on 1883
which the trust recognizes the qualifying trust amount. 1884

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1885
section, "upper level pass-through entity" means a pass-through 1886
entity directly or indirectly owning any equity of another pass- 1887
through entity, and "lower level pass-through entity" means that 1888
other pass-through entity. 1889

An upper level pass-through entity, whether or not it is 1890
also a qualifying investee, is deemed to own, on the last day of 1891
the upper level pass-through entity's calendar or fiscal year, 1892

the proportionate share of the lower level pass-through entity's 1893
physical assets that the lower level pass-through entity 1894
directly or indirectly owns on the last day of the lower level 1895
pass-through entity's calendar or fiscal year ending within or 1896
with the last day of the upper level pass-through entity's 1897
fiscal or calendar year. If the upper level pass-through entity 1898
directly and indirectly owns less than fifty per cent of the 1899
equity of the lower level pass-through entity on each day of the 1900
upper level pass-through entity's calendar or fiscal year in 1901
which or with which ends the calendar or fiscal year of the 1902
lower level pass-through entity and if, based upon clear and 1903
convincing evidence, complete information about the location and 1904
cost of the physical assets of the lower pass-through entity is 1905
not available to the upper level pass-through entity, then 1906
solely for purposes of ascertaining if a gain or loss 1907
constitutes a qualifying trust amount, the upper level pass- 1908
through entity shall be deemed as owning no equity of the lower 1909
level pass-through entity for each day during the upper level 1910
pass-through entity's calendar or fiscal year in which or with 1911
which ends the lower level pass-through entity's calendar or 1912
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1913
shall be construed to provide for any deduction or exclusion in 1914
computing any trust's Ohio taxable income. 1915

(b) With respect to a trust that is not a resident for the 1916
taxable year and with respect to a part of a trust that is not a 1917
resident for the taxable year, "qualifying investee" for that 1918
taxable year does not include a C corporation if both of the 1919
following apply: 1920

(i) During the taxable year the trust or part of the trust 1921
recognizes a gain or loss from the sale, exchange, or other 1922
disposition of equity or ownership interests in, or debt 1923

obligations of, the C corporation. 1924

(ii) Such gain or loss constitutes nonbusiness income. 1925

(6) "Available" means information is such that a person is 1926
able to learn of the information by the due date plus 1927
extensions, if any, for filing the return for the taxable year 1928
in which the trust recognizes the gain or loss. 1929

(BB) "Qualifying controlled group" has the same meaning as 1930
in section 5733.04 of the Revised Code. 1931

(CC) "Related member" has the same meaning as in section 1932
5733.042 of the Revised Code. 1933

(DD) (1) For the purposes of division (DD) of this section: 1934

(a) "Qualifying person" means any person other than a 1935
qualifying corporation. 1936

(b) "Qualifying corporation" means any person classified 1937
for federal income tax purposes as an association taxable as a 1938
corporation, except either of the following: 1939

(i) A corporation that has made an election under 1940
subchapter S, chapter one, subtitle A, of the Internal Revenue 1941
Code for its taxable year ending within, or on the last day of, 1942
the investor's taxable year; 1943

(ii) A subsidiary that is wholly owned by any corporation 1944
that has made an election under subchapter S, chapter one, 1945
subtitle A of the Internal Revenue Code for its taxable year 1946
ending within, or on the last day of, the investor's taxable 1947
year. 1948

(2) For the purposes of this chapter, unless expressly 1949
stated otherwise, no qualifying person indirectly owns any asset 1950

directly or indirectly owned by any qualifying corporation. 1951

(EE) For purposes of this chapter and Chapter 5751. of the 1952
Revised Code: 1953

(1) "Trust" does not include a qualified pre-income tax 1954
trust. 1955

(2) A "qualified pre-income tax trust" is any pre-income 1956
tax trust that makes a qualifying pre-income tax trust election 1957
as described in division (EE)(3) of this section. 1958

(3) A "qualifying pre-income tax trust election" is an 1959
election by a pre-income tax trust to subject to the tax imposed 1960
by section 5751.02 of the Revised Code the pre-income tax trust 1961
and all pass-through entities of which the trust owns or 1962
controls, directly, indirectly, or constructively through 1963
related interests, five per cent or more of the ownership or 1964
equity interests. The trustee shall notify the tax commissioner 1965
in writing of the election on or before April 15, 2006. The 1966
election, if timely made, shall be effective on and after 1967
January 1, 2006, and shall apply for all tax periods and tax 1968
years until revoked by the trustee of the trust. 1969

(4) A "pre-income tax trust" is a trust that satisfies all 1970
of the following requirements: 1971

(a) The document or instrument creating the trust was 1972
executed by the grantor before January 1, 1972; 1973

(b) The trust became irrevocable upon the creation of the 1974
trust; and 1975

(c) The grantor was domiciled in this state at the time 1976
the trust was created. 1977

(FF) "Uniformed services" means all of the following: 1978

(1) "Armed forces of the United States" as defined in	1979
section 5907.01 of the Revised Code;	1980
(2) The commissioned corps of the national oceanic and	1981
atmospheric administration;	1982
(3) The commissioned corps of the public health service.	1983
(GG) "Taxable business income" means the amount by which	1984
an individual's business income that is included in federal	1985
adjusted gross income exceeds the amount of business income the	1986
individual is authorized to deduct under division (A) (28) of	1987
this section for the taxable year.	1988
(HH) "Employer" does not include a franchisor with respect	1989
to the franchisor's relationship with a franchisee or an	1990
employee of a franchisee, unless the franchisor agrees to assume	1991
that role in writing or a court of competent jurisdiction	1992
determines that the franchisor exercises a type or degree of	1993
control over the franchisee or the franchisee's employees that	1994
is not customarily exercised by a franchisor for the purpose of	1995
protecting the franchisor's trademark, brand, or both. For	1996
purposes of this division, "franchisor" and "franchisee" have	1997
the same meanings as in 16 C.F.R. 436.1.	1998
(II) "Modified adjusted gross income" means Ohio adjusted	1999
gross income plus any amount deducted under divisions (A) (28)	2000
and (34) of this section for the taxable year.	2001
(JJ) "Qualifying Ohio educator" means an individual who,	2002
for a taxable year, qualifies as an eligible educator, as that	2003
term is defined in section 62 of the Internal Revenue Code, and	2004
who holds a certificate, license, or permit described in Chapter	2005
3319. or section 3301.071 of the Revised Code.	2006
(KK) "Professional employer organization," "professional	2007

employer organization agreement," and "professional employer
organization reporting entity" have the same meanings as in
section 4125.01 of the Revised Code.

(LL) "Alternate employer organization" and "alternate
employer organization agreement" have the same meanings as in
section 4133.01 of the Revised Code.

(MM) "Casino gaming" has the same meaning as in section
3772.01 of the Revised Code, "lottery sports gaming" has the
same meaning as in section 3770.23 of the Revised Code, "sports
gaming" has the same meaning as in section 3775.01 of the
Revised Code, and "video lottery terminal" has the same meaning
as in section 3770.21 of the Revised Code.

Section 2. That existing sections 718.01 and 5747.01 of
the Revised Code are hereby repealed.

Section 3. That section 5747.79 of the Revised Code is
hereby repealed.

Section 4. (A) The amendment by this act of sections
718.01 and 5747.01 of the Revised Code apply to taxable years
ending on or after the effective date of this section.

(B) On or before June 30, 2027, the Director of Budget and
Management shall prepare a report on the fiscal impact of this
act, including the act's effects on tax revenue and taxpayer
behavior. The Director shall provide copies of the report to the
Governor, the Speaker and Minority Leader of the House of
Representatives, and the President and Minority Leader of the
Senate.

Section 5. This act shall be known as the Ohio Capital
Gains Tax Repeal Act.