

As Introduced

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H. B. No. 87

Representatives Click, Klopfenstein

**Cosponsors: Representatives Deeter, Robb Blasdel, Teska, King, Lear, Claggett,
Dean, John, Thomas, D., Gross, Williams**

A BILL

To amend sections 5739.02, 5747.01, and 5747.025 of 1
the Revised Code to authorize tax incentives for 2
conceived children and certain child care items 3
and to name this act the Strategic Tax 4
Opportunities for Raising Kids (STORK) Act. 5

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

Section 1. That sections 5739.02, 5747.01, and 5747.025 of 6
the Revised Code be amended to read as follows: 7

Sec. 5739.02. For the purpose of providing revenue with 8
which to meet the needs of the state, for the use of the general 9
revenue fund of the state, for the purpose of securing a 10
thorough and efficient system of common schools throughout the 11
state, for the purpose of affording revenues, in addition to 12
those from general property taxes, permitted under 13
constitutional limitations, and from other sources, for the 14
support of local governmental functions, and for the purpose of 15
reimbursing the state for the expense of administering this 16
chapter, an excise tax is hereby levied on each retail sale made 17
in this state. 18

(A) (1) The tax shall be collected as provided in section 19
5739.025 of the Revised Code. The rate of the tax shall be five 20
and three-fourths per cent. The tax applies and is collectible 21
when the sale is made, regardless of the time when the price is 22
paid or delivered. 23

(2) In the case of the lease or rental, with a fixed term 24
of more than thirty days or an indefinite term with a minimum 25
period of more than thirty days, of any motor vehicles designed 26
by the manufacturer to carry a load of not more than one ton, 27
watercraft, outboard motor, or aircraft, or of any tangible 28
personal property, other than motor vehicles designed by the 29
manufacturer to carry a load of more than one ton, to be used by 30
the lessee or renter primarily for business purposes, the tax 31
shall be collected by the vendor at the time the lease or rental 32
is consummated and shall be calculated by the vendor on the 33
basis of the total amount to be paid by the lessee or renter 34
under the lease agreement. If the total amount of the 35
consideration for the lease or rental includes amounts that are 36
not calculated at the time the lease or rental is executed, the 37
tax shall be calculated and collected by the vendor at the time 38
such amounts are billed to the lessee or renter. In the case of 39
an open-end lease or rental, the tax shall be calculated by the 40
vendor on the basis of the total amount to be paid during the 41
initial fixed term of the lease or rental, and for each 42
subsequent renewal period as it comes due. As used in this 43
division, "motor vehicle" has the same meaning as in section 44
4501.01 of the Revised Code, and "watercraft" includes an 45
outdrive unit attached to the watercraft. 46

A lease with a renewal clause and a termination penalty or 47
similar provision that applies if the renewal clause is not 48
exercised is presumed to be a sham transaction. In such a case, 49

the tax shall be calculated and paid on the basis of the entire 50
length of the lease period, including any renewal periods, until 51
the termination penalty or similar provision no longer applies. 52
The taxpayer shall bear the burden, by a preponderance of the 53
evidence, that the transaction or series of transactions is not 54
a sham transaction. 55

(3) Except as provided in division (A) (2) of this section, 56
in the case of a sale, the price of which consists in whole or 57
in part of the lease or rental of tangible personal property, 58
the tax shall be measured by the installments of that lease or 59
rental. 60

(4) In the case of a sale of a physical fitness facility 61
service or recreation and sports club service, the price of 62
which consists in whole or in part of a membership for the 63
receipt of the benefit of the service, the tax applicable to the 64
sale shall be measured by the installments thereof. 65

(B) The tax does not apply to the following: 66

(1) Sales to the state or any of its political 67
subdivisions, or to any other state or its political 68
subdivisions if the laws of that state exempt from taxation 69
sales made to this state and its political subdivisions 70
including either of the following: 71

(a) Sales or rentals of tangible personal property by 72
construction contractors or subcontractors to provide temporary 73
traffic control or temporary structures, including material and 74
equipment used to comply with the Ohio manual of uniform traffic 75
control devices adopted pursuant to section 4511.09 of the 76
Revised Code, whereby the state or any of its political 77
subdivisions take title to, or permanent or temporary possession 78

of, such tangible personal property for use by the state or any 79
of its political subdivisions, including for use by the general 80
public thereof; 81

(b) Sales of services by construction contractors or 82
subcontractors to provide temporary traffic control or 83
structures, including labor used to comply with the Ohio manual 84
of uniform traffic control devices adopted pursuant to section 85
4511.09 of the Revised Code, whereby the state or any of its 86
political subdivisions, including the general public thereof, 87
receive the benefit of such services. 88

As used in divisions (B) (1) (a) and (b) of this section, 89
"temporary structures" include temporary roads, bridges, drains, 90
and pavement. 91

(2) Sales of food for human consumption off the premises 92
where sold; 93

(3) Sales of food sold to students only in a cafeteria, 94
dormitory, fraternity, or sorority maintained in a private, 95
public, or parochial school, college, or university; 96

(4) Sales of newspapers and sales or transfers of 97
magazines distributed as controlled circulation publications; 98

(5) The furnishing, preparing, or serving of meals without 99
charge by an employer to an employee provided the employer 100
records the meals as part compensation for services performed or 101
work done; 102

(6) (a) Sales of motor fuel upon receipt, use, 103
distribution, or sale of which in this state a tax is imposed by 104
the law of this state, but this exemption shall not apply to the 105
sale of motor fuel on which a refund of the tax is allowable 106
under division (A) of section 5735.14 of the Revised Code; and 107

the tax commissioner may deduct the amount of tax levied by this 108
section applicable to the price of motor fuel when granting a 109
refund of motor fuel tax pursuant to division (A) of section 110
5735.14 of the Revised Code and shall cause the amount deducted 111
to be paid into the general revenue fund of this state; 112

(b) Sales of motor fuel other than that described in 113
division (B) (6) (a) of this section and used for powering a 114
refrigeration unit on a vehicle other than one used primarily to 115
provide comfort to the operator or occupants of the vehicle. 116

(7) Sales of natural gas by a natural gas company or 117
municipal gas utility, of water by a water-works company, or of 118
steam by a heating company, if in each case the thing sold is 119
delivered to consumers through pipes or conduits, and all sales 120
of communications services by a telegraph company, all terms as 121
defined in section 5727.01 of the Revised Code, and sales of 122
electricity delivered through wires; 123

(8) Casual sales by a person, or auctioneer employed 124
directly by the person to conduct such sales, except as to such 125
sales of motor vehicles, watercraft or outboard motors required 126
to be titled under section 1548.06 of the Revised Code, 127
watercraft documented with the United States coast guard, 128
snowmobiles, and all-purpose vehicles as defined in section 129
4519.01 of the Revised Code; 130

(9) (a) Sales of services or tangible personal property, 131
other than motor vehicles, mobile homes, and manufactured homes, 132
by churches, organizations exempt from taxation under section 133
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 134
organizations operated exclusively for charitable purposes as 135
defined in division (B) (12) of this section, provided that the 136
number of days on which such tangible personal property or 137

services, other than items never subject to the tax, are sold 138
does not exceed six in any calendar year, except as otherwise 139
provided in division (B) (9) (b) of this section. If the number of 140
days on which such sales are made exceeds six in any calendar 141
year, the church or organization shall be considered to be 142
engaged in business and all subsequent sales by it shall be 143
subject to the tax. In counting the number of days, all sales by 144
groups within a church or within an organization shall be 145
considered to be sales of that church or organization. 146

(b) The limitation on the number of days on which tax- 147
exempt sales may be made by a church or organization under 148
division (B) (9) (a) of this section does not apply to sales made 149
by student clubs and other groups of students of a primary or 150
secondary school, or a parent-teacher association, booster 151
group, or similar organization that raises money to support or 152
fund curricular or extracurricular activities of a primary or 153
secondary school. 154

(c) Divisions (B) (9) (a) and (b) of this section do not 155
apply to sales by a noncommercial educational radio or 156
television broadcasting station. 157

(10) Sales not within the taxing power of this state under 158
the Constitution or laws of the United States or the 159
Constitution of this state including either of the following: 160

(a) Sales or rentals of tangible personal property by 161
construction contractors or subcontractors to provide temporary 162
traffic control or temporary structures, including material and 163
equipment used to comply with the Ohio manual of uniform traffic 164
control devices adopted pursuant to section 4511.09 of the 165
Revised Code, whereby the United States takes title to, or 166
permanent or temporary possession of, such tangible personal 167

property for use by the United States including for use by the	168
general public thereof;	169
(b) Sales of services by construction contractors or	170
subcontractors to provide temporary traffic control or	171
structures, including labor used to comply with the Ohio manual	172
of uniform traffic control devices adopted pursuant to section	173
4511.09 of the Revised Code, whereby the United States,	174
including the general public thereof, receives the benefit of	175
such services.	176
As used in divisions (B) (10) (a) and (b) of this section,	177
"temporary structures" include temporary roads, bridges, drains,	178
and pavement.	179
(11) Except for transactions that are sales under division	180
(B) (3) (p) of section 5739.01 of the Revised Code, the	181
transportation of persons or property, unless the transportation	182
is by a private investigation and security service;	183
(12) Sales of tangible personal property or services to	184
churches, to organizations exempt from taxation under section	185
501(c) (3) of the Internal Revenue Code of 1986, and to any other	186
nonprofit organizations operated exclusively for charitable	187
purposes in this state, no part of the net income of which	188
inures to the benefit of any private shareholder or individual,	189
and no substantial part of the activities of which consists of	190
carrying on propaganda or otherwise attempting to influence	191
legislation; sales to offices administering one or more homes	192
for the aged or one or more hospital facilities exempt under	193
section 140.08 of the Revised Code; and sales to organizations	194
described in division (D) of section 5709.12 of the Revised	195
Code.	196

"Charitable purposes" means the relief of poverty; the 197
improvement of health through the alleviation of illness, 198
disease, or injury; the operation of an organization exclusively 199
for the provision of professional, laundry, printing, and 200
purchasing services to hospitals or charitable institutions; the 201
operation of a home for the aged, as defined in section 5701.13 202
of the Revised Code; the operation of a radio or television 203
broadcasting station that is licensed by the federal 204
communications commission as a noncommercial educational radio 205
or television station; the operation of a nonprofit animal 206
adoption service or a county humane society; the promotion of 207
education by an institution of learning that maintains a faculty 208
of qualified instructors, teaches regular continuous courses of 209
study, and confers a recognized diploma upon completion of a 210
specific curriculum; the operation of a parent-teacher 211
association, booster group, or similar organization primarily 212
engaged in the promotion and support of the curricular or 213
extracurricular activities of a primary or secondary school; the 214
operation of a community or area center in which presentations 215
in music, dramatics, the arts, and related fields are made in 216
order to foster public interest and education therein; the 217
production of performances in music, dramatics, and the arts; or 218
the promotion of education by an organization engaged in 219
carrying on research in, or the dissemination of, scientific and 220
technological knowledge and information primarily for the 221
public. 222

Nothing in this division shall be deemed to exempt sales 223
to any organization for use in the operation or carrying on of a 224
trade or business, or sales to a home for the aged for use in 225
the operation of independent living facilities as defined in 226
division (A) of section 5709.12 of the Revised Code. 227

(13) Building and construction materials and services sold	228
to construction contractors for incorporation into a structure	229
or improvement to real property under a construction contract	230
with this state or a political subdivision of this state, or	231
with the United States government or any of its agencies;	232
building and construction materials and services sold to	233
construction contractors for incorporation into a structure or	234
improvement to real property that are accepted for ownership by	235
this state or any of its political subdivisions, or by the	236
United States government or any of its agencies at the time of	237
completion of the structures or improvements; building and	238
construction materials sold to construction contractors for	239
incorporation into a horticulture structure or livestock	240
structure for a person engaged in the business of horticulture	241
or producing livestock; building materials and services sold to	242
a construction contractor for incorporation into a house of	243
public worship or religious education, or a building used	244
exclusively for charitable purposes under a construction	245
contract with an organization whose purpose is as described in	246
division (B) (12) of this section; building materials and	247
services sold to a construction contractor for incorporation	248
into a building under a construction contract with an	249
organization exempt from taxation under section 501(c) (3) of the	250
Internal Revenue Code of 1986 when the building is to be used	251
exclusively for the organization's exempt purposes; tangible	252
personal property sold for incorporation into the construction	253
of a sports facility under section 307.696 of the Revised Code;	254
building and construction materials and services sold to a	255
construction contractor for incorporation into real property	256
outside this state if such materials and services, when sold to	257
a construction contractor in the state in which the real	258
property is located for incorporation into real property in that	259

state, would be exempt from a tax on sales levied by that state; 260
building and construction materials for incorporation into a 261
transportation facility pursuant to a public-private agreement 262
entered into under sections 5501.70 to 5501.83 of the Revised 263
Code; until one calendar year after the construction of a 264
convention center that qualifies for property tax exemption 265
under section 5709.084 of the Revised Code is completed, 266
building and construction materials and services sold to a 267
construction contractor for incorporation into the real property 268
comprising that convention center; and building and construction 269
materials sold for incorporation into a structure or improvement 270
to real property that is used primarily as, or primarily in 271
support of, a manufacturing facility or research and development 272
facility and that is to be owned by a megaproject operator upon 273
completion and located at the site of a megaproject that 274
satisfies the criteria described in division (A) (11) (a) (ii) of 275
section 122.17 of the Revised Code, provided that the sale 276
occurs during the period that the megaproject operator has an 277
agreement for such megaproject with the tax credit authority 278
under division (D) of section 122.17 of the Revised Code that 279
remains in effect and has not expired or been terminated. 280

(14) Sales of ships or vessels or rail rolling stock used 281
or to be used principally in interstate or foreign commerce, and 282
repairs, alterations, fuel, and lubricants for such ships or 283
vessels or rail rolling stock; 284

(15) Sales to persons primarily engaged in any of the 285
activities mentioned in division (B) (42) (a), (g), or (h) of this 286
section, to persons engaged in making retail sales, or to 287
persons who purchase for sale from a manufacturer tangible 288
personal property that was produced by the manufacturer in 289
accordance with specific designs provided by the purchaser, of 290

packages, including material, labels, and parts for packages, 291
and of machinery, equipment, and material for use primarily in 292
packaging tangible personal property produced for sale, 293
including any machinery, equipment, and supplies used to make 294
labels or packages, to prepare packages or products for 295
labeling, or to label packages or products, by or on the order 296
of the person doing the packaging, or sold at retail. "Packages" 297
includes bags, baskets, cartons, crates, boxes, cans, bottles, 298
bindings, wrappings, and other similar devices and containers, 299
but does not include motor vehicles or bulk tanks, trailers, or 300
similar devices attached to motor vehicles. "Packaging" means 301
placing in a package. Division (B) (15) of this section does not 302
apply to persons engaged in highway transportation for hire. 303

(16) Sales of food to persons using supplemental nutrition 304
assistance program benefits to purchase the food. As used in 305
this division, "food" has the same meaning as in 7 U.S.C. 2012 306
and federal regulations adopted pursuant to the Food and 307
Nutrition Act of 2008. 308

(17) Sales to persons engaged in farming, agriculture, 309
horticulture, or floriculture, of tangible personal property for 310
use or consumption primarily in the production by farming, 311
agriculture, horticulture, or floriculture of other tangible 312
personal property for use or consumption primarily in the 313
production of tangible personal property for sale by farming, 314
agriculture, horticulture, or floriculture; or material and 315
parts for incorporation into any such tangible personal property 316
for use or consumption in production; and of tangible personal 317
property for such use or consumption in the conditioning or 318
holding of products produced by and for such use, consumption, 319
or sale by persons engaged in farming, agriculture, 320
horticulture, or floriculture, except where such property is 321

incorporated into real property;	322
(18) Sales of drugs for a human being that may be	323
dispensed only pursuant to a prescription; insulin as recognized	324
in the official United States pharmacopoeia; urine and blood	325
testing materials when used by diabetics or persons with	326
hypoglycemia to test for glucose or acetone; hypodermic syringes	327
and needles when used by diabetics for insulin injections;	328
epoetin alfa when purchased for use in the treatment of persons	329
with medical disease; hospital beds when purchased by hospitals,	330
nursing homes, or other medical facilities; and medical oxygen	331
and medical oxygen-dispensing equipment when purchased by	332
hospitals, nursing homes, or other medical facilities;	333
(19) Sales of prosthetic devices, durable medical	334
equipment for home use, or mobility enhancing equipment, when	335
made pursuant to a prescription and when such devices or	336
equipment are for use by a human being.	337
(20) Sales of emergency and fire protection vehicles and	338
equipment to nonprofit organizations for use solely in providing	339
fire protection and emergency services, including trauma care	340
and emergency medical services, for political subdivisions of	341
the state;	342
(21) Sales of tangible personal property manufactured in	343
this state, if sold by the manufacturer in this state to a	344
retailer for use in the retail business of the retailer outside	345
of this state and if possession is taken from the manufacturer	346
by the purchaser within this state for the sole purpose of	347
immediately removing the same from this state in a vehicle owned	348
by the purchaser;	349
(22) Sales of services provided by the state or any of its	350

political subdivisions, agencies, instrumentalities,	351
institutions, or authorities, or by governmental entities of the	352
state or any of its political subdivisions, agencies,	353
instrumentalities, institutions, or authorities;	354
(23) Sales of motor vehicles to nonresidents of this state	355
under the circumstances described in division (B) of section	356
5739.029 of the Revised Code;	357
(24) Sales to persons engaged in the preparation of eggs	358
for sale of tangible personal property used or consumed directly	359
in such preparation, including such tangible personal property	360
used for cleaning, sanitizing, preserving, grading, sorting, and	361
classifying by size; packages, including material and parts for	362
packages, and machinery, equipment, and material for use in	363
packaging eggs for sale; and handling and transportation	364
equipment and parts therefor, except motor vehicles licensed to	365
operate on public highways, used in intraplant or interplant	366
transfers or shipment of eggs in the process of preparation for	367
sale, when the plant or plants within or between which such	368
transfers or shipments occur are operated by the same person.	369
"Packages" includes containers, cases, baskets, flats, fillers,	370
filler flats, cartons, closure materials, labels, and labeling	371
materials, and "packaging" means placing therein.	372
(25) (a) Sales of water to a consumer for residential use;	373
(b) Sales of water by a nonprofit corporation engaged	374
exclusively in the treatment, distribution, and sale of water to	375
consumers, if such water is delivered to consumers through pipes	376
or tubing.	377
(26) Fees charged for inspection or reinspection of motor	378
vehicles under section 3704.14 of the Revised Code;	379

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	380 381 382 383
(a) To prepare food for human consumption for sale;	384
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	385 386 387 388
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	389 390
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	391 392
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	393 394 395 396
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	397 398 399
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	400 401 402
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used	403 404 405 406 407

for the transportation of tangible personal property; 408

(33) Sales to the state headquarters of any veterans' 409
organization in this state that is either incorporated and 410
issued a charter by the congress of the United States or is 411
recognized by the United States veterans administration, for use 412
by the headquarters; 413

(34) Sales to a telecommunications service vendor, mobile 414
telecommunications service vendor, or satellite broadcasting 415
service vendor of tangible personal property and services used 416
directly and primarily in transmitting, receiving, switching, or 417
recording any interactive, one- or two-way electromagnetic 418
communications, including voice, image, data, and information, 419
through the use of any medium, including, but not limited to, 420
poles, wires, cables, switching equipment, computers, and record 421
storage devices and media, and component parts for the tangible 422
personal property. The exemption provided in this division shall 423
be in lieu of all other exemptions under division (B) (42) (a) or 424
(n) of this section to which the vendor may otherwise be 425
entitled, based upon the use of the thing purchased in providing 426
the telecommunications, mobile telecommunications, or satellite 427
broadcasting service. 428

(35) (a) Sales where the purpose of the consumer is to use 429
or consume the things transferred in making retail sales and 430
consisting of newspaper inserts, catalogues, coupons, flyers, 431
gift certificates, or other advertising material that prices and 432
describes tangible personal property offered for retail sale. 433

(b) Sales to direct marketing vendors of preliminary 434
materials such as photographs, artwork, and typesetting that 435
will be used in printing advertising material; and of printed 436
matter that offers free merchandise or chances to win sweepstake 437

prizes and that is mailed to potential customers with 438
advertising material described in division (B) (35) (a) of this 439
section; 440

(c) Sales of equipment such as telephones, computers, 441
facsimile machines, and similar tangible personal property 442
primarily used to accept orders for direct marketing retail 443
sales. 444

(d) Sales of automatic food vending machines that preserve 445
food with a shelf life of forty-five days or less by 446
refrigeration and dispense it to the consumer. 447

For purposes of division (B) (35) of this section, "direct 448
marketing" means the method of selling where consumers order 449
tangible personal property by United States mail, delivery 450
service, or telecommunication and the vendor delivers or ships 451
the tangible personal property sold to the consumer from a 452
warehouse, catalogue distribution center, or similar fulfillment 453
facility by means of the United States mail, delivery service, 454
or common carrier. 455

(36) Sales to a person engaged in the business of 456
horticulture or producing livestock of materials to be 457
incorporated into a horticulture structure or livestock 458
structure; 459

(37) Sales of personal computers, computer monitors, 460
computer keyboards, modems, and other peripheral computer 461
equipment to an individual who is licensed or certified to teach 462
in an elementary or a secondary school in this state for use by 463
that individual in preparation for teaching elementary or 464
secondary school students; 465

(38) Sales of tangible personal property that is not 466

required to be registered or licensed under the laws of this 467
state to a citizen of a foreign nation that is not a citizen of 468
the United States, provided the property is delivered to a 469
person in this state that is not a related member of the 470
purchaser, is physically present in this state for the sole 471
purpose of temporary storage and package consolidation, and is 472
subsequently delivered to the purchaser at a delivery address in 473
a foreign nation. As used in division (B)(38) of this section, 474
"related member" has the same meaning as in section 5733.042 of 475
the Revised Code, and "temporary storage" means the storage of 476
tangible personal property for a period of not more than sixty 477
days. 478

(39) Sales of used manufactured homes and used mobile 479
homes, as defined in section 5739.0210 of the Revised Code, made 480
on or after January 1, 2000; 481

(40) Sales of tangible personal property and services to a 482
provider of electricity used or consumed directly and primarily 483
in generating, transmitting, or distributing electricity for use 484
by others, including property that is or is to be incorporated 485
into and will become a part of the consumer's production, 486
transmission, or distribution system and that retains its 487
classification as tangible personal property after 488
incorporation; fuel or power used in the production, 489
transmission, or distribution of electricity; energy conversion 490
equipment as defined in section 5727.01 of the Revised Code; and 491
tangible personal property and services used in the repair and 492
maintenance of the production, transmission, or distribution 493
system, including only those motor vehicles as are specially 494
designed and equipped for such use. The exemption provided in 495
this division shall be in lieu of all other exemptions in 496
division (B)(42)(a) or (n) of this section to which a provider 497

of electricity may otherwise be entitled based on the use of the 498
tangible personal property or service purchased in generating, 499
transmitting, or distributing electricity. 500

(41) Sales to a person providing services under division 501
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 502
personal property and services used directly and primarily in 503
providing taxable services under that section. 504

(42) Sales where the purpose of the purchaser is to do any 505
of the following: 506

(a) To incorporate the thing transferred as a material or 507
a part into tangible personal property to be produced for sale 508
by manufacturing, assembling, processing, or refining; or to use 509
or consume the thing transferred directly in producing tangible 510
personal property for sale by mining, including, without 511
limitation, the extraction from the earth of all substances that 512
are classed geologically as minerals, or directly in the 513
rendition of a public utility service, except that the sales tax 514
levied by this section shall be collected upon all meals, 515
drinks, and food for human consumption sold when transporting 516
persons. This paragraph does not exempt from "retail sale" or 517
"sales at retail" the sale of tangible personal property that is 518
to be incorporated into a structure or improvement to real 519
property. 520

(b) To hold the thing transferred as security for the 521
performance of an obligation of the vendor; 522

(c) To resell, hold, use, or consume the thing transferred 523
as evidence of a contract of insurance; 524

(d) To use or consume the thing directly in commercial 525
fishing; 526

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	527 528 529 530
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	531 532 533 534 535
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	536 537 538
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	539 540 541 542 543 544
(i) To use the thing transferred as qualified research and development equipment;	545 546
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public	547 548 549 550 551 552 553 554 555

highways. As used in this division, "affiliated group" has the 556
same meaning as in division (B) (3) (e) of section 5739.01 of the 557
Revised Code and "direct marketing" has the same meaning as in 558
division (B) (35) of this section. 559

(k) To use or consume the thing transferred to fulfill a 560
contractual obligation incurred by a warrantor pursuant to a 561
warranty provided as a part of the price of the tangible 562
personal property sold or by a vendor of a warranty, maintenance 563
or service contract, or similar agreement the provision of which 564
is defined as a sale under division (B) (7) of section 5739.01 of 565
the Revised Code; 566

(l) To use or consume the thing transferred in the 567
production of a newspaper for distribution to the public; 568

(m) To use tangible personal property to perform a service 569
listed in division (B) (3) of section 5739.01 of the Revised 570
Code, if the property is or is to be permanently transferred to 571
the consumer of the service as an integral part of the 572
performance of the service; 573

(n) To use or consume the thing transferred primarily in 574
producing tangible personal property for sale by farming, 575
agriculture, horticulture, or floriculture. Persons engaged in 576
rendering farming, agriculture, horticulture, or floriculture 577
services for others are deemed engaged primarily in farming, 578
agriculture, horticulture, or floriculture. This paragraph does 579
not exempt from "retail sale" or "sales at retail" the sale of 580
tangible personal property that is to be incorporated into a 581
structure or improvement to real property. 582

(o) To use or consume the thing transferred in acquiring, 583
formatting, editing, storing, and disseminating data or 584

information by electronic publishing; 585

(p) To provide the thing transferred to the owner or 586
lessee of a motor vehicle that is being repaired or serviced, if 587
the thing transferred is a rented motor vehicle and the 588
purchaser is reimbursed for the cost of the rented motor vehicle 589
by a manufacturer, warrantor, or provider of a maintenance, 590
service, or other similar contract or agreement, with respect to 591
the motor vehicle that is being repaired or serviced; 592

(q) To use or consume the thing transferred directly in 593
production of crude oil and natural gas for sale. Persons 594
engaged in rendering production services for others are deemed 595
engaged in production. 596

As used in division (B) (42) (q) of this section, 597
"production" means operations and tangible personal property 598
directly used to expose and evaluate an underground reservoir 599
that may contain hydrocarbon resources, prepare the wellbore for 600
production, and lift and control all substances yielded by the 601
reservoir to the surface of the earth. 602

(i) For the purposes of division (B) (42) (q) of this 603
section, the "thing transferred" includes, but is not limited 604
to, any of the following: 605

(I) Services provided in the construction of permanent 606
access roads, services provided in the construction of the well 607
site, and services provided in the construction of temporary 608
impoundments; 609

(II) Equipment and rigging used for the specific purpose 610
of creating with integrity a wellbore pathway to underground 611
reservoirs; 612

(III) Drilling and workover services used to work within a 613

subsurface wellbore, and tangible personal property directly	614
used in providing such services;	615
(IV) Casing, tubulars, and float and centralizing	616
equipment;	617
(V) Trailers to which production equipment is attached;	618
(VI) Well completion services, including cementing of	619
casing, and tangible personal property directly used in	620
providing such services;	621
(VII) Wireline evaluation, mud logging, and perforation	622
services, and tangible personal property directly used in	623
providing such services;	624
(VIII) Reservoir stimulation, hydraulic fracturing, and	625
acidizing services, and tangible personal property directly used	626
in providing such services, including all material pumped	627
downhole;	628
(IX) Pressure pumping equipment;	629
(X) Artificial lift systems equipment;	630
(XI) Wellhead equipment and well site equipment used to	631
separate, stabilize, and control hydrocarbon phases and produced	632
water;	633
(XII) Tangible personal property directly used to control	634
production equipment.	635
(ii) For the purposes of division (B) (42) (q) of this	636
section, the "thing transferred" does not include any of the	637
following:	638
(I) Tangible personal property used primarily in the	639
exploration and production of any mineral resource regulated	640

under Chapter 1509. of the Revised Code other than oil or gas;	641
(II) Tangible personal property used primarily in storing,	642
holding, or delivering solutions or chemicals used in well	643
stimulation as defined in section 1509.01 of the Revised Code;	644
(III) Tangible personal property used primarily in	645
preparing, installing, or reclaiming foundations for drilling or	646
pumping equipment or well stimulation material tanks;	647
(IV) Tangible personal property used primarily in	648
transporting, delivering, or removing equipment to or from the	649
well site or storing such equipment before its use at the well	650
site;	651
(V) Tangible personal property used primarily in gathering	652
operations occurring off the well site, including gathering	653
pipelines transporting hydrocarbon gas or liquids away from a	654
crude oil or natural gas production facility;	655
(VI) Tangible personal property that is to be incorporated	656
into a structure or improvement to real property;	657
(VII) Well site fencing, lighting, or security systems;	658
(VIII) Communication devices or services;	659
(IX) Office supplies;	660
(X) Trailers used as offices or lodging;	661
(XI) Motor vehicles of any kind;	662
(XII) Tangible personal property used primarily for the	663
storage of drilling byproducts and fuel not used for production;	664
(XIII) Tangible personal property used primarily as a	665
safety device;	666

(XIV) Data collection or monitoring devices;	667
(XV) Access ladders, stairs, or platforms attached to storage tanks.	668 669
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	670 671 672 673 674
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	675 676 677 678
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	679 680 681
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	682 683 684 685 686 687 688
(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.	689 690 691 692 693 694
(45) Sales of telecommunications service that is used	695

directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48) Sales of feminine hygiene products.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B) (49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of

aircraft cockpit. It includes the assemblage of equipment and 725
computer programs necessary to represent aircraft operations in 726
ground and flight conditions, a visual system providing an out- 727
of-the-cockpit view, and a system that provides cues at least 728
equivalent to those of a three-degree-of-freedom motion system, 729
and has the full range of capabilities of the systems installed 730
in the device as described in appendices A and B of part 60 of 731
chapter 1 of title 14 of the Code of Federal Regulations. 732

(51) Any transfer or lease of tangible personal property 733
between the state and JobsOhio in accordance with section 734
4313.02 of the Revised Code. 735

(52) (a) Sales to a qualifying corporation. 736

(b) As used in division (B) (52) of this section: 737

(i) "Qualifying corporation" means a nonprofit corporation 738
organized in this state that leases from an eligible county 739
land, buildings, structures, fixtures, and improvements to the 740
land that are part of or used in a public recreational facility 741
used by a major league professional athletic team or a class A 742
to class AAA minor league affiliate of a major league 743
professional athletic team for a significant portion of the 744
team's home schedule, provided the following apply: 745

(I) The facility is leased from the eligible county 746
pursuant to a lease that requires substantially all of the 747
revenue from the operation of the business or activity conducted 748
by the nonprofit corporation at the facility in excess of 749
operating costs, capital expenditures, and reserves to be paid 750
to the eligible county at least once per calendar year. 751

(II) Upon dissolution and liquidation of the nonprofit 752
corporation, all of its net assets are distributable to the 753

board of commissioners of the eligible county from which the 754
corporation leases the facility. 755

(ii) "Eligible county" has the same meaning as in section 756
307.695 of the Revised Code. 757

(53) Sales to or by a cable service provider, video 758
service provider, or radio or television broadcast station 759
regulated by the federal government of cable service or 760
programming, video service or programming, audio service or 761
programming, or electronically transferred digital audiovisual 762
or audio work. As used in division (B) (53) of this section, 763
"cable service" and "cable service provider" have the same 764
meanings as in section 1332.01 of the Revised Code, and "video 765
service," "video service provider," and "video programming" have 766
the same meanings as in section 1332.21 of the Revised Code. 767

(54) Sales of a digital audio work electronically 768
transferred for delivery through use of a machine, such as a 769
juke box, that does all of the following: 770

(a) Accepts direct payments to operate; 771

(b) Automatically plays a selected digital audio work for 772
a single play upon receipt of a payment described in division 773
(B) (54) (a) of this section; 774

(c) Operates exclusively for the purpose of playing 775
digital audio works in a commercial establishment. 776

(55) (a) Sales of the following occurring on the first 777
Friday of August and the following Saturday and Sunday of any 778
year, except in 2024 or any subsequent year in which a sales tax 779
holiday is held pursuant to section 5739.41 of the Revised Code: 780

(i) An item of clothing, the price of which is seventy- 781

five dollars or less;	782
(ii) An item of school supplies, the price of which is	783
twenty dollars or less;	784
(iii) An item of school instructional material, the price	785
of which is twenty dollars or less.	786
(b) As used in division (B) (55) of this section:	787
(i) "Clothing" means all human wearing apparel suitable	788
for general use. "Clothing" includes, but is not limited to,	789
aprons, household and shop; athletic supporters; baby receiving	790
blankets; bathing suits and caps; beach capes and coats; belts	791
and suspenders; boots; coats and jackets; costumes; diapers,	792
children and adult, including disposable diapers; earmuffs;	793
footlets; formal wear; garters and garter belts; girdles; gloves	794
and mittens for general use; hats and caps; hosiery; insoles for	795
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	796
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	797
sneakers; socks and stockings; steel-toed shoes; underwear;	798
uniforms, athletic and nonathletic; and wedding apparel.	799
"Clothing" does not include items purchased for use in a trade	800
or business; clothing accessories or equipment; protective	801
equipment; sports or recreational equipment; belt buckles sold	802
separately; costume masks sold separately; patches and emblems	803
sold separately; sewing equipment and supplies including, but	804
not limited to, knitting needles, patterns, pins, scissors,	805
sewing machines, sewing needles, tape measures, and thimbles;	806
and sewing materials that become part of "clothing" including,	807
but not limited to, buttons, fabric, lace, thread, yarn, and	808
zippers.	809
(ii) "School supplies" means items commonly used by a	810

student in a course of study. "School supplies" includes only 811
the following items: binders; book bags; calculators; cellophane 812
tape; blackboard chalk; compasses; composition books; crayons; 813
erasers; folders, expandable, pocket, plastic, and manila; glue, 814
paste, and paste sticks; highlighters; index cards; index card 815
boxes; legal pads; lunch boxes; markers; notebooks; paper, 816
loose-leaf ruled notebook paper, copy paper, graph paper, 817
tracing paper, manila paper, colored paper, poster board, and 818
construction paper; pencil boxes and other school supply boxes; 819
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 820
and writing tablets. "School supplies" does not include any item 821
purchased for use in a trade or business. 822

(iii) "School instructional material" means written 823
material commonly used by a student in a course of study as a 824
reference and to learn the subject being taught. "School 825
instructional material" includes only the following items: 826
reference books, reference maps and globes, textbooks, and 827
workbooks. "School instructional material" does not include any 828
material purchased for use in a trade or business. 829

(56) (a) Sales of adult diapers or incontinence underpads 830
sold pursuant to a prescription, for the benefit of a medicaid 831
recipient with a diagnosis of incontinence, and by a medicaid 832
provider that maintains a valid provider agreement under section 833
5164.30 of the Revised Code with the department of medicaid, 834
provided that the medicaid program covers diapers or 835
incontinence underpads as an incontinence garment. 836

(b) As used in division (B) (56) (a) of this section, 837
"incontinence underpad" means an absorbent product, not worn on 838
the body, designed to protect furniture or other tangible 839
personal property from soiling or damage due to human 840

incontinence.	841
(57) Sales of investment metal bullion and investment	842
coins. "Investment metal bullion" means any bullion described in	843
section 408(m) (3) (B) of the Internal Revenue Code, regardless of	844
whether that bullion is in the physical possession of a trustee.	845
"Investment coin" means any coin composed primarily of gold,	846
silver, platinum, or palladium.	847
(58) Sales of tangible personal property used primarily	848
for any of the following purposes by a megaproject operator at	849
the site of a megaproject that satisfies the criteria described	850
in division (A) (11) (a) (ii) of section 122.17 of the Revised	851
Code, provided that the sale occurs during the period that the	852
megaproject operator has an agreement for such megaproject with	853
the tax credit authority under division (D) of section 122.17 of	854
the Revised Code that remains in effect and has not expired or	855
been terminated:	856
(a) To store, transmit, convey, distribute, recycle,	857
circulate, or clean water, steam, or other gases used in or	858
produced as a result of manufacturing activity, including items	859
that support or aid in the operation of such property;	860
(b) To clean or prepare inventory, at any stage of storage	861
or production, or equipment used in a manufacturing activity,	862
including chemicals, solvents, catalysts, soaps, and other items	863
that support or aid in the operation of property;	864
(c) To regulate, treat, filter, condition, improve, clean,	865
maintain, or monitor environmental conditions within areas where	866
manufacturing activities take place;	867
(d) To handle, transport, or convey inventory during	868
production or manufacturing.	869

(59) Documentary services charges imposed pursuant to section 4517.261 or 4781.24 of the Revised Code.	870 871
(60) Sales of <u>the following child care items:</u>	872
<u>(a) Infant clothing and children's diapers.—</u>	873
(61) Sales of therapeutic;	874
<u>(b) Therapeutic or preventative creams and wipes marketed primarily for use on the skin of children.—</u>	875 876
(62) Sales of a;	877
<u>(c) Pacifiers, teething rings, and similar items;</u>	878
<u>(d) A child restraint device or booster seat that meets the national highway traffic safety administration standard for child restraint systems under 49 C.F.R. 571.213.—</u>	879 880 881
(63) Sales of cribs—;	882
<u>(e) Cribs and bassinets intended to provide sleeping accommodations for children that comply with the United States consumer product safety commission's safety standard for full-size baby cribs under 16 C.F.R. 1219—or the commission's safety standard for, non-full-size baby cribs under 16 C.F.R. 1220.—, <u>or bassinets under 16 C.F.R. 1218, along with sheets and blankets designed and marketed for use with the same;</u></u>	883 884 885 886 887 888 889
<u>(f) Play yards that comply with the United States consumer product safety commission's safety standard under 16 C.F.R. 1221;</u>	890 891 892
(64) Sales of strollers— <u>(g) Strollers meant for transporting children from infancy to about thirty-six months of age that meet the United States consumer product safety commission safety standard for carriages and strollers under 16</u>	893 894 895 896

C.F.R. 1227.2;	897
<u>(h) Breastfeeding items, including breast pumps, breast pump collection and storage supplies, breast pump kits, breast pump parts, burping cloths, and baby bottles;</u>	898
	899
	900
<u>(i) Baby monitors;</u>	901
<u>(j) Toys labeled as appropriate for infants.</u>	902
<u>As used in division (B) (60) of this section, "infant" means an individual aged 12 months or younger.</u>	903
	904
(65) (61) The fee imposed by section 3743.22 of the Revised Code, if it is separately stated on the invoice, bill of sale, or similar document given by the vendor to the consumer for a retail sale made in this state.	905
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(66) (62) Sales of eligible tangible personal property occurring during the period of a sales tax holiday held pursuant to section 5739.41 of the Revised Code.	909
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(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.	912
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(D) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the	916
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state or such a county or transit authority shall derive any 925
benefit from the collection or payment of the tax levied by this 926
section or section 5739.021, 5739.023, or 5739.026 of the 927
Revised Code. 928

Sec. 5747.01. Except as otherwise expressly provided or 929
clearly appearing from the context, any term used in this 930
chapter that is not otherwise defined in this section has the 931
same meaning as when used in a comparable context in the laws of 932
the United States relating to federal income taxes or if not 933
used in a comparable context in those laws, has the same meaning 934
as in section 5733.40 of the Revised Code. Any reference in this 935
chapter to the Internal Revenue Code includes other laws of the 936
United States relating to federal income taxes. 937

As used in this chapter: 938

(A) "Adjusted gross income" or "Ohio adjusted gross 939
income" means federal adjusted gross income, as defined and used 940
in the Internal Revenue Code, adjusted as provided in this 941
section: 942

(1) Add interest or dividends on obligations or securities 943
of any state or of any political subdivision or authority of any 944
state, other than this state and its subdivisions and 945
authorities. 946

(2) Add interest or dividends on obligations of any 947
authority, commission, instrumentality, territory, or possession 948
of the United States to the extent that the interest or 949
dividends are exempt from federal income taxes but not from 950
state income taxes. 951

(3) Deduct interest or dividends on obligations of the 952
United States and its territories and possessions or of any 953

authority, commission, or instrumentality of the United States 954
to the extent that the interest or dividends are included in 955
federal adjusted gross income but exempt from state income taxes 956
under the laws of the United States. 957

(4) Deduct disability and survivor's benefits to the 958
extent included in federal adjusted gross income. 959

(5) Deduct the following, to the extent not otherwise 960
deducted or excluded in computing federal or Ohio adjusted gross 961
income: 962

(a) Benefits under Title II of the Social Security Act and 963
tier 1 railroad retirement; 964

(b) Railroad retirement benefits, other than tier 1 965
railroad retirement benefits, to the extent such amounts are 966
exempt from state taxation under federal law. 967

(6) Deduct the amount of wages and salaries, if any, not 968
otherwise allowable as a deduction but that would have been 969
allowable as a deduction in computing federal adjusted gross 970
income for the taxable year, had the work opportunity tax credit 971
allowed and determined under sections 38, 51, and 52 of the 972
Internal Revenue Code not been in effect. 973

(7) Deduct any interest or interest equivalent on public 974
obligations and purchase obligations to the extent that the 975
interest or interest equivalent is included in federal adjusted 976
gross income. 977

(8) Add any loss or deduct any gain resulting from the 978
sale, exchange, or other disposition of public obligations to 979
the extent that the loss has been deducted or the gain has been 980
included in computing federal adjusted gross income. 981

(9) Deduct or add amounts, as provided under section 982
5747.70 of the Revised Code, related to contributions made to or 983
tuition units purchased under a qualified tuition program 984
established pursuant to section 529 of the Internal Revenue 985
Code. 986

(10) (a) Deduct, to the extent not otherwise allowable as a 987
deduction or exclusion in computing federal or Ohio adjusted 988
gross income for the taxable year, the amount the taxpayer paid 989
during the taxable year for medical care insurance and qualified 990
long-term care insurance for the taxpayer, the taxpayer's 991
spouse, and dependents. No deduction for medical care insurance 992
under division (A) (10) (a) of this section shall be allowed 993
either to any taxpayer who is eligible to participate in any 994
subsidized health plan maintained by any employer of the 995
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 996
entitled to, or on application would be entitled to, benefits 997
under part A of Title XVIII of the "Social Security Act," 49 998
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 999
division (A) (10) (a) of this section, "subsidized health plan" 1000
means a health plan for which the employer pays any portion of 1001
the plan's cost. The deduction allowed under division (A) (10) (a) 1002
of this section shall be the net of any related premium refunds, 1003
related premium reimbursements, or related insurance premium 1004
dividends received during the taxable year. 1005

(b) Deduct, to the extent not otherwise deducted or 1006
excluded in computing federal or Ohio adjusted gross income 1007
during the taxable year, the amount the taxpayer paid during the 1008
taxable year, not compensated for by any insurance or otherwise, 1009
for medical care of the taxpayer, the taxpayer's spouse, and 1010
dependents, to the extent the expenses exceed seven and one-half 1011
per cent of the taxpayer's federal adjusted gross income. 1012

(c) For purposes of division (A)(10) of this section, 1013
"medical care" has the meaning given in section 213 of the 1014
Internal Revenue Code, subject to the special rules, 1015
limitations, and exclusions set forth therein, and "qualified 1016
long-term care" has the same meaning given in section 7702B(c) 1017
of the Internal Revenue Code. Solely for purposes of division 1018
(A)(10)(a) of this section, "dependent" includes a person who 1019
otherwise would be a "qualifying relative" and thus a 1020
"dependent" under section 152 of the Internal Revenue Code but 1021
for the fact that the person fails to meet the income and 1022
support limitations under section 152(d)(1)(B) and (C) of the 1023
Internal Revenue Code. 1024

(11)(a) Deduct any amount included in federal adjusted 1025
gross income solely because the amount represents a 1026
reimbursement or refund of expenses that in any year the 1027
taxpayer had deducted as an itemized deduction pursuant to 1028
section 63 of the Internal Revenue Code and applicable United 1029
States department of the treasury regulations. The deduction 1030
otherwise allowed under division (A)(11)(a) of this section 1031
shall be reduced to the extent the reimbursement is attributable 1032
to an amount the taxpayer deducted under this section in any 1033
taxable year. 1034

(b) Add any amount not otherwise included in Ohio adjusted 1035
gross income for any taxable year to the extent that the amount 1036
is attributable to the recovery during the taxable year of any 1037
amount deducted or excluded in computing federal or Ohio 1038
adjusted gross income in any taxable year. 1039

(12) Deduct any portion of the deduction described in 1040
section 1341(a)(2) of the Internal Revenue Code, for repaying 1041
previously reported income received under a claim of right, that 1042

meets both of the following requirements: 1043

(a) It is allowable for repayment of an item that was 1044
included in the taxpayer's adjusted gross income for a prior 1045
taxable year and did not qualify for a credit under division (A) 1046
or (B) of section 5747.05 of the Revised Code for that year; 1047

(b) It does not otherwise reduce the taxpayer's adjusted 1048
gross income for the current or any other taxable year. 1049

(13) Deduct an amount equal to the deposits made to, and 1050
net investment earnings of, a medical savings account during the 1051
taxable year, in accordance with section 3924.66 of the Revised 1052
Code. The deduction allowed by division (A) (13) of this section 1053
does not apply to medical savings account deposits and earnings 1054
otherwise deducted or excluded for the current or any other 1055
taxable year from the taxpayer's federal adjusted gross income. 1056

(14) (a) Add an amount equal to the funds withdrawn from a 1057
medical savings account during the taxable year, and the net 1058
investment earnings on those funds, when the funds withdrawn 1059
were used for any purpose other than to reimburse an account 1060
holder for, or to pay, eligible medical expenses, in accordance 1061
with section 3924.66 of the Revised Code; 1062

(b) Add the amounts distributed from a medical savings 1063
account under division (A) (2) of section 3924.68 of the Revised 1064
Code during the taxable year. 1065

(15) Add any amount claimed as a credit under section 1066
5747.059 of the Revised Code to the extent that such amount 1067
satisfies either of the following: 1068

(a) The amount was deducted or excluded from the 1069
computation of the taxpayer's federal adjusted gross income as 1070
required to be reported for the taxpayer's taxable year under 1071

the Internal Revenue Code; 1072

(b) The amount resulted in a reduction of the taxpayer's 1073
federal adjusted gross income as required to be reported for any 1074
of the taxpayer's taxable years under the Internal Revenue Code. 1075

(16) Deduct the amount contributed by the taxpayer to an 1076
individual development account program established by a county 1077
department of job and family services pursuant to sections 1078
329.11 to 329.14 of the Revised Code for the purpose of matching 1079
funds deposited by program participants. On request of the tax 1080
commissioner, the taxpayer shall provide any information that, 1081
in the tax commissioner's opinion, is necessary to establish the 1082
amount deducted under division (A)(16) of this section. 1083

(17) (a) (i) Subject to divisions (A)(17)(a)(iii), (iv), and 1084
(v) of this section, add five-sixths of the amount of 1085
depreciation expense allowed by subsection (k) of section 168 of 1086
the Internal Revenue Code, including the taxpayer's 1087
proportionate or distributive share of the amount of 1088
depreciation expense allowed by that subsection to a pass- 1089
through entity in which the taxpayer has a direct or indirect 1090
ownership interest. 1091

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 1092
of this section, add five-sixths of the amount of qualifying 1093
section 179 depreciation expense, including the taxpayer's 1094
proportionate or distributive share of the amount of qualifying 1095
section 179 depreciation expense allowed to any pass-through 1096
entity in which the taxpayer has a direct or indirect ownership 1097
interest. 1098

(iii) Subject to division (A)(17)(a)(v) of this section, 1099
for taxable years beginning in 2012 or thereafter, if the 1100

increase in income taxes withheld by the taxpayer is equal to or 1101
greater than ten per cent of income taxes withheld by the 1102
taxpayer during the taxpayer's immediately preceding taxable 1103
year, "two-thirds" shall be substituted for "five-sixths" for 1104
the purpose of divisions (A)(17)(a)(i) and (ii) of this section. 1105

(iv) Subject to division (A)(17)(a)(v) of this section, 1106
for taxable years beginning in 2012 or thereafter, a taxpayer is 1107
not required to add an amount under division (A)(17) of this 1108
section if the increase in income taxes withheld by the taxpayer 1109
and by any pass-through entity in which the taxpayer has a 1110
direct or indirect ownership interest is equal to or greater 1111
than the sum of (I) the amount of qualifying section 179 1112
depreciation expense and (II) the amount of depreciation expense 1113
allowed to the taxpayer by subsection (k) of section 168 of the 1114
Internal Revenue Code, and including the taxpayer's 1115
proportionate or distributive shares of such amounts allowed to 1116
any such pass-through entities. 1117

(v) If a taxpayer directly or indirectly incurs a net 1118
operating loss for the taxable year for federal income tax 1119
purposes, to the extent such loss resulted from depreciation 1120
expense allowed by subsection (k) of section 168 of the Internal 1121
Revenue Code and by qualifying section 179 depreciation expense, 1122
"the entire" shall be substituted for "five-sixths of the" for 1123
the purpose of divisions (A)(17)(a)(i) and (ii) of this section. 1124

The tax commissioner, under procedures established by the 1125
commissioner, may waive the add-backs related to a pass-through 1126
entity if the taxpayer owns, directly or indirectly, less than 1127
five per cent of the pass-through entity. 1128

(b) Nothing in division (A)(17) of this section shall be 1129
construed to adjust or modify the adjusted basis of any asset. 1130

(c) To the extent the add-back required under division (A) 1131
(17) (a) of this section is attributable to property generating 1132
nonbusiness income or loss allocated under section 5747.20 of 1133
the Revised Code, the add-back shall be situated to the same 1134
location as the nonbusiness income or loss generated by the 1135
property for the purpose of determining the credit under 1136
division (A) of section 5747.05 of the Revised Code. Otherwise, 1137
the add-back shall be apportioned, subject to one or more of the 1138
four alternative methods of apportionment enumerated in section 1139
5747.21 of the Revised Code. 1140

(d) For the purposes of division (A) (17) (a) (v) of this 1141
section, net operating loss carryback and carryforward shall not 1142
include the allowance of any net operating loss deduction 1143
carryback or carryforward to the taxable year to the extent such 1144
loss resulted from depreciation allowed by section 168(k) of the 1145
Internal Revenue Code and by the qualifying section 179 1146
depreciation expense amount. 1147

(e) For the purposes of divisions (A) (17) and (18) of this 1148
section: 1149

(i) "Income taxes withheld" means the total amount 1150
withheld and remitted under sections 5747.06 and 5747.07 of the 1151
Revised Code by an employer during the employer's taxable year. 1152

(ii) "Increase in income taxes withheld" means the amount 1153
by which the amount of income taxes withheld by an employer 1154
during the employer's current taxable year exceeds the amount of 1155
income taxes withheld by that employer during the employer's 1156
immediately preceding taxable year. 1157

(iii) "Qualifying section 179 depreciation expense" means 1158
the difference between (I) the amount of depreciation expense 1159

directly or indirectly allowed to a taxpayer under section 179 1160
of the Internal Revised Code, and (II) the amount of 1161
depreciation expense directly or indirectly allowed to the 1162
taxpayer under section 179 of the Internal Revenue Code as that 1163
section existed on December 31, 2002. 1164

(18) (a) If the taxpayer was required to add an amount 1165
under division (A) (17) (a) of this section for a taxable year, 1166
deduct one of the following: 1167

(i) One-fifth of the amount so added for each of the five 1168
succeeding taxable years if the amount so added was five-sixths 1169
of qualifying section 179 depreciation expense or depreciation 1170
expense allowed by subsection (k) of section 168 of the Internal 1171
Revenue Code; 1172

(ii) One-half of the amount so added for each of the two 1173
succeeding taxable years if the amount so added was two-thirds 1174
of such depreciation expense; 1175

(iii) One-sixth of the amount so added for each of the six 1176
succeeding taxable years if the entire amount of such 1177
depreciation expense was so added. 1178

(b) If the amount deducted under division (A) (18) (a) of 1179
this section is attributable to an add-back allocated under 1180
division (A) (17) (c) of this section, the amount deducted shall 1181
be situated to the same location. Otherwise, the add-back shall 1182
be apportioned using the apportionment factors for the taxable 1183
year in which the deduction is taken, subject to one or more of 1184
the four alternative methods of apportionment enumerated in 1185
section 5747.21 of the Revised Code. 1186

(c) No deduction is available under division (A) (18) (a) of 1187
this section with regard to any depreciation allowed by section 1188

168(k) of the Internal Revenue Code and by the qualifying 1189
section 179 depreciation expense amount to the extent that such 1190
depreciation results in or increases a federal net operating 1191
loss carryback or carryforward. If no such deduction is 1192
available for a taxable year, the taxpayer may carry forward the 1193
amount not deducted in such taxable year to the next taxable 1194
year and add that amount to any deduction otherwise available 1195
under division (A) (18) (a) of this section for that next taxable 1196
year. The carryforward of amounts not so deducted shall continue 1197
until the entire addition required by division (A) (17) (a) of 1198
this section has been deducted. 1199

(19) Deduct, to the extent not otherwise deducted or 1200
excluded in computing federal or Ohio adjusted gross income for 1201
the taxable year, the amount the taxpayer received during the 1202
taxable year as reimbursement for life insurance premiums under 1203
section 5919.31 of the Revised Code. 1204

(20) Deduct, to the extent not otherwise deducted or 1205
excluded in computing federal or Ohio adjusted gross income for 1206
the taxable year, the amount the taxpayer received during the 1207
taxable year as a death benefit paid by the adjutant general 1208
under section 5919.33 of the Revised Code. 1209

(21) Deduct, to the extent included in federal adjusted 1210
gross income and not otherwise allowable as a deduction or 1211
exclusion in computing federal or Ohio adjusted gross income for 1212
the taxable year, military pay and allowances received by the 1213
taxpayer during the taxable year for active duty service in the 1214
United States army, air force, navy, marine corps, or coast 1215
guard or reserve components thereof or the national guard. The 1216
deduction may not be claimed for military pay and allowances 1217
received by the taxpayer while the taxpayer is stationed in this 1218

state. 1219

(22) Deduct, to the extent not otherwise allowable as a 1220
deduction or exclusion in computing federal or Ohio adjusted 1221
gross income for the taxable year and not otherwise compensated 1222
for by any other source, the amount of qualified organ donation 1223
expenses incurred by the taxpayer during the taxable year, not 1224
to exceed ten thousand dollars. A taxpayer may deduct qualified 1225
organ donation expenses only once for all taxable years 1226
beginning with taxable years beginning in 2007. 1227

For the purposes of division (A) (22) of this section: 1228

(a) "Human organ" means all or any portion of a human 1229
liver, pancreas, kidney, intestine, or lung, and any portion of 1230
human bone marrow. 1231

(b) "Qualified organ donation expenses" means travel 1232
expenses, lodging expenses, and wages and salary forgone by a 1233
taxpayer in connection with the taxpayer's donation, while 1234
living, of one or more of the taxpayer's human organs to another 1235
human being. 1236

(23) Deduct, to the extent not otherwise deducted or 1237
excluded in computing federal or Ohio adjusted gross income for 1238
the taxable year, amounts received by the taxpayer as retired 1239
personnel pay for service in the uniformed services or reserve 1240
components thereof, or the national guard, or received by the 1241
surviving spouse or former spouse of such a taxpayer under the 1242
survivor benefit plan on account of such a taxpayer's death. If 1243
the taxpayer receives income on account of retirement paid under 1244
the federal civil service retirement system or federal employees 1245
retirement system, or under any successor retirement program 1246
enacted by the congress of the United States that is established 1247

and maintained for retired employees of the United States 1248
government, and such retirement income is based, in whole or in 1249
part, on credit for the taxpayer's uniformed service, the 1250
deduction allowed under this division shall include only that 1251
portion of such retirement income that is attributable to the 1252
taxpayer's uniformed service, to the extent that portion of such 1253
retirement income is otherwise included in federal adjusted 1254
gross income and is not otherwise deducted under this section. 1255
Any amount deducted under division (A) (23) of this section is 1256
not included in a taxpayer's adjusted gross income for the 1257
purposes of section 5747.055 of the Revised Code. No amount may 1258
be deducted under division (A) (23) of this section on the basis 1259
of which a credit was claimed under section 5747.055 of the 1260
Revised Code. 1261

(24) Deduct, to the extent not otherwise deducted or 1262
excluded in computing federal or Ohio adjusted gross income for 1263
the taxable year, the amount the taxpayer received during the 1264
taxable year from the military injury relief fund created in 1265
section 5902.05 of the Revised Code. 1266

(25) Deduct, to the extent not otherwise deducted or 1267
excluded in computing federal or Ohio adjusted gross income for 1268
the taxable year, the amount the taxpayer received as a veterans 1269
bonus during the taxable year from the Ohio department of 1270
veterans services as authorized by Section 2r of Article VIII, 1271
Ohio Constitution. 1272

(26) Deduct, to the extent not otherwise deducted or 1273
excluded in computing federal or Ohio adjusted gross income for 1274
the taxable year, any income derived from a transfer agreement 1275
or from the enterprise transferred under that agreement under 1276
section 4313.02 of the Revised Code. 1277

(27) Deduct, to the extent not otherwise deducted or 1278
excluded in computing federal or Ohio adjusted gross income for 1279
the taxable year, Ohio college opportunity or federal Pell grant 1280
amounts received by the taxpayer or the taxpayer's spouse or 1281
dependent pursuant to section 3333.122 of the Revised Code or 20 1282
U.S.C. 1070a, et seq., and used to pay room or board furnished 1283
by the educational institution for which the grant was awarded 1284
at the institution's facilities, including meal plans 1285
administered by the institution. For the purposes of this 1286
division, receipt of a grant includes the distribution of a 1287
grant directly to an educational institution and the crediting 1288
of the grant to the enrollee's account with the institution. 1289

(28) Deduct from the portion of an individual's federal 1290
adjusted gross income that is business income, to the extent not 1291
otherwise deducted or excluded in computing federal adjusted 1292
gross income for the taxable year, one hundred twenty-five 1293
thousand dollars for each spouse if spouses file separate 1294
returns under section 5747.08 of the Revised Code or two hundred 1295
fifty thousand dollars for all other individuals. 1296

(29) Deduct, as provided under section 5747.78 of the 1297
Revised Code, contributions to ABLE savings accounts made in 1298
accordance with sections 113.50 to 113.56 of the Revised Code. 1299

(30) (a) Deduct, to the extent not otherwise deducted or 1300
excluded in computing federal or Ohio adjusted gross income 1301
during the taxable year, all of the following: 1302

(i) Compensation paid to a qualifying employee described 1303
in division (A) (14) (a) of section 5703.94 of the Revised Code to 1304
the extent such compensation is for disaster work conducted in 1305
this state during a disaster response period pursuant to a 1306
qualifying solicitation received by the employee's employer; 1307

(ii) Compensation paid to a qualifying employee described 1308
in division (A) (14) (b) of section 5703.94 of the Revised Code to 1309
the extent such compensation is for disaster work conducted in 1310
this state by the employee during the disaster response period 1311
on critical infrastructure owned or used by the employee's 1312
employer; 1313

(iii) Income received by an out-of-state disaster business 1314
for disaster work conducted in this state during a disaster 1315
response period, or, if the out-of-state disaster business is a 1316
pass-through entity, a taxpayer's distributive share of the 1317
pass-through entity's income from the business conducting 1318
disaster work in this state during a disaster response period, 1319
if, in either case, the disaster work is conducted pursuant to a 1320
qualifying solicitation received by the business. 1321

(b) All terms used in division (A) (30) of this section 1322
have the same meanings as in section 5703.94 of the Revised 1323
Code. 1324

(31) For a taxpayer who is a qualifying Ohio educator, 1325
deduct, to the extent not otherwise deducted or excluded in 1326
computing federal or Ohio adjusted gross income for the taxable 1327
year, the lesser of two hundred fifty dollars or the amount of 1328
expenses described in subsections (a) (2) (D) (i) and (ii) of 1329
section 62 of the Internal Revenue Code paid or incurred by the 1330
taxpayer during the taxpayer's taxable year in excess of the 1331
amount the taxpayer is authorized to deduct for that taxable 1332
year under subsection (a) (2) (D) of that section. 1333

(32) Deduct, to the extent not otherwise deducted or 1334
excluded in computing federal or Ohio adjusted gross income for 1335
the taxable year, amounts received by the taxpayer as a 1336
disability severance payment, computed under 10 U.S.C. 1212, 1337

following discharge or release under honorable conditions from 1338
the armed forces of the United States, as defined in section 1339
5907.01 of the Revised Code. 1340

(33) Deduct, to the extent not otherwise deducted or 1341
excluded in computing federal adjusted gross income or Ohio 1342
adjusted gross income, amounts not subject to tax due to an 1343
agreement entered into under division (A) (2) of section 5747.05 1344
of the Revised Code. 1345

(34) Deduct amounts as provided under section 5747.79 of 1346
the Revised Code related to the taxpayer's qualifying capital 1347
gains and deductible payroll. 1348

To the extent a qualifying capital gain described under 1349
division (A) (34) of this section is business income, the 1350
taxpayer shall deduct those gains under this division before 1351
deducting any such gains under division (A) (28) of this section. 1352

(35) (a) For taxable years beginning in or after 2026, 1353
deduct, to the extent not otherwise deducted or excluded in 1354
computing federal or Ohio adjusted gross income for the taxable 1355
year: 1356

(i) One hundred per cent of the capital gain received by 1357
the taxpayer in the taxable year from a qualifying interest in 1358
an Ohio venture capital operating company attributable to the 1359
company's investments in Ohio businesses during the period for 1360
which the company was an Ohio venture operating company; and 1361

(ii) Fifty per cent of the capital gain received by the 1362
taxpayer in the taxable year from a qualifying interest in an 1363
Ohio venture capital operating company attributable to the 1364
company's investments in all other businesses during the period 1365
for which the company was an Ohio venture operating company. 1366

(b) Add amounts previously deducted by the taxpayer under 1367
division (A) (35) (a) of this section if the director of 1368
development certifies to the tax commissioner that the 1369
requirements for the deduction were not met. 1370

(c) All terms used in division (A) (35) of this section 1371
have the same meanings as in section 122.851 of the Revised 1372
Code. 1373

(d) To the extent a capital gain described in division (A) 1374
(35) (a) of this section is business income, the taxpayer shall 1375
apply that division before applying division (A) (28) of this 1376
section. 1377

(36) Add, to the extent not otherwise included in 1378
computing federal or Ohio adjusted gross income for any taxable 1379
year, the taxpayer's proportionate share of the amount of the 1380
tax levied under section 5747.38 of the Revised Code and paid by 1381
an electing pass-through entity for the taxable year. 1382

Notwithstanding any provision of the Revised Code to the 1383
contrary, the portion of the addition required by division (A) 1384
(36) of this section related to the apportioned business income 1385
of the pass-through entity shall be considered business income 1386
under division (B) of this section. Such addition is eligible 1387
for the deduction in division (A) (28) of this section, subject 1388
to the applicable dollar limitations, and the tax rate 1389
prescribed by division (A) (4) (a) of section 5747.02 of the 1390
Revised Code. The taxpayer shall provide, upon request of the 1391
tax commissioner, any documentation necessary to verify the 1392
portion of the addition that is business income under this 1393
division. 1394

(37) Deduct, to the extent not otherwise deducted or 1395

excluded in computing federal or Ohio adjusted gross income for 1396
the taxable year, amounts delivered to a qualifying institution 1397
pursuant to section 3333.128 of the Revised Code for the benefit 1398
of the taxpayer or the taxpayer's spouse or dependent. 1399

(38) Deduct, to the extent not otherwise deducted or 1400
excluded in computing federal or Ohio adjusted gross income for 1401
the taxable year, amounts received under the Ohio adoption grant 1402
program pursuant to section 5101.191 of the Revised Code. 1403

(39) Deduct, to the extent included in federal adjusted 1404
gross income, income attributable to amounts provided to a 1405
taxpayer for any of the purposes for which an exclusion would 1406
have been authorized under section 139 of the Internal Revenue 1407
Code if the train derailment near the city of East Palestine on 1408
February 3, 2023, had been a qualified disaster pursuant to that 1409
section, or to compensate for lost business resulting from that 1410
derailment, if such amounts are provided by any of the 1411
following: 1412

(a) A federal, state, or local government agency; 1413

(b) A railroad company, as that term is defined in section 1414
5727.01 of the Revised Code; 1415

(c) Any subsidiary, insurer, or agent of a railroad 1416
company or any related person. 1417

Notwithstanding any provision to the contrary, the 1418
derailment is not required to meet the definition of a 1419
"qualified disaster" pursuant to section 139 of the Internal 1420
Revenue Code to qualify for the deduction under this section. 1421

(40) Deduct, to the extent included in federal adjusted 1422
gross income, income attributable to loan repayments on behalf 1423
of the taxpayer under the rural practice incentive program under 1424

section 3333.135 of the Revised Code. 1425

(41) Add any income taxes deducted in computing federal or 1426
Ohio adjusted gross income to the extent the income taxes were 1427
derived from income subject to a tax levied in another state or 1428
the District of Columbia when such tax was enacted for purposes 1429
of complying with internal revenue service notice 2020-75. 1430

Notwithstanding any provision of the Revised Code to the 1431
contrary, the portion of the addition required by division (A) 1432
(41) of this section related to the apportioned business income 1433
of the pass-through entity shall be considered business income 1434
under division (B) of this section. Such addition is eligible 1435
for the deduction in division (A) (28) of this section, subject 1436
to the applicable dollar limitations, and the tax rate 1437
prescribed by division (A) (4) (a) of section 5747.02 of the 1438
Revised Code. The taxpayer shall provide, upon request of the 1439
tax commissioner, any documentation necessary to verify the 1440
portion of the addition that is business income under this 1441
division. 1442

(42) Deduct amounts contributed to a homeownership savings 1443
account and calculated pursuant to divisions (B) and (C) of 1444
section 5747.85 of the Revised Code. 1445

(43) If the taxpayer is the account owner, add the amount 1446
of funds withdrawn from a homeownership savings account not used 1447
for eligible expenses, regardless of who deposited those funds. 1448
As used in division (A) (43) of this section, "homeownership 1449
savings account," "account owner," and "eligible expenses" have 1450
the same meanings as in section 5747.85 of the Revised Code. 1451

(B) "Business income" means income, including gain or 1452
loss, arising from transactions, activities, and sources in the 1453

regular course of a trade or business and includes income, gain, 1454
or loss from real property, tangible property, and intangible 1455
property if the acquisition, rental, management, and disposition 1456
of the property constitute integral parts of the regular course 1457
of a trade or business operation. "Business income" includes 1458
income, including gain or loss, from a partial or complete 1459
liquidation of a business, including, but not limited to, gain 1460
or loss from the sale or other disposition of goodwill or the 1461
sale of an equity or ownership interest in a business. 1462

As used in this division, the "sale of an equity or 1463
ownership interest in a business" means sales to which either or 1464
both of the following apply: 1465

(1) The sale is treated for federal income tax purposes as 1466
the sale of assets. 1467

(2) The seller materially participated, as described in 26 1468
C.F.R. 1.469-5T, in the activities of the business during the 1469
taxable year in which the sale occurs or during any of the five 1470
preceding taxable years. 1471

(C) "Nonbusiness income" means all income other than 1472
business income and may include, but is not limited to, 1473
compensation, rents and royalties from real or tangible personal 1474
property, capital gains, interest, dividends and distributions, 1475
patent or copyright royalties, or lottery winnings, prizes, and 1476
awards. 1477

(D) "Compensation" means any form of remuneration paid to 1478
an employee for personal services. 1479

(E) "Fiduciary" means a guardian, trustee, executor, 1480
administrator, receiver, conservator, or any other person acting 1481
in any fiduciary capacity for any individual, trust, or estate. 1482

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	1483 1484
(G) "Individual" means any natural person.	1485
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	1486 1487
(I) "Resident" means any of the following:	1488
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	1489 1490
(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.	1491 1492 1493 1494
(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.	1495 1496 1497
For the purposes of division (I) (3) of this section:	1498
(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:	1499 1500 1501 1502 1503 1504
(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;	1505 1506 1507 1508
(ii) A person who was domiciled in this state for the	1509

purposes of this chapter when the person directly or indirectly 1510
transferred assets to an irrevocable trust, but only if at least 1511
one of the trust's qualifying beneficiaries is domiciled in this 1512
state for the purposes of this chapter during all or some 1513
portion of the trust's current taxable year; 1514

(iii) A person who was domiciled in this state for the 1515
purposes of this chapter when the trust document or instrument 1516
or part of the trust document or instrument became irrevocable, 1517
but only if at least one of the trust's qualifying beneficiaries 1518
is a resident domiciled in this state for the purposes of this 1519
chapter during all or some portion of the trust's current 1520
taxable year. If a trust document or instrument became 1521
irrevocable upon the death of a person who at the time of death 1522
was domiciled in this state for purposes of this chapter, that 1523
person is a person described in division (I) (3) (a) (iii) of this 1524
section. 1525

(b) A trust is irrevocable to the extent that the 1526
transferor is not considered to be the owner of the net assets 1527
of the trust under sections 671 to 678 of the Internal Revenue 1528
Code. 1529

(c) With respect to a trust other than a charitable lead 1530
trust, "qualifying beneficiary" has the same meaning as 1531
"potential current beneficiary" as defined in section 1361(e) (2) 1532
of the Internal Revenue Code, and with respect to a charitable 1533
lead trust "qualifying beneficiary" is any current, future, or 1534
contingent beneficiary, but with respect to any trust 1535
"qualifying beneficiary" excludes a person or a governmental 1536
entity or instrumentality to any of which a contribution would 1537
qualify for the charitable deduction under section 170 of the 1538
Internal Revenue Code. 1539

(d) For the purposes of division (I) (3) (a) of this 1540
section, the extent to which a trust consists directly or 1541
indirectly, in whole or in part, of assets, net of any related 1542
liabilities, that were transferred directly or indirectly, in 1543
whole or part, to the trust by any of the sources enumerated in 1544
that division shall be ascertained by multiplying the fair 1545
market value of the trust's assets, net of related liabilities, 1546
by the qualifying ratio, which shall be computed as follows: 1547

(i) The first time the trust receives assets, the 1548
numerator of the qualifying ratio is the fair market value of 1549
those assets at that time, net of any related liabilities, from 1550
sources enumerated in division (I) (3) (a) of this section. The 1551
denominator of the qualifying ratio is the fair market value of 1552
all the trust's assets at that time, net of any related 1553
liabilities. 1554

(ii) Each subsequent time the trust receives assets, a 1555
revised qualifying ratio shall be computed. The numerator of the 1556
revised qualifying ratio is the sum of (1) the fair market value 1557
of the trust's assets immediately prior to the subsequent 1558
transfer, net of any related liabilities, multiplied by the 1559
qualifying ratio last computed without regard to the subsequent 1560
transfer, and (2) the fair market value of the subsequently 1561
transferred assets at the time transferred, net of any related 1562
liabilities, from sources enumerated in division (I) (3) (a) of 1563
this section. The denominator of the revised qualifying ratio is 1564
the fair market value of all the trust's assets immediately 1565
after the subsequent transfer, net of any related liabilities. 1566

(iii) Whether a transfer to the trust is by or from any of 1567
the sources enumerated in division (I) (3) (a) of this section 1568
shall be ascertained without regard to the domicile of the 1569

trust's beneficiaries. 1570

(e) For the purposes of division (I) (3) (a) (i) of this 1571
section: 1572

(i) A trust is described in division (I) (3) (e) (i) of this 1573
section if the trust is a testamentary trust and the testator of 1574
that testamentary trust was domiciled in this state at the time 1575
of the testator's death for purposes of the taxes levied under 1576
Chapter 5731. of the Revised Code. 1577

(ii) A trust is described in division (I) (3) (e) (ii) of 1578
this section if the transfer is a qualifying transfer described 1579
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1580
trust is an irrevocable inter vivos trust, and at least one of 1581
the trust's qualifying beneficiaries is domiciled in this state 1582
for purposes of this chapter during all or some portion of the 1583
trust's current taxable year. 1584

(f) For the purposes of division (I) (3) (e) (ii) of this 1585
section, a "qualifying transfer" is a transfer of assets, net of 1586
any related liabilities, directly or indirectly to a trust, if 1587
the transfer is described in any of the following: 1588

(i) The transfer is made to a trust, created by the 1589
decedent before the decedent's death and while the decedent was 1590
domiciled in this state for the purposes of this chapter, and, 1591
prior to the death of the decedent, the trust became irrevocable 1592
while the decedent was domiciled in this state for the purposes 1593
of this chapter. 1594

(ii) The transfer is made to a trust to which the 1595
decedent, prior to the decedent's death, had directly or 1596
indirectly transferred assets, net of any related liabilities, 1597
while the decedent was domiciled in this state for the purposes 1598

of this chapter, and prior to the death of the decedent the 1599
trust became irrevocable while the decedent was domiciled in 1600
this state for the purposes of this chapter. 1601

(iii) The transfer is made on account of a contractual 1602
relationship existing directly or indirectly between the 1603
transferor and either the decedent or the estate of the decedent 1604
at any time prior to the date of the decedent's death, and the 1605
decedent was domiciled in this state at the time of death for 1606
purposes of the taxes levied under Chapter 5731. of the Revised 1607
Code. 1608

(iv) The transfer is made to a trust on account of a 1609
contractual relationship existing directly or indirectly between 1610
the transferor and another person who at the time of the 1611
decedent's death was domiciled in this state for purposes of 1612
this chapter. 1613

(v) The transfer is made to a trust on account of the will 1614
of a testator who was domiciled in this state at the time of the 1615
testator's death for purposes of the taxes levied under Chapter 1616
5731. of the Revised Code. 1617

(vi) The transfer is made to a trust created by or caused 1618
to be created by a court, and the trust was directly or 1619
indirectly created in connection with or as a result of the 1620
death of an individual who, for purposes of the taxes levied 1621
under Chapter 5731. of the Revised Code, was domiciled in this 1622
state at the time of the individual's death. 1623

(g) The tax commissioner may adopt rules to ascertain the 1624
part of a trust residing in this state. 1625

(J) "Nonresident" means an individual or estate that is 1626
not a resident. An individual who is a resident for only part of 1627

a taxable year is a nonresident for the remainder of that 1628
taxable year. 1629

(K) "Pass-through entity" has the same meaning as in 1630
section 5733.04 of the Revised Code. 1631

(L) "Return" means the notifications and reports required 1632
to be filed pursuant to this chapter for the purpose of 1633
reporting the tax due and includes declarations of estimated tax 1634
when so required. 1635

(M) "Taxable year" means the calendar year or the 1636
taxpayer's fiscal year ending during the calendar year, or 1637
fractional part thereof, upon which the adjusted gross income is 1638
calculated pursuant to this chapter. 1639

(N) "Taxpayer" means any person subject to the tax imposed 1640
by section 5747.02 of the Revised Code or any pass-through 1641
entity that makes the election under division (D) of section 1642
5747.08 of the Revised Code. 1643

(O) "Dependents" means one of the following: 1644

(1) For taxable years beginning on or after January 1, 1645
2018, and before January 1, 2026, dependents as defined in the 1646
Internal Revenue Code; 1647

(2) For all other taxable years, dependents as defined in 1648
the Internal Revenue Code and as claimed in the taxpayer's 1649
federal income tax return for the taxable year or which the 1650
taxpayer would have been permitted to claim had the taxpayer 1651
filed a federal income tax return. 1652

"Dependents" shall include each child conceived, including 1653
each child conceived by assisted reproduction that has been 1654
placed inside the taxpayer or taxpayer's spouse's uterus or lost 1655

to spontaneous miscarriage, by the taxpayer or the taxpayer's 1656
spouse during the taxable year, so long as: 1657

(a) The child is not also a qualifying child, as that term 1658
is defined in section 152 of the Internal Revenue Code, for the 1659
same taxable year. 1660

(b) The child's life was not terminated in an abortion, 1661
including by selective reduction. 1662

As used in division (O) of this section, "assisted 1663
reproduction" has the same meaning as in section 2907.13 of the 1664
Revised Code and "spontaneous miscarriage" has the same meaning 1665
as in section 2919.19 of the Revised Code. 1666

(P) "Principal county of employment" means, in the case of 1667
a nonresident, the county within the state in which a taxpayer 1668
performs services for an employer or, if those services are 1669
performed in more than one county, the county in which the major 1670
portion of the services are performed. 1671

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1672
Code: 1673

(1) "Subdivision" means any county, municipal corporation, 1674
park district, or township. 1675

(2) "Essential local government purposes" includes all 1676
functions that any subdivision is required by general law to 1677
exercise, including like functions that are exercised under a 1678
charter adopted pursuant to the Ohio Constitution. 1679

(R) "Overpayment" means any amount already paid that 1680
exceeds the figure determined to be the correct amount of the 1681
tax. 1682

(S) "Taxable income" or "Ohio taxable income" applies only 1683

to estates and trusts, and means federal taxable income, as 1684
defined and used in the Internal Revenue Code, adjusted as 1685
follows: 1686

(1) Add interest or dividends, net of ordinary, necessary, 1687
and reasonable expenses not deducted in computing federal 1688
taxable income, on obligations or securities of any state or of 1689
any political subdivision or authority of any state, other than 1690
this state and its subdivisions and authorities, but only to the 1691
extent that such net amount is not otherwise includible in Ohio 1692
taxable income and is described in either division (S) (1) (a) or 1693
(b) of this section: 1694

(a) The net amount is not attributable to the S portion of 1695
an electing small business trust and has not been distributed to 1696
beneficiaries for the taxable year; 1697

(b) The net amount is attributable to the S portion of an 1698
electing small business trust for the taxable year. 1699

(2) Add interest or dividends, net of ordinary, necessary, 1700
and reasonable expenses not deducted in computing federal 1701
taxable income, on obligations of any authority, commission, 1702
instrumentality, territory, or possession of the United States 1703
to the extent that the interest or dividends are exempt from 1704
federal income taxes but not from state income taxes, but only 1705
to the extent that such net amount is not otherwise includible 1706
in Ohio taxable income and is described in either division (S) 1707
(1) (a) or (b) of this section; 1708

(3) Add the amount of personal exemption allowed to the 1709
estate pursuant to section 642(b) of the Internal Revenue Code; 1710

(4) Deduct interest or dividends, net of related expenses 1711
deducted in computing federal taxable income, on obligations of 1712

the United States and its territories and possessions or of any 1713
authority, commission, or instrumentality of the United States 1714
to the extent that the interest or dividends are exempt from 1715
state taxes under the laws of the United States, but only to the 1716
extent that such amount is included in federal taxable income 1717
and is described in either division (S)(1)(a) or (b) of this 1718
section; 1719

(5) Deduct the amount of wages and salaries, if any, not 1720
otherwise allowable as a deduction but that would have been 1721
allowable as a deduction in computing federal taxable income for 1722
the taxable year, had the work opportunity tax credit allowed 1723
under sections 38, 51, and 52 of the Internal Revenue Code not 1724
been in effect, but only to the extent such amount relates 1725
either to income included in federal taxable income for the 1726
taxable year or to income of the S portion of an electing small 1727
business trust for the taxable year; 1728

(6) Deduct any interest or interest equivalent, net of 1729
related expenses deducted in computing federal taxable income, 1730
on public obligations and purchase obligations, but only to the 1731
extent that such net amount relates either to income included in 1732
federal taxable income for the taxable year or to income of the 1733
S portion of an electing small business trust for the taxable 1734
year; 1735

(7) Add any loss or deduct any gain resulting from sale, 1736
exchange, or other disposition of public obligations to the 1737
extent that such loss has been deducted or such gain has been 1738
included in computing either federal taxable income or income of 1739
the S portion of an electing small business trust for the 1740
taxable year; 1741

(8) Except in the case of the final return of an estate, 1742

add any amount deducted by the taxpayer on both its Ohio estate 1743
tax return pursuant to section 5731.14 of the Revised Code, and 1744
on its federal income tax return in determining federal taxable 1745
income; 1746

(9) (a) Deduct any amount included in federal taxable 1747
income solely because the amount represents a reimbursement or 1748
refund of expenses that in a previous year the decedent had 1749
deducted as an itemized deduction pursuant to section 63 of the 1750
Internal Revenue Code and applicable treasury regulations. The 1751
deduction otherwise allowed under division (S) (9) (a) of this 1752
section shall be reduced to the extent the reimbursement is 1753
attributable to an amount the taxpayer or decedent deducted 1754
under this section in any taxable year. 1755

(b) Add any amount not otherwise included in Ohio taxable 1756
income for any taxable year to the extent that the amount is 1757
attributable to the recovery during the taxable year of any 1758
amount deducted or excluded in computing federal or Ohio taxable 1759
income in any taxable year, but only to the extent such amount 1760
has not been distributed to beneficiaries for the taxable year. 1761

(10) Deduct any portion of the deduction described in 1762
section 1341(a) (2) of the Internal Revenue Code, for repaying 1763
previously reported income received under a claim of right, that 1764
meets both of the following requirements: 1765

(a) It is allowable for repayment of an item that was 1766
included in the taxpayer's taxable income or the decedent's 1767
adjusted gross income for a prior taxable year and did not 1768
qualify for a credit under division (A) or (B) of section 1769
5747.05 of the Revised Code for that year. 1770

(b) It does not otherwise reduce the taxpayer's taxable 1771

income or the decedent's adjusted gross income for the current 1772
or any other taxable year. 1773

(11) Add any amount claimed as a credit under section 1774
5747.059 of the Revised Code to the extent that the amount 1775
satisfies either of the following: 1776

(a) The amount was deducted or excluded from the 1777
computation of the taxpayer's federal taxable income as required 1778
to be reported for the taxpayer's taxable year under the 1779
Internal Revenue Code; 1780

(b) The amount resulted in a reduction in the taxpayer's 1781
federal taxable income as required to be reported for any of the 1782
taxpayer's taxable years under the Internal Revenue Code. 1783

(12) Deduct any amount, net of related expenses deducted 1784
in computing federal taxable income, that a trust is required to 1785
report as farm income on its federal income tax return, but only 1786
if the assets of the trust include at least ten acres of land 1787
satisfying the definition of "land devoted exclusively to 1788
agricultural use" under section 5713.30 of the Revised Code, 1789
regardless of whether the land is valued for tax purposes as 1790
such land under sections 5713.30 to 5713.38 of the Revised Code. 1791
If the trust is a pass-through entity investor, section 5747.231 1792
of the Revised Code applies in ascertaining if the trust is 1793
eligible to claim the deduction provided by division (S)(12) of 1794
this section in connection with the pass-through entity's farm 1795
income. 1796

Except for farm income attributable to the S portion of an 1797
electing small business trust, the deduction provided by 1798
division (S)(12) of this section is allowed only to the extent 1799
that the trust has not distributed such farm income. 1800

(13) Add the net amount of income described in section 1801
641(c) of the Internal Revenue Code to the extent that amount is 1802
not included in federal taxable income. 1803

(14) Deduct the amount the taxpayer would be required to 1804
deduct under division (A) (18) of this section if the taxpayer's 1805
Ohio taxable income ~~were~~was computed in the same manner as an 1806
individual's Ohio adjusted gross income is computed under this 1807
section. 1808

(15) Add, to the extent not otherwise included in 1809
computing taxable income or Ohio taxable income for any taxable 1810
year, the taxpayer's proportionate share of the amount of the 1811
tax levied under section 5747.38 of the Revised Code and paid by 1812
an electing pass-through entity for the taxable year. 1813

(16) Add any income taxes deducted in computing federal 1814
taxable income or Ohio taxable income to the extent the income 1815
taxes were derived from income subject to a tax levied in 1816
another state or the District of Columbia when such tax was 1817
enacted for purposes of complying with internal revenue service 1818
notice 2020-75. 1819

(T) "School district income" and "school district income 1820
tax" have the same meanings as in section 5748.01 of the Revised 1821
Code. 1822

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1823
(7) of this section, "public obligations," "purchase 1824
obligations," and "interest or interest equivalent" have the 1825
same meanings as in section 5709.76 of the Revised Code. 1826

(V) "Limited liability company" means any limited 1827
liability company formed under former Chapter 1705. of the 1828
Revised Code as that chapter existed prior to February 11, 2022, 1829

Chapter 1706. of the Revised Code, or the laws of any other	1830
state.	1831
(W) "Pass-through entity investor" means any person who,	1832
during any portion of a taxable year of a pass-through entity,	1833
is a partner, member, shareholder, or equity investor in that	1834
pass-through entity.	1835
(X) "Banking day" has the same meaning as in section	1836
1304.01 of the Revised Code.	1837
(Y) "Month" means a calendar month.	1838
(Z) "Quarter" means the first three months, the second	1839
three months, the third three months, or the last three months	1840
of the taxpayer's taxable year.	1841
(AA) (1) "Modified business income" means the business	1842
income included in a trust's Ohio taxable income after such	1843
taxable income is first reduced by the qualifying trust amount,	1844
if any.	1845
(2) "Qualifying trust amount" of a trust means capital	1846
gains and losses from the sale, exchange, or other disposition	1847
of equity or ownership interests in, or debt obligations of, a	1848
qualifying investee to the extent included in the trust's Ohio	1849
taxable income, but only if the following requirements are	1850
satisfied:	1851
(a) The book value of the qualifying investee's physical	1852
assets in this state and everywhere, as of the last day of the	1853
qualifying investee's fiscal or calendar year ending immediately	1854
prior to the date on which the trust recognizes the gain or	1855
loss, is available to the trust.	1856
(b) The requirements of section 5747.011 of the Revised	1857

Code are satisfied for the trust's taxable year in which the 1858
trust recognizes the gain or loss. 1859

Any gain or loss that is not a qualifying trust amount is 1860
modified business income, qualifying investment income, or 1861
modified nonbusiness income, as the case may be. 1862

(3) "Modified nonbusiness income" means a trust's Ohio 1863
taxable income other than modified business income, other than 1864
the qualifying trust amount, and other than qualifying 1865
investment income, as defined in section 5747.012 of the Revised 1866
Code, to the extent such qualifying investment income is not 1867
otherwise part of modified business income. 1868

(4) "Modified Ohio taxable income" applies only to trusts, 1869
and means the sum of the amounts described in divisions (AA) (4) 1870
(a) to (c) of this section: 1871

(a) The fraction, calculated under section 5747.013, and 1872
applying section 5747.231 of the Revised Code, multiplied by the 1873
sum of the following amounts: 1874

(i) The trust's modified business income; 1875

(ii) The trust's qualifying investment income, as defined 1876
in section 5747.012 of the Revised Code, but only to the extent 1877
the qualifying investment income does not otherwise constitute 1878
modified business income and does not otherwise constitute a 1879
qualifying trust amount. 1880

(b) The qualifying trust amount multiplied by a fraction, 1881
the numerator of which is the sum of the book value of the 1882
qualifying investee's physical assets in this state on the last 1883
day of the qualifying investee's fiscal or calendar year ending 1884
immediately prior to the day on which the trust recognizes the 1885
qualifying trust amount, and the denominator of which is the sum 1886

of the book value of the qualifying investee's total physical 1887
assets everywhere on the last day of the qualifying investee's 1888
fiscal or calendar year ending immediately prior to the day on 1889
which the trust recognizes the qualifying trust amount. If, for 1890
a taxable year, the trust recognizes a qualifying trust amount 1891
with respect to more than one qualifying investee, the amount 1892
described in division (AA) (4) (b) of this section shall equal the 1893
sum of the products so computed for each such qualifying 1894
investee. 1895

(c) (i) With respect to a trust or portion of a trust that 1896
is a resident as ascertained in accordance with division (I) (3) 1897
(d) of this section, its modified nonbusiness income. 1898

(ii) With respect to a trust or portion of a trust that is 1899
not a resident as ascertained in accordance with division (I) (3) 1900
(d) of this section, the amount of its modified nonbusiness 1901
income satisfying the descriptions in divisions (B) (2) to (5) of 1902
section 5747.20 of the Revised Code, except as otherwise 1903
provided in division (AA) (4) (c) (ii) of this section. With 1904
respect to a trust or portion of a trust that is not a resident 1905
as ascertained in accordance with division (I) (3) (d) of this 1906
section, the trust's portion of modified nonbusiness income 1907
recognized from the sale, exchange, or other disposition of a 1908
debt interest in or equity interest in a section 5747.212 1909
entity, as defined in section 5747.212 of the Revised Code, 1910
without regard to division (A) of that section, shall not be 1911
allocated to this state in accordance with section 5747.20 of 1912
the Revised Code but shall be apportioned to this state in 1913
accordance with division (B) of section 5747.212 of the Revised 1914
Code without regard to division (A) of that section. 1915

If the allocation and apportionment of a trust's income 1916

under divisions (AA) (4) (a) and (c) of this section do not fairly 1917
represent the modified Ohio taxable income of the trust in this 1918
state, the alternative methods described in division (C) of 1919
section 5747.21 of the Revised Code may be applied in the manner 1920
and to the same extent provided in that section. 1921

(5) (a) Except as set forth in division (AA) (5) (b) of this 1922
section, "qualifying investee" means a person in which a trust 1923
has an equity or ownership interest, or a person or unit of 1924
government the debt obligations of either of which are owned by 1925
a trust. For the purposes of division (AA) (2) (a) of this section 1926
and for the purpose of computing the fraction described in 1927
division (AA) (4) (b) of this section, all of the following apply: 1928

(i) If the qualifying investee is a member of a qualifying 1929
controlled group on the last day of the qualifying investee's 1930
fiscal or calendar year ending immediately prior to the date on 1931
which the trust recognizes the gain or loss, then "qualifying 1932
investee" includes all persons in the qualifying controlled 1933
group on such last day. 1934

(ii) If the qualifying investee, or if the qualifying 1935
investee and any members of the qualifying controlled group of 1936
which the qualifying investee is a member on the last day of the 1937
qualifying investee's fiscal or calendar year ending immediately 1938
prior to the date on which the trust recognizes the gain or 1939
loss, separately or cumulatively own, directly or indirectly, on 1940
the last day of the qualifying investee's fiscal or calendar 1941
year ending immediately prior to the date on which the trust 1942
recognizes the qualifying trust amount, more than fifty per cent 1943
of the equity of a pass-through entity, then the qualifying 1944
investee and the other members are deemed to own the 1945
proportionate share of the pass-through entity's physical assets 1946

which the pass-through entity directly or indirectly owns on the 1947
last day of the pass-through entity's calendar or fiscal year 1948
ending within or with the last day of the qualifying investee's 1949
fiscal or calendar year ending immediately prior to the date on 1950
which the trust recognizes the qualifying trust amount. 1951

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1952
section, "upper level pass-through entity" means a pass-through 1953
entity directly or indirectly owning any equity of another pass- 1954
through entity, and "lower level pass-through entity" means that 1955
other pass-through entity. 1956

An upper level pass-through entity, whether or not it is 1957
also a qualifying investee, is deemed to own, on the last day of 1958
the upper level pass-through entity's calendar or fiscal year, 1959
the proportionate share of the lower level pass-through entity's 1960
physical assets that the lower level pass-through entity 1961
directly or indirectly owns on the last day of the lower level 1962
pass-through entity's calendar or fiscal year ending within or 1963
with the last day of the upper level pass-through entity's 1964
fiscal or calendar year. If the upper level pass-through entity 1965
directly and indirectly owns less than fifty per cent of the 1966
equity of the lower level pass-through entity on each day of the 1967
upper level pass-through entity's calendar or fiscal year in 1968
which or with which ends the calendar or fiscal year of the 1969
lower level pass-through entity and if, based upon clear and 1970
convincing evidence, complete information about the location and 1971
cost of the physical assets of the lower pass-through entity is 1972
not available to the upper level pass-through entity, then 1973
solely for purposes of ascertaining if a gain or loss 1974
constitutes a qualifying trust amount, the upper level pass- 1975
through entity shall be deemed as owning no equity of the lower 1976
level pass-through entity for each day during the upper level 1977

pass-through entity's calendar or fiscal year in which or with 1978
which ends the lower level pass-through entity's calendar or 1979
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1980
shall be construed to provide for any deduction or exclusion in 1981
computing any trust's Ohio taxable income. 1982

(b) With respect to a trust that is not a resident for the 1983
taxable year and with respect to a part of a trust that is not a 1984
resident for the taxable year, "qualifying investee" for that 1985
taxable year does not include a C corporation if both of the 1986
following apply: 1987

(i) During the taxable year the trust or part of the trust 1988
recognizes a gain or loss from the sale, exchange, or other 1989
disposition of equity or ownership interests in, or debt 1990
obligations of, the C corporation. 1991

(ii) Such gain or loss constitutes nonbusiness income. 1992

(6) "Available" means information is such that a person is 1993
able to learn of the information by the due date plus 1994
extensions, if any, for filing the return for the taxable year 1995
in which the trust recognizes the gain or loss. 1996

(BB) "Qualifying controlled group" has the same meaning as 1997
in section 5733.04 of the Revised Code. 1998

(CC) "Related member" has the same meaning as in section 1999
5733.042 of the Revised Code. 2000

(DD) (1) For the purposes of division (DD) of this section: 2001

(a) "Qualifying person" means any person other than a 2002
qualifying corporation. 2003

(b) "Qualifying corporation" means any person classified 2004
for federal income tax purposes as an association taxable as a 2005

corporation, except either of the following: 2006

(i) A corporation that has made an election under 2007
subchapter S, chapter one, subtitle A, of the Internal Revenue 2008
Code for its taxable year ending within, or on the last day of, 2009
the investor's taxable year; 2010

(ii) A subsidiary that is wholly owned by any corporation 2011
that has made an election under subchapter S, chapter one, 2012
subtitle A of the Internal Revenue Code for its taxable year 2013
ending within, or on the last day of, the investor's taxable 2014
year. 2015

(2) For the purposes of this chapter, unless expressly 2016
stated otherwise, no qualifying person indirectly owns any asset 2017
directly or indirectly owned by any qualifying corporation. 2018

(EE) For purposes of this chapter and Chapter 5751. of the 2019
Revised Code: 2020

(1) "Trust" does not include a qualified pre-income tax 2021
trust. 2022

(2) A "qualified pre-income tax trust" is any pre-income 2023
tax trust that makes a qualifying pre-income tax trust election 2024
as described in division (EE)(3) of this section. 2025

(3) A "qualifying pre-income tax trust election" is an 2026
election by a pre-income tax trust to subject to the tax imposed 2027
by section 5751.02 of the Revised Code the pre-income tax trust 2028
and all pass-through entities of which the trust owns or 2029
controls, directly, indirectly, or constructively through 2030
related interests, five per cent or more of the ownership or 2031
equity interests. The trustee shall notify the tax commissioner 2032
in writing of the election on or before April 15, 2006. The 2033
election, if timely made, shall be effective on and after 2034

January 1, 2006, and shall apply for all tax periods and tax 2035
years until revoked by the trustee of the trust. 2036

(4) A "pre-income tax trust" is a trust that satisfies all 2037
of the following requirements: 2038

(a) The document or instrument creating the trust was 2039
executed by the grantor before January 1, 1972; 2040

(b) The trust became irrevocable upon the creation of the 2041
trust; and 2042

(c) The grantor was domiciled in this state at the time 2043
the trust was created. 2044

(FF) "Uniformed services" means all of the following: 2045

(1) "Armed forces of the United States" as defined in 2046
section 5907.01 of the Revised Code; 2047

(2) The commissioned corps of the national oceanic and 2048
atmospheric administration; 2049

(3) The commissioned corps of the public health service. 2050

(GG) "Taxable business income" means the amount by which 2051
an individual's business income that is included in federal 2052
adjusted gross income exceeds the amount of business income the 2053
individual is authorized to deduct under division (A) (28) of 2054
this section for the taxable year. 2055

(HH) "Employer" does not include a franchisor with respect 2056
to the franchisor's relationship with a franchisee or an 2057
employee of a franchisee, unless the franchisor agrees to assume 2058
that role in writing or a court of competent jurisdiction 2059
determines that the franchisor exercises a type or degree of 2060
control over the franchisee or the franchisee's employees that 2061

is not customarily exercised by a franchisor for the purpose of 2062
protecting the franchisor's trademark, brand, or both. For 2063
purposes of this division, "franchisor" and "franchisee" have 2064
the same meanings as in 16 C.F.R. 436.1. 2065

(II) "Modified adjusted gross income" means Ohio adjusted 2066
gross income plus any amount deducted under divisions (A) (28) 2067
and (34) of this section for the taxable year. 2068

(JJ) "Qualifying Ohio educator" means an individual who, 2069
for a taxable year, qualifies as an eligible educator, as that 2070
term is defined in section 62 of the Internal Revenue Code, and 2071
who holds a certificate, license, or permit described in Chapter 2072
3319. or section 3301.071 of the Revised Code. 2073

Sec. 5747.025. (A) The personal exemption for the 2074
taxpayer, the taxpayer's spouse, and each dependent shall be one 2075
of the following amounts: 2076

(1) Two thousand three hundred fifty dollars if the 2077
taxpayer's modified adjusted gross income for the taxable year 2078
as shown on an individual or joint annual return is less than or 2079
equal to forty thousand dollars; 2080

(2) Two thousand one hundred dollars if the taxpayer's 2081
modified adjusted gross income for the taxable year as shown on 2082
an individual or joint annual return is greater than forty 2083
thousand dollars but less than or equal to eighty thousand 2084
dollars; 2085

(3) One thousand eight hundred fifty dollars if the 2086
taxpayer's modified adjusted gross income for the taxable year 2087
as shown on an individual or joint annual return is greater than 2088
eighty thousand dollars. 2089

(B) For taxable years beginning in 2020 and thereafter, 2090

the personal exemption amounts prescribed in division (A) of 2091
this section shall be adjusted each year in the manner 2092
prescribed in division (C) of this section. In the case of an 2093
individual with respect to whom an exemption under section 2094
5747.02 of the Revised Code is allowable to another taxpayer for 2095
a taxable year beginning in the calendar year in which the 2096
individual's taxable year begins, the exemption amount 2097
applicable to such individual for such individual's taxable year 2098
shall be zero. 2099

(C) Except as otherwise provided in this division, in 2100
August of each year, the tax commissioner shall determine the 2101
percentage increase in the gross domestic product deflator 2102
determined by the bureau of economic analysis of the United 2103
States department of commerce from the first day of January of 2104
the preceding calendar year to the last day of December of the 2105
preceding year, and make a new adjustment to the personal 2106
exemption amount for taxable years beginning in the current 2107
calendar year by multiplying that amount by the percentage 2108
increase in the gross domestic product deflator for that period; 2109
adding the resulting product to the personal exemption amount 2110
for taxable years beginning in the preceding calendar year; and 2111
rounding the resulting sum upward to the nearest multiple of 2112
fifty dollars. The adjusted amount applies to taxable years 2113
beginning in the calendar year in which the adjustment is made 2114
and to taxable years beginning in each ensuing calendar year 2115
until a calendar year in which a new adjustment is made pursuant 2116
to this division. The commissioner shall not make a new 2117
adjustment in any calendar year in which the amount resulting 2118
from the adjustment would be less than the amount resulting from 2119
the adjustment in the preceding calendar year. 2120

(D) If the taxpayer and the taxpayer's spouse file 2121

separate returns, the exemption authorized under division (A) of 2122
this section for a conceived child may only be claimed by the 2123
expecting mother. 2124

Section 2. That existing sections 5739.02, 5747.01, and 2125
5747.025 of the Revised Code are hereby repealed. 2126

Section 3. (A) The amendment by this act of sections 2127
5747.01 and 5747.025 of the Revised Code applies to taxable 2128
years ending on or after January 1, 2026. 2129

(B) The amendment by this act of section 5739.02 of the 2130
Revised Code applies on and after January 1, 2026. 2131

Section 4. This act shall be known as the Strategic Tax 2132
Opportunities for Raising Kids (STORK) Act. 2133

Section 5. Section 5747.01 of the Revised Code is 2134
presented in this act as a composite of the section as amended 2135
by both H.B. 101 and S.B. 154 of the 135th General Assembly. The 2136
General Assembly, applying the principle stated in division (B) 2137
of section 1.52 of the Revised Code that amendments are to be 2138
harmonized if reasonably capable of simultaneous operation, 2139
finds that the composite is the resulting version of the section 2140
in effect prior to the effective date of the section as 2141
presented in this act. 2142