

As Introduced

136th General Assembly

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H. B. No. 69

Representatives Peterson, Claggett

A BILL

To amend sections 5733.40, 5747.01, and 5747.05 of
the Revised Code to allow taxpayers to deduct in
a single year the full bonus depreciation and
enhanced expensing allowances the taxpayer
deducts for federal income tax purposes.

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

Section 1. That sections 5733.40, 5747.01, and 5747.05 of
the Revised Code be amended to read as follows:

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and
Chapter 5747. of the Revised Code:

(A) (1) "Adjusted qualifying amount" means either of the
following:

(a) The sum of each qualifying investor's distributive
share of the income, gain, expense, or loss of a qualifying
pass-through entity for the qualifying taxable year of the
qualifying pass-through entity multiplied by the apportionment
fraction defined in division (B) of this section, subject to
section 5733.401 of the Revised Code and divisions (A) (2) to (7)
of this section;

(b) The sum of each qualifying beneficiary's share of the 19
qualifying net income and qualifying net gain distributed by a 20
qualifying trust for the qualifying taxable year of the 21
qualifying trust multiplied by the apportionment fraction 22
defined in division (B) of this section, subject to section 23
5733.401 of the Revised Code and divisions (A) (2) to (7) of this 24
section. 25

(2) The sum shall exclude any amount which, pursuant to 26
the Constitution of the United States, the Constitution of Ohio, 27
or any federal law is not subject to a tax on or measured by net 28
income. 29

(3) For the purposes of Chapters 5733. and 5747. of the 30
Revised Code, the profit or net income of the qualifying entity 31
shall be increased by disallowing all amounts representing 32
expenses, other than amounts described in division (A) (7) of 33
this section, that the qualifying entity paid to or incurred 34
with respect to direct or indirect transactions with one or more 35
related members, excluding the cost of goods sold calculated in 36
accordance with section 263A of the Internal Revenue Code and 37
United States department of the treasury regulations issued 38
thereunder. Nothing in division (A) (3) of this section shall be 39
construed to limit solely to this chapter the application of 40
section 263A of the Internal Revenue Code and United States 41
department of the treasury regulations issued thereunder. 42

(4) For the purposes of Chapters 5733. and 5747. of the 43
Revised Code, the profit or net income of the qualifying entity 44
shall be increased by disallowing all recognized losses, other 45
than losses from sales of inventory the cost of which is 46
calculated in accordance with section 263A of the Internal 47
Revenue Code and United States department of the treasury 48

regulations issued thereunder, with respect to all direct or 49
indirect transactions with one or more related members. For the 50
purposes of Chapters 5733. and 5747. of the Revised Code, losses 51
from the sales of such inventory shall be allowed only to the 52
extent calculated in accordance with section 482 of the Internal 53
Revenue Code and United States department of the treasury 54
regulations issued thereunder. Nothing in division (A) (4) of 55
this section shall be construed to limit solely to this section 56
the application of section 263A and section 482 of the Internal 57
Revenue Code and United States department of the treasury 58
regulations issued thereunder. 59

(5) The sum shall be ~~increased or decreased~~ by an amount 60
equal to the qualifying investor's or qualifying beneficiary's 61
distributive or proportionate share of the amount that the 62
qualifying entity would be ~~required~~ allowed to add or deduct 63
under ~~divisions (A) (17) and (18)~~ division (A) (18) of section 64
5747.01 of the Revised Code if the qualifying entity were a 65
taxpayer for the purposes of Chapter 5747. of the Revised Code. 66

(6) The sum shall be computed without regard to section 67
5733.051 or division (D) of section 5733.052 of the Revised 68
Code. 69

(7) For the purposes of Chapters 5733. and 5747. of the 70
Revised Code, guaranteed payments or compensation paid to 71
investors by a qualifying entity that is not subject to the tax 72
imposed by section 5733.06 of the Revised Code shall be 73
considered a distributive share of income of the qualifying 74
entity. Division (A) (7) of this section applies only to such 75
payments or such compensation paid to an investor who at any 76
time during the qualifying entity's taxable year holds at least 77
a twenty per cent direct or indirect interest in the profits or 78

capital of the qualifying entity. For the purposes of this 79
division, guaranteed payments and compensation shall be 80
considered to be paid to an investor by a qualifying entity if 81
the qualifying entity in which the investor holds at least a 82
twenty per cent direct or indirect interest is a client employer 83
of a professional employer organization or alternate employer 84
organization, as those terms are defined in section 4125.01 or 85
4133.01 of the Revised Code, as applicable, and the guaranteed 86
payments or compensation are paid to the investor by that 87
professional employer organization or alternate employer 88
organization. 89

(B) "Apportionment fraction" means: 90

(1) With respect to a qualifying pass-through entity other 91
than a financial institution, the fraction calculated pursuant 92
to division (B) (2) of section 5733.05 of the Revised Code as if 93
the qualifying pass-through entity were a corporation subject to 94
the tax imposed by section 5733.06 of the Revised Code; 95

(2) With respect to a qualifying pass-through entity that 96
is a financial institution, the fraction calculated pursuant to 97
division (C) of section 5733.056 of the Revised Code as if the 98
qualifying pass-through entity were a financial institution 99
subject to the tax imposed by section 5733.06 of the Revised 100
Code; 101

(3) With respect to a qualifying trust, the fraction 102
calculated pursuant to division (B) (2) of section 5733.05 of the 103
Revised Code as if the qualifying trust were a corporation 104
subject to the tax imposed by section 5733.06 of the Revised 105
Code, except that the property, payroll, and sales fractions 106
shall be calculated by including in the numerator and 107
denominator of the fractions only the property, payroll, and 108

sales, respectively, directly related to the production of 109
income or gain from acquisition, ownership, use, maintenance, 110
management, or disposition of tangible personal property located 111
in this state at any time during the qualifying trust's 112
qualifying taxable year or of real property located in this 113
state. 114

(C) "Qualifying beneficiary" means any individual that, 115
during the qualifying taxable year of a qualifying trust, is a 116
beneficiary of that trust, but does not include an individual 117
who is a resident taxpayer for the purposes of Chapter 5747. of 118
the Revised Code for the entire qualifying taxable year of the 119
qualifying trust. 120

(D) "Fiscal year" means an accounting period ending on any 121
day other than the thirty-first day of December. 122

(E) "Individual" means a natural person. 123

(F) "Month" means a calendar month. 124

(G) "Distributive share" includes the sum of the income, 125
gain, expense, or loss of a disregarded entity or qualified 126
subchapter S subsidiary. 127

(H) "Investor" means any person that, during any portion 128
of a taxable year of a qualifying pass-through entity, is a 129
partner, member, shareholder, or investor in that qualifying 130
pass-through entity. 131

(I) Except as otherwise provided in section 5733.402 or 132
5747.401 of the Revised Code, "qualifying investor" means any 133
investor except those described in divisions (I)(1) to (9) of 134
this section. 135

(1) An investor satisfying one of the descriptions under 136

section 501(a) or (c) of the Internal Revenue Code, a 137
partnership with equity securities registered with the United 138
States securities and exchange commission under section 12 of 139
the "Securities Exchange Act of 1934," as amended, or an 140
investor described in division (F) of section 3334.01, or 141
division (A) or (C) of section 5733.09 of the Revised Code for 142
the entire qualifying taxable year of the qualifying pass- 143
through entity. 144

(2) An investor who is either an individual or an estate 145
and is a resident taxpayer for the purposes of section 5747.01 146
of the Revised Code for the entire qualifying taxable year of 147
the qualifying pass-through entity. 148

(3) An investor who is an individual for whom the 149
qualifying pass-through entity makes a good faith and reasonable 150
effort to comply fully and timely with the filing and payment 151
requirements set forth in division (D) of section 5747.08 of the 152
Revised Code and section 5747.09 of the Revised Code with 153
respect to the individual's adjusted qualifying amount for the 154
entire qualifying taxable year of the qualifying pass-through 155
entity. 156

(4) An investor that is another qualifying pass-through 157
entity having only investors described in division (I)(1), (2), 158
(3), or (6) of this section during the three-year period 159
beginning twelve months prior to the first day of the qualifying 160
taxable year of the qualifying pass-through entity. 161

(5) An investor that is another pass-through entity having 162
no investors other than individuals and estates during the 163
qualifying taxable year of the qualifying pass-through entity in 164
which it is an investor, and that makes a good faith and 165
reasonable effort to comply fully and timely with the filing and 166

payment requirements set forth in division (D) of section 167
5747.08 of the Revised Code and section 5747.09 of the Revised 168
Code with respect to investors that are not resident taxpayers 169
of this state for the purposes of Chapter 5747. of the Revised 170
Code for the entire qualifying taxable year of the qualifying 171
pass-through entity in which it is an investor. 172

(6) An investor that is treated as a C corporation for 173
federal income tax purposes for the entire qualifying taxable 174
year of the qualifying pass-through entity in which it is an 175
investor. 176

(7) An investor other than an individual that satisfies 177
all the following: 178

(a) The investor submits a written statement to the 179
qualifying pass-through entity stating that the investor 180
irrevocably agrees that the investor has nexus with this state 181
under the Constitution of the United States and is subject to 182
and liable for the tax calculated under division (A) or (B) of 183
section 5733.06 of the Revised Code with respect to the 184
investor's adjusted qualifying amount for the entire qualifying 185
taxable year of the qualifying pass-through entity. The 186
statement is subject to the penalties of perjury, shall be 187
retained by the qualifying pass-through entity for no fewer than 188
seven years, and shall be delivered to the tax commissioner upon 189
request. 190

(b) The investor makes a good faith and reasonable effort 191
to comply timely and fully with all the reporting and payment 192
requirements set forth in Chapter 5733. of the Revised Code with 193
respect to the investor's adjusted qualifying amount for the 194
entire qualifying taxable year of the qualifying pass-through 195
entity. 196

(c) Neither the investor nor the qualifying pass-through 197
entity in which it is an investor, before, during, or after the 198
qualifying pass-through entity's qualifying taxable year, 199
carries out any transaction or transactions with one or more 200
related members of the investor or the qualifying pass-through 201
entity resulting in a reduction or deferral of tax imposed by 202
Chapter 5733. of the Revised Code with respect to all or any 203
portion of the investor's adjusted qualifying amount for the 204
qualifying pass-through entity's taxable year, or that 205
constitute a sham, lack economic reality, or are part of a 206
series of transactions the form of which constitutes a step 207
transaction or transactions or does not reflect the substance of 208
those transactions. 209

(8) Any other investor that the tax commissioner may 210
designate by rule. The tax commissioner may adopt rules 211
including a rule defining "qualifying investor" or "qualifying 212
beneficiary" and governing the imposition of the withholding tax 213
imposed by section 5747.41 of the Revised Code with respect to 214
an individual who is a resident taxpayer for the purposes of 215
Chapter 5747. of the Revised Code for only a portion of the 216
qualifying taxable year of the qualifying entity. 217

(9) An investor that is a trust or fund the beneficiaries 218
of which, during the qualifying taxable year of the qualifying 219
pass-through entity, are limited to the following: 220

(a) A person that is or may be the beneficiary of a trust 221
subject to Subchapter D of Chapter 1 of Subtitle A of the 222
Internal Revenue Code. 223

(b) A person that is or may be the beneficiary of or the 224
recipient of payments from a trust or fund that is a nuclear 225
decommissioning reserve fund, a designated settlement fund, or 226

any other trust or fund established to resolve and satisfy 227
claims that may otherwise be asserted by the beneficiary or a 228
member of the beneficiary's family. Sections 267(c)(4), 468A(e), 229
and 468B(d)(2) of the Internal Revenue Code apply to the 230
determination of whether such a person satisfies division (I)(9) 231
of this section. 232

(c) A person who is or may be the beneficiary of a trust 233
that, under its governing instrument, is not required to 234
distribute all of its income currently. Division (I)(9)(c) of 235
this section applies only if the trust, prior to the due date 236
for filing the qualifying pass-through entity's return for taxes 237
imposed by section 5733.41 and sections 5747.41 to 5747.453 of 238
the Revised Code, irrevocably agrees in writing that for the 239
taxable year during or for which the trust distributes any of 240
its income to any of its beneficiaries, the trust is a 241
qualifying trust and will pay the estimated tax, and will 242
withhold and pay the withheld tax, as required under sections 243
5747.40 to 5747.453 of the Revised Code. 244

For the purposes of division (I)(9) of this section, a 245
trust or fund shall be considered to have a beneficiary other 246
than persons described under divisions (I)(9)(a) to (c) of this 247
section if a beneficiary would not qualify under those divisions 248
under the doctrines of "economic reality," "sham transaction," 249
"step doctrine," or "substance over form." A trust or fund 250
described in division (I)(9) of this section bears the burden of 251
establishing by a preponderance of the evidence that any 252
transaction giving rise to the tax benefits provided under 253
division (I)(9) of this section does not have as a principal 254
purpose a claim of those tax benefits. Nothing in this section 255
shall be construed to limit solely to this section the 256
application of the doctrines referred to in this paragraph. 257

(J) "Qualifying net gain" means any recognized net gain 258
with respect to the acquisition, ownership, use, maintenance, 259
management, or disposition of tangible personal property located 260
in this state at any time during a trust's qualifying taxable 261
year or real property located in this state. 262

(K) "Qualifying net income" means any recognized income, 263
net of related deductible expenses, other than distributions 264
deductions with respect to the acquisition, ownership, use, 265
maintenance, management, or disposition of tangible personal 266
property located in this state at any time during the trust's 267
qualifying taxable year or real property located in this state. 268

(L) "Qualifying entity" means a qualifying pass-through 269
entity or a qualifying trust. 270

(M) "Qualifying trust" means a trust subject to subchapter 271
J of the Internal Revenue Code that, during any portion of the 272
trust's qualifying taxable year, has income or gain from the 273
acquisition, management, ownership, use, or disposition of 274
tangible personal property located in this state at any time 275
during the trust's qualifying taxable year or real property 276
located in this state. "Qualifying trust" does not include a 277
person described in section 501(c) of the Internal Revenue Code 278
or a person described in division (C) of section 5733.09 of the 279
Revised Code. 280

(N) "Qualifying pass-through entity" means a pass-through 281
entity as defined in section 5733.04 of the Revised Code, 282
excluding: a person described in section 501(c) of the Internal 283
Revenue Code; a partnership with equity securities registered 284
with the United States securities and exchange commission under 285
section 12 of the Securities Exchange Act of 1934, as amended; 286
or a person described in division (C) of section 5733.09 of the 287

Revised Code. 288

(O) "Quarter" means the first three months, the second 289
three months, the third three months, or the last three months 290
of a qualifying entity's qualifying taxable year. 291

(P) "Related member" has the same meaning as in division 292
(A) (6) of section 5733.042 of the Revised Code without regard to 293
division (B) of that section. However, for the purposes of 294
divisions (A) (3) and (4) of this section only, "related member" 295
has the same meaning as in division (A) (6) of section 5733.042 296
of the Revised Code without regard to division (B) of that 297
section, but shall be applied by substituting "forty per cent" 298
for "twenty per cent" wherever "twenty per cent" appears in 299
division (A) of that section. 300

(Q) "Return" or "report" means the notifications and 301
reports required to be filed pursuant to sections 5747.42 to 302
5747.45 of the Revised Code for the purpose of reporting the tax 303
imposed under section 5733.41 or 5747.41 of the Revised Code, 304
and included declarations of estimated tax when so required. 305

(R) "Qualifying taxable year" means the calendar year or 306
the qualifying entity's fiscal year ending during the calendar 307
year, or fractional part thereof, for which the adjusted 308
qualifying amount is calculated pursuant to sections 5733.40 and 309
5733.41 or sections 5747.40 to 5747.453 of the Revised Code. 310

Sec. 5747.01. Except as otherwise expressly provided or 311
clearly appearing from the context, any term used in this 312
chapter that is not otherwise defined in this section has the 313
same meaning as when used in a comparable context in the laws of 314
the United States relating to federal income taxes or if not 315
used in a comparable context in those laws, has the same meaning 316

as in section 5733.40 of the Revised Code. Any reference in this 317
chapter to the Internal Revenue Code includes other laws of the 318
United States relating to federal income taxes. 319

As used in this chapter: 320

(A) "Adjusted gross income" or "Ohio adjusted gross 321
income" means federal adjusted gross income, as defined and used 322
in the Internal Revenue Code, adjusted as provided in this 323
section: 324

(1) Add interest or dividends on obligations or securities 325
of any state or of any political subdivision or authority of any 326
state, other than this state and its subdivisions and 327
authorities. 328

(2) Add interest or dividends on obligations of any 329
authority, commission, instrumentality, territory, or possession 330
of the United States to the extent that the interest or 331
dividends are exempt from federal income taxes but not from 332
state income taxes. 333

(3) Deduct interest or dividends on obligations of the 334
United States and its territories and possessions or of any 335
authority, commission, or instrumentality of the United States 336
to the extent that the interest or dividends are included in 337
federal adjusted gross income but exempt from state income taxes 338
under the laws of the United States. 339

(4) Deduct disability and survivor's benefits to the 340
extent included in federal adjusted gross income. 341

(5) Deduct the following, to the extent not otherwise 342
deducted or excluded in computing federal or Ohio adjusted gross 343
income: 344

(a) Benefits under Title II of the Social Security Act and 345
tier 1 railroad retirement; 346

(b) Railroad retirement benefits, other than tier 1 347
railroad retirement benefits, to the extent such amounts are 348
exempt from state taxation under federal law. 349

(6) Deduct the amount of wages and salaries, if any, not 350
otherwise allowable as a deduction but that would have been 351
allowable as a deduction in computing federal adjusted gross 352
income for the taxable year, had the work opportunity tax credit 353
allowed and determined under sections 38, 51, and 52 of the 354
Internal Revenue Code not been in effect. 355

(7) Deduct any interest or interest equivalent on public 356
obligations and purchase obligations to the extent that the 357
interest or interest equivalent is included in federal adjusted 358
gross income. 359

(8) Add any loss or deduct any gain resulting from the 360
sale, exchange, or other disposition of public obligations to 361
the extent that the loss has been deducted or the gain has been 362
included in computing federal adjusted gross income. 363

(9) Deduct or add amounts, as provided under section 364
5747.70 of the Revised Code, related to contributions made to or 365
tuition units purchased under a qualified tuition program 366
established pursuant to section 529 of the Internal Revenue 367
Code. 368

(10)(a) Deduct, to the extent not otherwise allowable as a 369
deduction or exclusion in computing federal or Ohio adjusted 370
gross income for the taxable year, the amount the taxpayer paid 371
during the taxable year for medical care insurance and qualified 372
long-term care insurance for the taxpayer, the taxpayer's 373

spouse, and dependents. No deduction for medical care insurance 374
under division (A)(10)(a) of this section shall be allowed 375
either to any taxpayer who is eligible to participate in any 376
subsidized health plan maintained by any employer of the 377
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 378
entitled to, or on application would be entitled to, benefits 379
under part A of Title XVIII of the "Social Security Act," 49 380
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 381
division (A)(10)(a) of this section, "subsidized health plan" 382
means a health plan for which the employer pays any portion of 383
the plan's cost. The deduction allowed under division (A)(10)(a) 384
of this section shall be the net of any related premium refunds, 385
related premium reimbursements, or related insurance premium 386
dividends received during the taxable year. 387

(b) Deduct, to the extent not otherwise deducted or 388
excluded in computing federal or Ohio adjusted gross income 389
during the taxable year, the amount the taxpayer paid during the 390
taxable year, not compensated for by any insurance or otherwise, 391
for medical care of the taxpayer, the taxpayer's spouse, and 392
dependents, to the extent the expenses exceed seven and one-half 393
per cent of the taxpayer's federal adjusted gross income. 394

(c) For purposes of division (A)(10) of this section, 395
"medical care" has the meaning given in section 213 of the 396
Internal Revenue Code, subject to the special rules, 397
limitations, and exclusions set forth therein, and "qualified 398
long-term care" has the same meaning given in section 7702B(c) 399
of the Internal Revenue Code. Solely for purposes of division 400
(A)(10)(a) of this section, "dependent" includes a person who 401
otherwise would be a "qualifying relative" and thus a 402
"dependent" under section 152 of the Internal Revenue Code but 403
for the fact that the person fails to meet the income and 404

support limitations under section 152(d)(1)(B) and (C) of the 405
Internal Revenue Code. 406

(11)(a) Deduct any amount included in federal adjusted 407
gross income solely because the amount represents a 408
reimbursement or refund of expenses that in any year the 409
taxpayer had deducted as an itemized deduction pursuant to 410
section 63 of the Internal Revenue Code and applicable United 411
States department of the treasury regulations. The deduction 412
otherwise allowed under division (A)(11)(a) of this section 413
shall be reduced to the extent the reimbursement is attributable 414
to an amount the taxpayer deducted under this section in any 415
taxable year. 416

(b) Add any amount not otherwise included in Ohio adjusted 417
gross income for any taxable year to the extent that the amount 418
is attributable to the recovery during the taxable year of any 419
amount deducted or excluded in computing federal or Ohio 420
adjusted gross income in any taxable year. 421

(12) Deduct any portion of the deduction described in 422
section 1341(a)(2) of the Internal Revenue Code, for repaying 423
previously reported income received under a claim of right, that 424
meets both of the following requirements: 425

(a) It is allowable for repayment of an item that was 426
included in the taxpayer's adjusted gross income for a prior 427
taxable year and did not qualify for a credit under division (A) 428
or (B) of section 5747.05 of the Revised Code for that year; 429

(b) It does not otherwise reduce the taxpayer's adjusted 430
gross income for the current or any other taxable year. 431

(13) Deduct an amount equal to the deposits made to, and 432
net investment earnings of, a medical savings account during the 433

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

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

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

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

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

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

(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax

commissioner, the taxpayer shall provide any information that, 463
in the tax commissioner's opinion, is necessary to establish the 464
amount deducted under division (A) (16) of this section. 465

~~(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 466
(v) of this section, add five-sixths of the amount of 467
depreciation expense allowed by subsection (k) of section 168 of 468
the Internal Revenue Code, including the taxpayer's 469
proportionate or distributive share of the amount of 470
depreciation expense allowed by that subsection to a pass- 471
through entity in which the taxpayer has a direct or indirect 472
ownership interest. 473~~

~~(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 474
of this section, add five-sixths of the amount of qualifying 475
section 179 depreciation expense, including the taxpayer's 476
proportionate or distributive share of the amount of qualifying 477
section 179 depreciation expense allowed to any pass-through 478
entity in which the taxpayer has a direct or indirect ownership 479
interest. 480~~

~~(iii) Subject to division (A) (17) (a) (v) of this section, 481
for taxable years beginning in 2012 or thereafter, if the 482
increase in income taxes withheld by the taxpayer is equal to or 483
greater than ten per cent of income taxes withheld by the 484
taxpayer during the taxpayer's immediately preceding taxable 485
year, "two-thirds" shall be substituted for "five-sixths" for 486
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 487~~

~~(iv) Subject to division (A) (17) (a) (v) of this section, 488
for taxable years beginning in 2012 or thereafter, a taxpayer is 489
not required to add an amount under division (A) (17) of this 490
section if the increase in income taxes withheld by the taxpayer 491
and by any pass-through entity in which the taxpayer has a 492~~

~~direct or indirect ownership interest is equal to or greater~~ 493
~~than the sum of (I) the amount of qualifying section 179~~ 494
~~depreciation expense and (II) the amount of depreciation expense~~ 495
~~allowed to the taxpayer by subsection (k) of section 168 of the~~ 496
~~Internal Revenue Code, and including the taxpayer's~~ 497
~~proportionate or distributive shares of such amounts allowed to~~ 498
~~any such pass-through entities.~~ 499

~~(v) If a taxpayer directly or indirectly incurs a net~~ 500
~~operating loss for the taxable year for federal income tax~~ 501
~~purposes, to the extent such loss resulted from depreciation~~ 502
~~expense allowed by subsection (k) of section 168 of the Internal~~ 503
~~Revenue Code and by qualifying section 179 depreciation expense,~~ 504
~~"the entire" shall be substituted for "five-sixths of the" for~~ 505
~~the purpose of divisions (A) (17) (a) (i) and (ii) of this section.~~ 506

~~The tax commissioner, under procedures established by the~~ 507
~~commissioner, may waive the add-backs related to a pass-through~~ 508
~~entity if the taxpayer owns, directly or indirectly, less than~~ 509
~~five per cent of the pass-through entity.~~ 510

~~(b) Nothing in division (A) (17) of this section shall be~~ 511
~~construed to adjust or modify the adjusted basis of any asset.~~ 512

~~(c) To the extent the add-back required under division (A)~~ 513
~~(17) (a) of this section is attributable to property generating~~ 514
~~nonbusiness income or loss allocated under section 5747.20 of~~ 515
~~the Revised Code, the add-back shall be situated to the same~~ 516
~~location as the nonbusiness income or loss generated by the~~ 517
~~property for the purpose of determining the credit under~~ 518
~~division (A) of section 5747.05 of the Revised Code. Otherwise,~~ 519
~~the add-back shall be apportioned, subject to one or more of the~~ 520
~~four alternative methods of apportionment enumerated in section~~ 521
~~5747.21 of the Revised Code.~~ 522

~~(d) For the purposes of division (A) (17) (a) (v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.~~ 523
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~~(e) For the purposes of divisions (A) (17) and (18) of this section:—~~ 530
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~~(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.~~ 532
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~~(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.~~ 535
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~~(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002~~ 540
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(17) Deduct, to the extent included in federal adjusted gross income, income attributable to loan repayments on behalf of the taxpayer under the rural practice incentive program under section 3333.135 of the Revised Code. 546
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(18) (a) If, in computing the taxpayer's Ohio adjusted 551

gross income for a taxable year beginning before January 1, 552
2025, the taxpayer was required to add ~~an amount back a~~ 553
depreciation expense allowed under ~~division (A) (17) (a) of this~~ 554
~~section for a taxable year~~ subsection (k) of section 168 or 555
section 179 of the Internal Revenue Code, deduct one of the 556
following: 557

(i) One-fifth of the amount so added for each of the five 558
succeeding taxable years if the amount so added was five-sixths 559
of qualifying section 179 depreciation expense or depreciation 560
expense allowed by subsection (k) of section 168 of the Internal 561
Revenue Code; 562

(ii) One-half of the amount so added for each of the two 563
succeeding taxable years if the amount so added was two-thirds 564
of such depreciation expense; 565

(iii) One-sixth of the amount so added for each of the six 566
succeeding taxable years if the entire amount of such 567
depreciation expense was so added. 568

(b) If the amount deducted under division (A) (18) (a) of 569
this section is attributable to an add-back ~~allocated under~~ 570
~~division (A) (17) (c) of this section~~ that is attributable to 571
property generating nonbusiness income or loss allocated under 572
section 5747.20 of the Revised Code, the amount deducted shall 573
be situated to the same location as the add-back. Otherwise, the 574
add-back deduction shall be apportioned using the apportionment 575
factors for the taxable year in which the deduction is taken, 576
subject to one or more of the four alternative methods of 577
apportionment enumerated in section 5747.21 of the Revised Code. 578

(c) No deduction is available under division (A) (18) (a) of 579
this section with regard to any depreciation allowed by section 580

168(k) of the Internal Revenue Code and by the qualifying 581
section 179 depreciation expense amount to the extent that such 582
depreciation results in or increases a federal net operating 583
loss carryback or carryforward. If no such deduction is 584
available for a taxable year, the taxpayer may carry forward the 585
amount not deducted in such taxable year to the next taxable 586
year and add that amount to any deduction otherwise available 587
under division (A)(18)(a) of this section for that next taxable 588
year. The carryforward of amounts not so deducted shall continue 589
until the entire ~~addition required by division (A)(17)(a) of~~ 590
~~this section~~ amount added back for taxable years beginning 591
before January 1, 2025, has been deducted. 592

(d) Notwithstanding division (A)(18)(a) or (c) of this 593
section, for taxable years beginning in 2025 or thereafter, a 594
taxpayer that was required to add back a depreciation expense in 595
computing the taxpayer's Ohio adjusted gross income for a 596
taxable year beginning before January 1, 2025, may elect to 597
deduct the entire amount so added, less any amount already 598
deducted under this section in any preceding taxable year with 599
respect to that depreciation expense. The taxpayer shall make 600
the election on the annual return filed for the first taxable 601
year beginning after January 1, 2025, for which the taxpayer 602
files a return, and the election shall be irrevocable after the 603
due date plus extensions, if any, for filing that return. 604

(e) Nothing in division (A)(18) of this section shall be 605
construed to allow a taxpayer to deduct any amount that, under 606
this section as it existed before the effective date of this 607
amendment, the taxpayer would not have been eligible to deduct 608
for a taxable year beginning on or after January 1, 2025. 609

(f) As used in division (A)(18) of this section, 610

"qualifying section 179 depreciation expense" means the 611
difference between (i) the amount of depreciation expense 612
directly or indirectly allowed to a taxpayer under section 179 613
of the Internal Revenue Code, and (ii) the amount of 614
depreciation expense directly or indirectly allowed to the 615
taxpayer under section 179 of the Internal Revenue Code as that 616
section existed on December 31, 2002. 617

(19) Deduct, to the extent not otherwise deducted or 618
excluded in computing federal or Ohio adjusted gross income for 619
the taxable year, the amount the taxpayer received during the 620
taxable year as reimbursement for life insurance premiums under 621
section 5919.31 of the Revised Code. 622

(20) Deduct, to the extent not otherwise deducted or 623
excluded in computing federal or Ohio adjusted gross income for 624
the taxable year, the amount the taxpayer received during the 625
taxable year as a death benefit paid by the adjutant general 626
under section 5919.33 of the Revised Code. 627

(21) Deduct, to the extent included in federal adjusted 628
gross income and not otherwise allowable as a deduction or 629
exclusion in computing federal or Ohio adjusted gross income for 630
the taxable year, military pay and allowances received by the 631
taxpayer during the taxable year for active duty service in the 632
United States army, air force, navy, marine corps, or coast 633
guard or reserve components thereof or the national guard. The 634
deduction may not be claimed for military pay and allowances 635
received by the taxpayer while the taxpayer is stationed in this 636
state. 637

(22) Deduct, to the extent not otherwise allowable as a 638
deduction or exclusion in computing federal or Ohio adjusted 639
gross income for the taxable year and not otherwise compensated 640

for by any other source, the amount of qualified organ donation 641
expenses incurred by the taxpayer during the taxable year, not 642
to exceed ten thousand dollars. A taxpayer may deduct qualified 643
organ donation expenses only once for all taxable years 644
beginning with taxable years beginning in 2007. 645

For the purposes of division (A) (22) of this section: 646

(a) "Human organ" means all or any portion of a human 647
liver, pancreas, kidney, intestine, or lung, and any portion of 648
human bone marrow. 649

(b) "Qualified organ donation expenses" means travel 650
expenses, lodging expenses, and wages and salary forgone by a 651
taxpayer in connection with the taxpayer's donation, while 652
living, of one or more of the taxpayer's human organs to another 653
human being. 654

(23) Deduct, to the extent not otherwise deducted or 655
excluded in computing federal or Ohio adjusted gross income for 656
the taxable year, amounts received by the taxpayer as retired 657
personnel pay for service in the uniformed services or reserve 658
components thereof, or the national guard, or received by the 659
surviving spouse or former spouse of such a taxpayer under the 660
survivor benefit plan on account of such a taxpayer's death. If 661
the taxpayer receives income on account of retirement paid under 662
the federal civil service retirement system or federal employees 663
retirement system, or under any successor retirement program 664
enacted by the congress of the United States that is established 665
and maintained for retired employees of the United States 666
government, and such retirement income is based, in whole or in 667
part, on credit for the taxpayer's uniformed service, the 668
deduction allowed under this division shall include only that 669
portion of such retirement income that is attributable to the 670

taxpayer's uniformed service, to the extent that portion of such 671
retirement income is otherwise included in federal adjusted 672
gross income and is not otherwise deducted under this section. 673
Any amount deducted under division (A) (23) of this section is 674
not included in a taxpayer's adjusted gross income for the 675
purposes of section 5747.055 of the Revised Code. No amount may 676
be deducted under division (A) (23) of this section on the basis 677
of which a credit was claimed under section 5747.055 of the 678
Revised Code. 679

(24) Deduct, to the extent not otherwise deducted or 680
excluded in computing federal or Ohio adjusted gross income for 681
the taxable year, the amount the taxpayer received during the 682
taxable year from the military injury relief fund created in 683
section 5902.05 of the Revised Code. 684

(25) Deduct, to the extent not otherwise deducted or 685
excluded in computing federal or Ohio adjusted gross income for 686
the taxable year, the amount the taxpayer received as a veterans 687
bonus during the taxable year from the Ohio department of 688
veterans services as authorized by Section 2r of Article VIII, 689
Ohio Constitution. 690

(26) Deduct, to the extent not otherwise deducted or 691
excluded in computing federal or Ohio adjusted gross income for 692
the taxable year, any income derived from a transfer agreement 693
or from the enterprise transferred under that agreement under 694
section 4313.02 of the Revised Code. 695

(27) Deduct, to the extent not otherwise deducted or 696
excluded in computing federal or Ohio adjusted gross income for 697
the taxable year, Ohio college opportunity or federal Pell grant 698
amounts received by the taxpayer or the taxpayer's spouse or 699
dependent pursuant to section 3333.122 of the Revised Code or 20 700

U.S.C. 1070a, et seq., and used to pay room or board furnished 701
by the educational institution for which the grant was awarded 702
at the institution's facilities, including meal plans 703
administered by the institution. For the purposes of this 704
division, receipt of a grant includes the distribution of a 705
grant directly to an educational institution and the crediting 706
of the grant to the enrollee's account with the institution. 707

(28) Deduct from the portion of an individual's federal 708
adjusted gross income that is business income, to the extent not 709
otherwise deducted or excluded in computing federal adjusted 710
gross income for the taxable year, one hundred twenty-five 711
thousand dollars for each spouse if spouses file separate 712
returns under section 5747.08 of the Revised Code or two hundred 713
fifty thousand dollars for all other individuals. 714

(29) Deduct, as provided under section 5747.78 of the 715
Revised Code, contributions to ABLE savings accounts made in 716
accordance with sections 113.50 to 113.56 of the Revised Code. 717

(30) (a) Deduct, to the extent not otherwise deducted or 718
excluded in computing federal or Ohio adjusted gross income 719
during the taxable year, all of the following: 720

(i) Compensation paid to a qualifying employee described 721
in division (A) (14) (a) of section 5703.94 of the Revised Code to 722
the extent such compensation is for disaster work conducted in 723
this state during a disaster response period pursuant to a 724
qualifying solicitation received by the employee's employer; 725

(ii) Compensation paid to a qualifying employee described 726
in division (A) (14) (b) of section 5703.94 of the Revised Code to 727
the extent such compensation is for disaster work conducted in 728
this state by the employee during the disaster response period 729

on critical infrastructure owned or used by the employee's 730
employer; 731

(iii) Income received by an out-of-state disaster business 732
for disaster work conducted in this state during a disaster 733
response period, or, if the out-of-state disaster business is a 734
pass-through entity, a taxpayer's distributive share of the 735
pass-through entity's income from the business conducting 736
disaster work in this state during a disaster response period, 737
if, in either case, the disaster work is conducted pursuant to a 738
qualifying solicitation received by the business. 739

(b) All terms used in division (A) (30) of this section 740
have the same meanings as in section 5703.94 of the Revised 741
Code. 742

(31) For a taxpayer who is a qualifying Ohio educator, 743
deduct, to the extent not otherwise deducted or excluded in 744
computing federal or Ohio adjusted gross income for the taxable 745
year, the lesser of two hundred fifty dollars or the amount of 746
expenses described in subsections (a) (2) (D) (i) and (ii) of 747
section 62 of the Internal Revenue Code paid or incurred by the 748
taxpayer during the taxpayer's taxable year in excess of the 749
amount the taxpayer is authorized to deduct for that taxable 750
year under subsection (a) (2) (D) of that section. 751

(32) Deduct, to the extent not otherwise deducted or 752
excluded in computing federal or Ohio adjusted gross income for 753
the taxable year, amounts received by the taxpayer as a 754
disability severance payment, computed under 10 U.S.C. 1212, 755
following discharge or release under honorable conditions from 756
the armed forces of the United States, as defined in section 757
5907.01 of the Revised Code. 758

(33) Deduct, to the extent not otherwise deducted or 759
excluded in computing federal adjusted gross income or Ohio 760
adjusted gross income, amounts not subject to tax due to an 761
agreement entered into under division (A) (2) of section 5747.05 762
of the Revised Code. 763

(34) Deduct amounts as provided under section 5747.79 of 764
the Revised Code related to the taxpayer's qualifying capital 765
gains and deductible payroll. 766

To the extent a qualifying capital gain described under 767
division (A) (34) of this section is business income, the 768
taxpayer shall deduct those gains under this division before 769
deducting any such gains under division (A) (28) of this section. 770

(35) (a) For taxable years beginning in or after 2026, 771
deduct, to the extent not otherwise deducted or excluded in 772
computing federal or Ohio adjusted gross income for the taxable 773
year: 774

(i) One hundred per cent of the capital gain received by 775
the taxpayer in the taxable year from a qualifying interest in 776
an Ohio venture capital operating company attributable to the 777
company's investments in Ohio businesses during the period for 778
which the company was an Ohio venture operating company; and 779

(ii) Fifty per cent of the capital gain received by the 780
taxpayer in the taxable year from a qualifying interest in an 781
Ohio venture capital operating company attributable to the 782
company's investments in all other businesses during the period 783
for which the company was an Ohio venture operating company. 784

(b) Add amounts previously deducted by the taxpayer under 785
division (A) (35) (a) of this section if the director of 786
development certifies to the tax commissioner that the 787

requirements for the deduction were not met. 788

(c) All terms used in division (A) (35) of this section 789
have the same meanings as in section 122.851 of the Revised 790
Code. 791

(d) To the extent a capital gain described in division (A) 792
(35) (a) of this section is business income, the taxpayer shall 793
apply that division before applying division (A) (28) of this 794
section. 795

(36) Add, to the extent not otherwise included in 796
computing federal or Ohio adjusted gross income for any taxable 797
year, the taxpayer's proportionate share of the amount of the 798
tax levied under section 5747.38 of the Revised Code and paid by 799
an electing pass-through entity for the taxable year. 800

Notwithstanding any provision of the Revised Code to the 801
contrary, the portion of the addition required by division (A) 802
(36) of this section related to the apportioned business income 803
of the pass-through entity shall be considered business income 804
under division (B) of this section. Such addition is eligible 805
for the deduction in division (A) (28) of this section, subject 806
to the applicable dollar limitations, and the tax rate 807
prescribed by division (A) (4) (a) of section 5747.02 of the 808
Revised Code. The taxpayer shall provide, upon request of the 809
tax commissioner, any documentation necessary to verify the 810
portion of the addition that is business income under this 811
division. 812

(37) Deduct, to the extent not otherwise deducted or 813
excluded in computing federal or Ohio adjusted gross income for 814
the taxable year, amounts delivered to a qualifying institution 815
pursuant to section 3333.128 of the Revised Code for the benefit 816

of the taxpayer or the taxpayer's spouse or dependent. 817

(38) Deduct, to the extent not otherwise deducted or 818
excluded in computing federal or Ohio adjusted gross income for 819
the taxable year, amounts received under the Ohio adoption grant 820
program pursuant to section 5101.191 of the Revised Code. 821

(39) Deduct, to the extent included in federal adjusted 822
gross income, income attributable to amounts provided to a 823
taxpayer for any of the purposes for which an exclusion would 824
have been authorized under section 139 of the Internal Revenue 825
Code if the train derailment near the city of East Palestine on 826
February 3, 2023, had been a qualified disaster pursuant to that 827
section, or to compensate for lost business resulting from that 828
derailment, if such amounts are provided by any of the 829
following: 830

(a) A federal, state, or local government agency; 831

(b) A railroad company, as that term is defined in section 832
5727.01 of the Revised Code; 833

(c) Any subsidiary, insurer, or agent of a railroad 834
company or any related person. 835

Notwithstanding any provision to the contrary, the 836
derailment is not required to meet the definition of a 837
"qualified disaster" pursuant to section 139 of the Internal 838
Revenue Code to qualify for the deduction under this section. 839

~~(40) Deduct, to the extent included in federal adjusted~~ 840
~~gross income, income attributable to loan repayments on behalf~~ 841
~~of the taxpayer under the rural practice incentive program under~~ 842
~~section 3333.135 of the Revised Code.~~ 843

~~(41)~~ Add any income taxes deducted in computing federal or 844

Ohio adjusted gross income to the extent the income taxes were 845
derived from income subject to a tax levied in another state or 846
the District of Columbia when such tax was enacted for purposes 847
of complying with internal revenue service notice 2020-75. 848

Notwithstanding any provision of the Revised Code to the 849
contrary, the portion of the addition required by division ~~(A)~~ 850
~~(41)~~ (A) (40) of this section related to the apportioned business 851
income of the pass-through entity shall be considered business 852
income under division (B) of this section. Such addition is 853
eligible for the deduction in division (A) (28) of this section, 854
subject to the applicable dollar limitations, and the tax rate 855
prescribed by division (A) (4) (a) of section 5747.02 of the 856
Revised Code. The taxpayer shall provide, upon request of the 857
tax commissioner, any documentation necessary to verify the 858
portion of the addition that is business income under this 859
division. 860

~~(42)~~ (41) Deduct amounts contributed to a homeownership 861
savings account and calculated pursuant to divisions (B) and (C) 862
of section 5747.85 of the Revised Code. 863

~~(43)~~ (42) If the taxpayer is the account owner, add the 864
amount of funds withdrawn from a homeownership savings account 865
not used for eligible expenses, regardless of who deposited 866
those funds. As used in division ~~(A) (43)~~ (A) (42) of this section, 867
"homeownership savings account," "account owner," and "eligible 868
expenses" have the same meanings as in section 5747.85 of the 869
Revised Code. 870

(B) "Business income" means income, including gain or 871
loss, arising from transactions, activities, and sources in the 872
regular course of a trade or business and includes income, gain, 873
or loss from real property, tangible property, and intangible 874

property if the acquisition, rental, management, and disposition 875
of the property constitute integral parts of the regular course 876
of a trade or business operation. "Business income" includes 877
income, including gain or loss, from a partial or complete 878
liquidation of a business, including, but not limited to, gain 879
or loss from the sale or other disposition of goodwill or the 880
sale of an equity or ownership interest in a business. 881

As used in this division, the "sale of an equity or 882
ownership interest in a business" means sales to which either or 883
both of the following apply: 884

(1) The sale is treated for federal income tax purposes as 885
the sale of assets. 886

(2) The seller materially participated, as described in 26 887
C.F.R. 1.469-5T, in the activities of the business during the 888
taxable year in which the sale occurs or during any of the five 889
preceding taxable years. 890

(C) "Nonbusiness income" means all income other than 891
business income and may include, but is not limited to, 892
compensation, rents and royalties from real or tangible personal 893
property, capital gains, interest, dividends and distributions, 894
patent or copyright royalties, or lottery winnings, prizes, and 895
awards. 896

(D) "Compensation" means any form of remuneration paid to 897
an employee for personal services. 898

(E) "Fiduciary" means a guardian, trustee, executor, 899
administrator, receiver, conservator, or any other person acting 900
in any fiduciary capacity for any individual, trust, or estate. 901

(F) "Fiscal year" means an accounting period of twelve 902
months ending on the last day of any month other than December. 903

(G) "Individual" means any natural person. 904

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 905
906

(I) "Resident" means any of the following: 907

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 908
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(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section. 910
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(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 914
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For the purposes of division (I) (3) of this section: 917

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following: 918
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(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section; 924
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(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this 928
929
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state for the purposes of this chapter during all or some 932
portion of the trust's current taxable year; 933

(iii) A person who was domiciled in this state for the 934
purposes of this chapter when the trust document or instrument 935
or part of the trust document or instrument became irrevocable, 936
but only if at least one of the trust's qualifying beneficiaries 937
is a resident domiciled in this state for the purposes of this 938
chapter during all or some portion of the trust's current 939
taxable year. If a trust document or instrument became 940
irrevocable upon the death of a person who at the time of death 941
was domiciled in this state for purposes of this chapter, that 942
person is a person described in division (I) (3) (a) (iii) of this 943
section. 944

(b) A trust is irrevocable to the extent that the 945
transferor is not considered to be the owner of the net assets 946
of the trust under sections 671 to 678 of the Internal Revenue 947
Code. 948

(c) With respect to a trust other than a charitable lead 949
trust, "qualifying beneficiary" has the same meaning as 950
"potential current beneficiary" as defined in section 1361(e) (2) 951
of the Internal Revenue Code, and with respect to a charitable 952
lead trust "qualifying beneficiary" is any current, future, or 953
contingent beneficiary, but with respect to any trust 954
"qualifying beneficiary" excludes a person or a governmental 955
entity or instrumentality to any of which a contribution would 956
qualify for the charitable deduction under section 170 of the 957
Internal Revenue Code. 958

(d) For the purposes of division (I) (3) (a) of this 959
section, the extent to which a trust consists directly or 960
indirectly, in whole or in part, of assets, net of any related 961

liabilities, that were transferred directly or indirectly, in 962
whole or part, to the trust by any of the sources enumerated in 963
that division shall be ascertained by multiplying the fair 964
market value of the trust's assets, net of related liabilities, 965
by the qualifying ratio, which shall be computed as follows: 966

(i) The first time the trust receives assets, the 967
numerator of the qualifying ratio is the fair market value of 968
those assets at that time, net of any related liabilities, from 969
sources enumerated in division (I) (3) (a) of this section. The 970
denominator of the qualifying ratio is the fair market value of 971
all the trust's assets at that time, net of any related 972
liabilities. 973

(ii) Each subsequent time the trust receives assets, a 974
revised qualifying ratio shall be computed. The numerator of the 975
revised qualifying ratio is the sum of (1) the fair market value 976
of the trust's assets immediately prior to the subsequent 977
transfer, net of any related liabilities, multiplied by the 978
qualifying ratio last computed without regard to the subsequent 979
transfer, and (2) the fair market value of the subsequently 980
transferred assets at the time transferred, net of any related 981
liabilities, from sources enumerated in division (I) (3) (a) of 982
this section. The denominator of the revised qualifying ratio is 983
the fair market value of all the trust's assets immediately 984
after the subsequent transfer, net of any related liabilities. 985

(iii) Whether a transfer to the trust is by or from any of 986
the sources enumerated in division (I) (3) (a) of this section 987
shall be ascertained without regard to the domicile of the 988
trust's beneficiaries. 989

(e) For the purposes of division (I) (3) (a) (i) of this 990
section: 991

(i) A trust is described in division (I) (3) (e) (i) of this 992
section if the trust is a testamentary trust and the testator of 993
that testamentary trust was domiciled in this state at the time 994
of the testator's death for purposes of the taxes levied under 995
Chapter 5731. of the Revised Code. 996

(ii) A trust is described in division (I) (3) (e) (ii) of 997
this section if the transfer is a qualifying transfer described 998
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 999
trust is an irrevocable inter vivos trust, and at least one of 1000
the trust's qualifying beneficiaries is domiciled in this state 1001
for purposes of this chapter during all or some portion of the 1002
trust's current taxable year. 1003

(f) For the purposes of division (I) (3) (e) (ii) of this 1004
section, a "qualifying transfer" is a transfer of assets, net of 1005
any related liabilities, directly or indirectly to a trust, if 1006
the transfer is described in any of the following: 1007

(i) The transfer is made to a trust, created by the 1008
decedent before the decedent's death and while the decedent was 1009
domiciled in this state for the purposes of this chapter, and, 1010
prior to the death of the decedent, the trust became irrevocable 1011
while the decedent was domiciled in this state for the purposes 1012
of this chapter. 1013

(ii) The transfer is made to a trust to which the 1014
decedent, prior to the decedent's death, had directly or 1015
indirectly transferred assets, net of any related liabilities, 1016
while the decedent was domiciled in this state for the purposes 1017
of this chapter, and prior to the death of the decedent the 1018
trust became irrevocable while the decedent was domiciled in 1019
this state for the purposes of this chapter. 1020

(iii) The transfer is made on account of a contractual 1021
relationship existing directly or indirectly between the 1022
transferor and either the decedent or the estate of the decedent 1023
at any time prior to the date of the decedent's death, and the 1024
decedent was domiciled in this state at the time of death for 1025
purposes of the taxes levied under Chapter 5731. of the Revised 1026
Code. 1027

(iv) The transfer is made to a trust on account of a 1028
contractual relationship existing directly or indirectly between 1029
the transferor and another person who at the time of the 1030
decedent's death was domiciled in this state for purposes of 1031
this chapter. 1032

(v) The transfer is made to a trust on account of the will 1033
of a testator who was domiciled in this state at the time of the 1034
testator's death for purposes of the taxes levied under Chapter 1035
5731. of the Revised Code. 1036

(vi) The transfer is made to a trust created by or caused 1037
to be created by a court, and the trust was directly or 1038
indirectly created in connection with or as a result of the 1039
death of an individual who, for purposes of the taxes levied 1040
under Chapter 5731. of the Revised Code, was domiciled in this 1041
state at the time of the individual's death. 1042

(g) The tax commissioner may adopt rules to ascertain the 1043
part of a trust residing in this state. 1044

(J) "Nonresident" means an individual or estate that is 1045
not a resident. An individual who is a resident for only part of 1046
a taxable year is a nonresident for the remainder of that 1047
taxable year. 1048

(K) "Pass-through entity" has the same meaning as in 1049

section 5733.04 of the Revised Code. 1050

(L) "Return" means the notifications and reports required 1051
to be filed pursuant to this chapter for the purpose of 1052
reporting the tax due and includes declarations of estimated tax 1053
when so required. 1054

(M) "Taxable year" means the calendar year or the 1055
taxpayer's fiscal year ending during the calendar year, or 1056
fractional part thereof, upon which the adjusted gross income is 1057
calculated pursuant to this chapter. 1058

(N) "Taxpayer" means any person subject to the tax imposed 1059
by section 5747.02 of the Revised Code or any pass-through 1060
entity that makes the election under division (D) of section 1061
5747.08 of the Revised Code. 1062

(O) "Dependents" means one of the following: 1063

(1) For taxable years beginning on or after January 1, 1064
2018, and before January 1, 2026, dependents as defined in the 1065
Internal Revenue Code; 1066

(2) For all other taxable years, dependents as defined in 1067
the Internal Revenue Code and as claimed in the taxpayer's 1068
federal income tax return for the taxable year or which the 1069
taxpayer would have been permitted to claim had the taxpayer 1070
filed a federal income tax return. 1071

(P) "Principal county of employment" means, in the case of 1072
a nonresident, the county within the state in which a taxpayer 1073
performs services for an employer or, if those services are 1074
performed in more than one county, the county in which the major 1075
portion of the services are performed. 1076

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1077

Code: 1078

(1) "Subdivision" means any county, municipal corporation,
park district, or township. 1079
1080

(2) "Essential local government purposes" includes all 1081
functions that any subdivision is required by general law to 1082
exercise, including like functions that are exercised under a 1083
charter adopted pursuant to the Ohio Constitution. 1084

(R) "Overpayment" means any amount already paid that 1085
exceeds the figure determined to be the correct amount of the 1086
tax. 1087

(S) "Taxable income" or "Ohio taxable income" applies only 1088
to estates and trusts, and means federal taxable income, as 1089
defined and used in the Internal Revenue Code, adjusted as 1090
follows: 1091

(1) Add interest or dividends, net of ordinary, necessary, 1092
and reasonable expenses not deducted in computing federal 1093
taxable income, on obligations or securities of any state or of 1094
any political subdivision or authority of any state, other than 1095
this state and its subdivisions and authorities, but only to the 1096
extent that such net amount is not otherwise includible in Ohio 1097
taxable income and is described in either division (S) (1) (a) or 1098
(b) of this section: 1099

(a) The net amount is not attributable to the S portion of 1100
an electing small business trust and has not been distributed to 1101
beneficiaries for the taxable year; 1102

(b) The net amount is attributable to the S portion of an 1103
electing small business trust for the taxable year. 1104

(2) Add interest or dividends, net of ordinary, necessary, 1105

and reasonable expenses not deducted in computing federal 1106
taxable income, on obligations of any authority, commission, 1107
instrumentality, territory, or possession of the United States 1108
to the extent that the interest or dividends are exempt from 1109
federal income taxes but not from state income taxes, but only 1110
to the extent that such net amount is not otherwise includible 1111
in Ohio taxable income and is described in either division (S) 1112
(1) (a) or (b) of this section; 1113

(3) Add the amount of personal exemption allowed to the 1114
estate pursuant to section 642(b) of the Internal Revenue Code; 1115

(4) Deduct interest or dividends, net of related expenses 1116
deducted in computing federal taxable income, on obligations of 1117
the United States and its territories and possessions or of any 1118
authority, commission, or instrumentality of the United States 1119
to the extent that the interest or dividends are exempt from 1120
state taxes under the laws of the United States, but only to the 1121
extent that such amount is included in federal taxable income 1122
and is described in either division (S) (1) (a) or (b) of this 1123
section; 1124

(5) Deduct the amount of wages and salaries, if any, not 1125
otherwise allowable as a deduction but that would have been 1126
allowable as a deduction in computing federal taxable income for 1127
the taxable year, had the work opportunity tax credit allowed 1128
under sections 38, 51, and 52 of the Internal Revenue Code not 1129
been in effect, but only to the extent such amount relates 1130
either to income included in federal taxable income for the 1131
taxable year or to income of the S portion of an electing small 1132
business trust for the taxable year; 1133

(6) Deduct any interest or interest equivalent, net of 1134
related expenses deducted in computing federal taxable income, 1135

on public obligations and purchase obligations, but only to the 1136
extent that such net amount relates either to income included in 1137
federal taxable income for the taxable year or to income of the 1138
S portion of an electing small business trust for the taxable 1139
year; 1140

(7) Add any loss or deduct any gain resulting from sale, 1141
exchange, or other disposition of public obligations to the 1142
extent that such loss has been deducted or such gain has been 1143
included in computing either federal taxable income or income of 1144
the S portion of an electing small business trust for the 1145
taxable year; 1146

(8) Except in the case of the final return of an estate, 1147
add any amount deducted by the taxpayer on both its Ohio estate 1148
tax return pursuant to section 5731.14 of the Revised Code, and 1149
on its federal income tax return in determining federal taxable 1150
income; 1151

(9) (a) Deduct any amount included in federal taxable 1152
income solely because the amount represents a reimbursement or 1153
refund of expenses that in a previous year the decedent had 1154
deducted as an itemized deduction pursuant to section 63 of the 1155
Internal Revenue Code and applicable treasury regulations. The 1156
deduction otherwise allowed under division (S) (9) (a) of this 1157
section shall be reduced to the extent the reimbursement is 1158
attributable to an amount the taxpayer or decedent deducted 1159
under this section in any taxable year. 1160

(b) Add any amount not otherwise included in Ohio taxable 1161
income for any taxable year to the extent that the amount is 1162
attributable to the recovery during the taxable year of any 1163
amount deducted or excluded in computing federal or Ohio taxable 1164
income in any taxable year, but only to the extent such amount 1165

has not been distributed to beneficiaries for the taxable year. 1166

(10) Deduct any portion of the deduction described in 1167
section 1341(a)(2) of the Internal Revenue Code, for repaying 1168
previously reported income received under a claim of right, that 1169
meets both of the following requirements: 1170

(a) It is allowable for repayment of an item that was 1171
included in the taxpayer's taxable income or the decedent's 1172
adjusted gross income for a prior taxable year and did not 1173
qualify for a credit under division (A) or (B) of section 1174
5747.05 of the Revised Code for that year. 1175

(b) It does not otherwise reduce the taxpayer's taxable 1176
income or the decedent's adjusted gross income for the current 1177
or any other taxable year. 1178

(11) Add any amount claimed as a credit under section 1179
5747.059 of the Revised Code to the extent that the amount 1180
satisfies either of the following: 1181

(a) The amount was deducted or excluded from the 1182
computation of the taxpayer's federal taxable income as required 1183
to be reported for the taxpayer's taxable year under the 1184
Internal Revenue Code; 1185

(b) The amount resulted in a reduction in the taxpayer's 1186
federal taxable income as required to be reported for any of the 1187
taxpayer's taxable years under the Internal Revenue Code. 1188

(12) Deduct any amount, net of related expenses deducted 1189
in computing federal taxable income, that a trust is required to 1190
report as farm income on its federal income tax return, but only 1191
if the assets of the trust include at least ten acres of land 1192
satisfying the definition of "land devoted exclusively to 1193
agricultural use" under section 5713.30 of the Revised Code, 1194

regardless of whether the land is valued for tax purposes as 1195
such land under sections 5713.30 to 5713.38 of the Revised Code. 1196
If the trust is a pass-through entity investor, section 5747.231 1197
of the Revised Code applies in ascertaining if the trust is 1198
eligible to claim the deduction provided by division (S)(12) of 1199
this section in connection with the pass-through entity's farm 1200
income. 1201

Except for farm income attributable to the S portion of an 1202
electing small business trust, the deduction provided by 1203
division (S)(12) of this section is allowed only to the extent 1204
that the trust has not distributed such farm income. 1205

(13) Add the net amount of income described in section 1206
641(c) of the Internal Revenue Code to the extent that amount is 1207
not included in federal taxable income. 1208

(14) Deduct the amount the taxpayer would be required to 1209
deduct under division (A)(18) of this section if the taxpayer's 1210
Ohio taxable income ~~were~~was computed in the same manner as an 1211
individual's Ohio adjusted gross income is computed under this 1212
section. 1213

(15) Add, to the extent not otherwise included in 1214
computing taxable income or Ohio taxable income for any taxable 1215
year, the taxpayer's proportionate share of the amount of the 1216
tax levied under section 5747.38 of the Revised Code and paid by 1217
an electing pass-through entity for the taxable year. 1218

(16) Add any income taxes deducted in computing federal 1219
taxable income or Ohio taxable income to the extent the income 1220
taxes were derived from income subject to a tax levied in 1221
another state or the District of Columbia when such tax was 1222
enacted for purposes of complying with internal revenue service 1223

notice 2020-75. 1224

(T) "School district income" and "school district income 1225
tax" have the same meanings as in section 5748.01 of the Revised 1226
Code. 1227

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1228
(7) of this section, "public obligations," "purchase 1229
obligations," and "interest or interest equivalent" have the 1230
same meanings as in section 5709.76 of the Revised Code. 1231

(V) "Limited liability company" means any limited 1232
liability company formed under former Chapter 1705. of the 1233
Revised Code as that chapter existed prior to February 11, 2022, 1234
Chapter 1706. of the Revised Code, or the laws of any other 1235
state. 1236

(W) "Pass-through entity investor" means any person who, 1237
during any portion of a taxable year of a pass-through entity, 1238
is a partner, member, shareholder, or equity investor in that 1239
pass-through entity. 1240

(X) "Banking day" has the same meaning as in section 1241
1304.01 of the Revised Code. 1242

(Y) "Month" means a calendar month. 1243

(Z) "Quarter" means the first three months, the second 1244
three months, the third three months, or the last three months 1245
of the taxpayer's taxable year. 1246

(AA) (1) "Modified business income" means the business 1247
income included in a trust's Ohio taxable income after such 1248
taxable income is first reduced by the qualifying trust amount, 1249
if any. 1250

(2) "Qualifying trust amount" of a trust means capital 1251

gains and losses from the sale, exchange, or other disposition 1252
of equity or ownership interests in, or debt obligations of, a 1253
qualifying investee to the extent included in the trust's Ohio 1254
taxable income, but only if the following requirements are 1255
satisfied: 1256

(a) The book value of the qualifying investee's physical 1257
assets in this state and everywhere, as of the last day of the 1258
qualifying investee's fiscal or calendar year ending immediately 1259
prior to the date on which the trust recognizes the gain or 1260
loss, is available to the trust. 1261

(b) The requirements of section 5747.011 of the Revised 1262
Code are satisfied for the trust's taxable year in which the 1263
trust recognizes the gain or loss. 1264

Any gain or loss that is not a qualifying trust amount is 1265
modified business income, qualifying investment income, or 1266
modified nonbusiness income, as the case may be. 1267

(3) "Modified nonbusiness income" means a trust's Ohio 1268
taxable income other than modified business income, other than 1269
the qualifying trust amount, and other than qualifying 1270
investment income, as defined in section 5747.012 of the Revised 1271
Code, to the extent such qualifying investment income is not 1272
otherwise part of modified business income. 1273

(4) "Modified Ohio taxable income" applies only to trusts, 1274
and means the sum of the amounts described in divisions (AA) (4) 1275
(a) to (c) of this section: 1276

(a) The fraction, calculated under section 5747.013, and 1277
applying section 5747.231 of the Revised Code, multiplied by the 1278
sum of the following amounts: 1279

(i) The trust's modified business income; 1280

(ii) The trust's qualifying investment income, as defined 1281
in section 5747.012 of the Revised Code, but only to the extent 1282
the qualifying investment income does not otherwise constitute 1283
modified business income and does not otherwise constitute a 1284
qualifying trust amount. 1285

(b) The qualifying trust amount multiplied by a fraction, 1286
the numerator of which is the sum of the book value of the 1287
qualifying investee's physical assets in this state on the last 1288
day of the qualifying investee's fiscal or calendar year ending 1289
immediately prior to the day on which the trust recognizes the 1290
qualifying trust amount, and the denominator of which is the sum 1291
of the book value of the qualifying investee's total physical 1292
assets everywhere on the last day of the qualifying investee's 1293
fiscal or calendar year ending immediately prior to the day on 1294
which the trust recognizes the qualifying trust amount. If, for 1295
a taxable year, the trust recognizes a qualifying trust amount 1296
with respect to more than one qualifying investee, the amount 1297
described in division (AA) (4) (b) of this section shall equal the 1298
sum of the products so computed for each such qualifying 1299
investee. 1300

(c) (i) With respect to a trust or portion of a trust that 1301
is a resident as ascertained in accordance with division (I) (3) 1302
(d) of this section, its modified nonbusiness income. 1303

(ii) With respect to a trust or portion of a trust that is 1304
not a resident as ascertained in accordance with division (I) (3) 1305
(d) of this section, the amount of its modified nonbusiness 1306
income satisfying the descriptions in divisions (B) (2) to (5) of 1307
section 5747.20 of the Revised Code, except as otherwise 1308
provided in division (AA) (4) (c) (ii) of this section. With 1309
respect to a trust or portion of a trust that is not a resident 1310

as ascertained in accordance with division (I) (3) (d) of this 1311
section, the trust's portion of modified nonbusiness income 1312
recognized from the sale, exchange, or other disposition of a 1313
debt interest in or equity interest in a section 5747.212 1314
entity, as defined in section 5747.212 of the Revised Code, 1315
without regard to division (A) of that section, shall not be 1316
allocated to this state in accordance with section 5747.20 of 1317
the Revised Code but shall be apportioned to this state in 1318
accordance with division (B) of section 5747.212 of the Revised 1319
Code without regard to division (A) of that section. 1320

If the allocation and apportionment of a trust's income 1321
under divisions (AA) (4) (a) and (c) of this section do not fairly 1322
represent the modified Ohio taxable income of the trust in this 1323
state, the alternative methods described in division (C) of 1324
section 5747.21 of the Revised Code may be applied in the manner 1325
and to the same extent provided in that section. 1326

(5) (a) Except as set forth in division (AA) (5) (b) of this 1327
section, "qualifying investee" means a person in which a trust 1328
has an equity or ownership interest, or a person or unit of 1329
government the debt obligations of either of which are owned by 1330
a trust. For the purposes of division (AA) (2) (a) of this section 1331
and for the purpose of computing the fraction described in 1332
division (AA) (4) (b) of this section, all of the following apply: 1333

(i) If the qualifying investee is a member of a qualifying 1334
controlled group on the last day of the qualifying investee's 1335
fiscal or calendar year ending immediately prior to the date on 1336
which the trust recognizes the gain or loss, then "qualifying 1337
investee" includes all persons in the qualifying controlled 1338
group on such last day. 1339

(ii) If the qualifying investee, or if the qualifying 1340

investee and any members of the qualifying controlled group of 1341
which the qualifying investee is a member on the last day of the 1342
qualifying investee's fiscal or calendar year ending immediately 1343
prior to the date on which the trust recognizes the gain or 1344
loss, separately or cumulatively own, directly or indirectly, on 1345
the last day of the qualifying investee's fiscal or calendar 1346
year ending immediately prior to the date on which the trust 1347
recognizes the qualifying trust amount, more than fifty per cent 1348
of the equity of a pass-through entity, then the qualifying 1349
investee and the other members are deemed to own the 1350
proportionate share of the pass-through entity's physical assets 1351
which the pass-through entity directly or indirectly owns on the 1352
last day of the pass-through entity's calendar or fiscal year 1353
ending within or with the last day of the qualifying investee's 1354
fiscal or calendar year ending immediately prior to the date on 1355
which the trust recognizes the qualifying trust amount. 1356

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1357
section, "upper level pass-through entity" means a pass-through 1358
entity directly or indirectly owning any equity of another pass- 1359
through entity, and "lower level pass-through entity" means that 1360
other pass-through entity. 1361

An upper level pass-through entity, whether or not it is 1362
also a qualifying investee, is deemed to own, on the last day of 1363
the upper level pass-through entity's calendar or fiscal year, 1364
the proportionate share of the lower level pass-through entity's 1365
physical assets that the lower level pass-through entity 1366
directly or indirectly owns on the last day of the lower level 1367
pass-through entity's calendar or fiscal year ending within or 1368
with the last day of the upper level pass-through entity's 1369
fiscal or calendar year. If the upper level pass-through entity 1370
directly and indirectly owns less than fifty per cent of the 1371

equity of the lower level pass-through entity on each day of the 1372
upper level pass-through entity's calendar or fiscal year in 1373
which or with which ends the calendar or fiscal year of the 1374
lower level pass-through entity and if, based upon clear and 1375
convincing evidence, complete information about the location and 1376
cost of the physical assets of the lower pass-through entity is 1377
not available to the upper level pass-through entity, then 1378
solely for purposes of ascertaining if a gain or loss 1379
constitutes a qualifying trust amount, the upper level pass- 1380
through entity shall be deemed as owning no equity of the lower 1381
level pass-through entity for each day during the upper level 1382
pass-through entity's calendar or fiscal year in which or with 1383
which ends the lower level pass-through entity's calendar or 1384
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1385
shall be construed to provide for any deduction or exclusion in 1386
computing any trust's Ohio taxable income. 1387

(b) With respect to a trust that is not a resident for the 1388
taxable year and with respect to a part of a trust that is not a 1389
resident for the taxable year, "qualifying investee" for that 1390
taxable year does not include a C corporation if both of the 1391
following apply: 1392

(i) During the taxable year the trust or part of the trust 1393
recognizes a gain or loss from the sale, exchange, or other 1394
disposition of equity or ownership interests in, or debt 1395
obligations of, the C corporation. 1396

(ii) Such gain or loss constitutes nonbusiness income. 1397

(6) "Available" means information is such that a person is 1398
able to learn of the information by the due date plus 1399
extensions, if any, for filing the return for the taxable year 1400
in which the trust recognizes the gain or loss. 1401

(BB) "Qualifying controlled group" has the same meaning as 1402
in section 5733.04 of the Revised Code. 1403

(CC) "Related member" has the same meaning as in section 1404
5733.042 of the Revised Code. 1405

(DD) (1) For the purposes of division (DD) of this section: 1406

(a) "Qualifying person" means any person other than a 1407
qualifying corporation. 1408

(b) "Qualifying corporation" means any person classified 1409
for federal income tax purposes as an association taxable as a 1410
corporation, except either of the following: 1411

(i) A corporation that has made an election under 1412
subchapter S, chapter one, subtitle A, of the Internal Revenue 1413
Code for its taxable year ending within, or on the last day of, 1414
the investor's taxable year; 1415

(ii) A subsidiary that is wholly owned by any corporation 1416
that has made an election under subchapter S, chapter one, 1417
subtitle A of the Internal Revenue Code for its taxable year 1418
ending within, or on the last day of, the investor's taxable 1419
year. 1420

(2) For the purposes of this chapter, unless expressly 1421
stated otherwise, no qualifying person indirectly owns any asset 1422
directly or indirectly owned by any qualifying corporation. 1423

(EE) For purposes of this chapter and Chapter 5751. of the 1424
Revised Code: 1425

(1) "Trust" does not include a qualified pre-income tax 1426
trust. 1427

(2) A "qualified pre-income tax trust" is any pre-income 1428

tax trust that makes a qualifying pre-income tax trust election 1429
as described in division (EE) (3) of this section. 1430

(3) A "qualifying pre-income tax trust election" is an 1431
election by a pre-income tax trust to subject to the tax imposed 1432
by section 5751.02 of the Revised Code the pre-income tax trust 1433
and all pass-through entities of which the trust owns or 1434
controls, directly, indirectly, or constructively through 1435
related interests, five per cent or more of the ownership or 1436
equity interests. The trustee shall notify the tax commissioner 1437
in writing of the election on or before April 15, 2006. The 1438
election, if timely made, shall be effective on and after 1439
January 1, 2006, and shall apply for all tax periods and tax 1440
years until revoked by the trustee of the trust. 1441

(4) A "pre-income tax trust" is a trust that satisfies all 1442
of the following requirements: 1443

(a) The document or instrument creating the trust was 1444
executed by the grantor before January 1, 1972; 1445

(b) The trust became irrevocable upon the creation of the 1446
trust; and 1447

(c) The grantor was domiciled in this state at the time 1448
the trust was created. 1449

(FF) "Uniformed services" means all of the following: 1450

(1) "Armed forces of the United States" as defined in 1451
section 5907.01 of the Revised Code; 1452

(2) The commissioned corps of the national oceanic and 1453
atmospheric administration; 1454

(3) The commissioned corps of the public health service. 1455

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

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

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

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

Sec. 5747.05. As used in this section, "income tax"
includes both a tax on net income and a tax measured by net
income.

The following credits shall be allowed against the
aggregate income tax liability imposed by section 5747.02 of the
Revised Code on individuals and estates:

(A) (1) The amount of tax otherwise due under section 1485
5747.02 of the Revised Code on such portion of the combined 1486
adjusted gross income and business income of any nonresident 1487
taxpayer that is not allocable or apportionable to this state 1488
pursuant to sections 5747.20 to 5747.23 of the Revised Code. The 1489
credit provided under this division shall not exceed the total 1490
tax due under section 5747.02 of the Revised Code. 1491

(2) The tax commissioner may enter into an agreement with 1492
the taxing authorities of any state or of the District of 1493
Columbia that imposes an income tax to provide that compensation 1494
paid in this state to a nonresident taxpayer shall not be 1495
subject to the tax levied in section 5747.02 of the Revised Code 1496
so long as compensation paid in such other state or in the 1497
District of Columbia to a resident taxpayer shall likewise not 1498
be subject to the income tax of such other state or of the 1499
District of Columbia. 1500

(B) The lesser of division (B) (1) or (2) of this section: 1501

(1) The aggregate amount of tax otherwise due under 1502
section 5747.02 of the Revised Code on such portion of the 1503
combined adjusted gross income and business income of a resident 1504
taxpayer that in another state or in the District of Columbia is 1505
subjected to an income tax. The credit provided under division 1506
(B) (1) of this section shall not exceed the total tax due under 1507
section 5747.02 of the Revised Code. 1508

(2) The amount of income tax liability to another state or 1509
the District of Columbia on the portion of the combined adjusted 1510
gross income and business income of a resident taxpayer that in 1511
another state or in the District of Columbia is subjected to an 1512
income tax. The credit provided under division (B) (2) of this 1513
section shall not exceed the total amount of tax otherwise due 1514

under section 5747.02 of the Revised Code. 1515

(3) For the purpose of divisions (B) (1) and (2) of this 1516
section, a resident taxpayer's combined adjusted gross income 1517
and business income that is subject to an income tax levied in 1518
another state or in the District of Columbia includes income 1519
that is subject to either (a) a tax similar to the tax imposed 1520
by division (D) (1) (a) of section 5747.08 of the Revised Code or 1521
(b) a tax enacted for purposes of complying with internal 1522
revenue service notice 2020-75. In computing a resident 1523
taxpayer's income tax paid or accrued to another state or the 1524
District of Columbia, the deduction authorized by division (A) 1525
(28) of section 5747.01 of the Revised Code shall first be 1526
deducted against business income apportioned to this state. 1527

(4) If the credit provided under division (B) of this 1528
section is affected by a change in either the portion of the 1529
combined adjusted gross income and business income of a resident 1530
taxpayer subjected to an income tax in another state or the 1531
District of Columbia or the amount of income tax liability that 1532
has been paid to another state or the District of Columbia, the 1533
taxpayer shall report the change to the tax commissioner within 1534
ninety days of the change in such form as the commissioner 1535
requires. 1536

(a) In the case of an underpayment, the report shall be 1537
accompanied by payment of any additional tax due as a result of 1538
the reduction in credit together with interest on the additional 1539
tax and is a return subject to assessment under section 5747.13 1540
of the Revised Code solely for the purpose of assessing any 1541
additional tax due under this division, together with any 1542
applicable penalty and interest. It shall not reopen the 1543
computation of the taxpayer's tax liability under this chapter 1544

from a previously filed return no longer subject to assessment 1545
except to the extent that such liability is affected by an 1546
adjustment to the credit allowed by division (B) of this 1547
section. 1548

(b) In the case of an overpayment, an application for 1549
refund may be filed under this division within the ninety-day 1550
period prescribed for filing the report even if it is beyond the 1551
period prescribed in section 5747.11 of the Revised Code if it 1552
otherwise conforms to the requirements of such section. An 1553
application filed under this division shall only claim refund of 1554
overpayments resulting from an adjustment to the credit allowed 1555
by division (B) of this section unless it is also filed within 1556
the time prescribed in section 5747.11 of the Revised Code. It 1557
shall not reopen the computation of the taxpayer's tax liability 1558
except to the extent that such liability is affected by an 1559
adjustment to the credit allowed by division (B) of this 1560
section. 1561

(5) No credit shall be allowed under division (B) of this 1562
section: 1563

(a) For income tax paid or accrued to another state or to 1564
the District of Columbia if the taxpayer, when computing federal 1565
adjusted gross income, has directly or indirectly deducted, or 1566
was required to directly or indirectly deduct, the amount of 1567
that income tax; 1568

Division (B) (5) (a) of this section does not apply to 1569
income taxes included in the computation of Ohio adjusted gross 1570
income under division ~~(A) (41)~~ (A) (40) of section 5747.01 of the 1571
Revised Code and not deducted from Ohio adjusted gross income 1572
under division (A) (28) of that section or to income taxes 1573
included in Ohio taxable income under division (S) (16) of 1574

section 5747.01 of the Revised Code. 1575

(b) For compensation that is not subject to the income tax 1576
of another state or the District of Columbia as the result of an 1577
agreement entered into by the tax commissioner under division 1578
(A) (3) of this section; or 1579

(c) For income tax paid or accrued to another state or the 1580
District of Columbia if the taxpayer fails to furnish such proof 1581
as the tax commissioner shall require that such income tax 1582
liability has been paid. 1583

(C) An individual who is a resident for part of a taxable 1584
year and a nonresident for the remainder of the taxable year is 1585
allowed the credits under divisions (A) and (B) of this section 1586
in accordance with rules prescribed by the tax commissioner. In 1587
no event shall the same income be subject to both credits. 1588

(D) The credit allowed under division (A) of this section 1589
shall be calculated based upon the amount of tax due under 1590
section 5747.02 of the Revised Code after subtracting any other 1591
credits that precede the credit under that division in the order 1592
required under section 5747.98 of the Revised Code. The credit 1593
allowed under division (B) of this section shall be calculated 1594
based upon the amount of tax due under section 5747.02 of the 1595
Revised Code after subtracting any other credits that precede 1596
the credit under that division in the order required under 1597
section 5747.98 of the Revised Code. 1598

(E) (1) On a joint return filed by a husband and wife, each 1599
of whom had adjusted gross income of at least five hundred 1600
dollars, exclusive of interest, dividends and distributions, 1601
royalties, rent, and capital gains, a credit equal to the lesser 1602
of six hundred fifty dollars or the percentage shown in column B 1603

that corresponds with the taxpayer's modified adjusted gross 1604
income, less exemptions for the taxable year, of the total 1605
amount of tax due after allowing for any other credit that 1606
precedes this credit as required under section 5747.98 of the 1607
Revised Code: 1608
1609

	1	2
A	A.	B.
B	IF THE MODIFIED ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:
C	\$25,000 or less	20%
D	More than \$25,000 but not more than \$50,000	15%
E	More than \$50,000 but not more than \$75,000	10%
F	More than \$75,000	5%

(2) The credit shall be claimed in the order required 1610
under section 5747.98 of the Revised Code. 1611

(F) No claim for credit under this section shall be 1612
allowed unless the claimant furnishes such supporting 1613
information as the tax commissioner prescribes by rules. 1614

Section 2. That existing sections 5733.40, 5747.01, and 1615
5747.05 of the Revised Code are hereby repealed. 1616

Section 3. Section 5747.01 of the Revised Code is 1617

presented in this act as a composite of the section as amended 1618
by both H.B. 101 and S.B. 154 of the 135th General Assembly. The 1619
General Assembly, applying the principle stated in division (B) 1620
of section 1.52 of the Revised Code that amendments are to be 1621
harmonized if reasonably capable of simultaneous operation, 1622
finds that the composite is the resulting version of the section 1623
in effect prior to the effective date of the section as 1624
presented in this act. 1625