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Sub. S. B. No. 9

Senator Blessing

Cosponsors: Senators Roegner, Schaffer, Antonio, Cirino, Craig, Cutrona, DeMora, Hicks-Hudson, Ingram, Lang, Patton, Reineke, Smith, Timken, Weinstein, Wilson

Representatives Thomas, D., Abrams, Callender, Claggett, Click, Craig, Daniels, Deeter, Dovilla, Fowler Arthur, Gross, Hall, T., Hiner, John, Klopfenstein, Mathews, A., Mathews, T., Miller, K., Peterson, Richardson, Schmidt, Stewart, Thomas, J., Williams, Willis, Workman, Young

To amend sections 5701.11 and 5747.01 of the 1
Revised Code to expressly incorporate changes in 2
the Internal Revenue Code since March 7, 2025, 3
into Ohio law. 4

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

Section 1. That sections 5701.11 and 5747.01 of the 5
Revised Code be amended to read as follows: 6

Sec. 5701.11. The effective date to which this section 7
refers is the effective date of this section as amended by ~~H.B.—~~ 8
~~14~~S.B. 9 of the 136th general assembly. 9

(A) (1) Except as provided under division (A) (2) or (B) of 10
this section, any reference in Title LVII or section 149.311, 11
3123.90, 3770.07, 3770.071, 3770.072, 3770.073, 3772.37, or 12
3775.16 of the Revised Code to the Internal Revenue Code, to the 13
Internal Revenue Code "as amended," to other laws of the United 14
States, or to other laws of the United States, "as amended," 15

means the Internal Revenue Code or other laws of the United States as they exist on the effective date.

(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.

(B) (1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer's taxable year ending after March ~~15, 2023~~7, 2025, and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that taxable year.

(2) Elections under prior versions of division (B) (1) of this section remain in effect for the taxable years to which they apply.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the

same meaning as when used in a comparable context in the laws of 46
the United States relating to federal income taxes or if not 47
used in a comparable context in those laws, has the same meaning 48
as in section 5733.40 of the Revised Code. Any reference in this 49
chapter to the Internal Revenue Code includes other laws of the 50
United States relating to federal income taxes. 51

As used in this chapter: 52

(A) "Adjusted gross income" or "Ohio adjusted gross 53
income" means federal adjusted gross income, as defined and used 54
in the Internal Revenue Code, adjusted as provided in this 55
section: 56

(1) Add interest or dividends on obligations or securities 57
of any state or of any political subdivision or authority of any 58
state, other than this state and its subdivisions and 59
authorities. 60

(2) Add interest or dividends on obligations of any 61
authority, commission, instrumentality, territory, or possession 62
of the United States to the extent that the interest or 63
dividends are exempt from federal income taxes but not from 64
state income taxes. 65

(3) Deduct interest or dividends on obligations of the 66
United States and its territories and possessions or of any 67
authority, commission, or instrumentality of the United States 68
to the extent that the interest or dividends are included in 69
federal adjusted gross income but exempt from state income taxes 70
under the laws of the United States. 71

(4) Deduct disability and survivor's benefits to the 72
extent included in federal adjusted gross income. 73

(5) Deduct the following, to the extent not otherwise 74

deducted or excluded in computing federal or Ohio adjusted gross	75
income:	76
(a) Benefits under Title II of the Social Security Act and	77
tier 1 railroad retirement;	78
(b) Railroad retirement benefits, other than tier 1	79
railroad retirement benefits, to the extent such amounts are	80
exempt from state taxation under federal law.	81
(6) Deduct the amount of wages and salaries, if any, not	82
otherwise allowable as a deduction but that would have been	83
allowable as a deduction in computing federal adjusted gross	84
income for the taxable year, had the work opportunity tax credit	85
allowed and determined under sections 38, 51, and 52 of the	86
Internal Revenue Code not been in effect.	87
(7) Deduct any interest or interest equivalent on public	88
obligations and purchase obligations to the extent that the	89
interest or interest equivalent is included in federal adjusted	90
gross income.	91
(8) Add any loss or deduct any gain resulting from the	92
sale, exchange, or other disposition of public obligations to	93
the extent that the loss has been deducted or the gain has been	94
included in computing federal adjusted gross income.	95
(9) Deduct or add amounts, as provided under section	96
5747.70 of the Revised Code, related to contributions made to or	97
tuition units purchased under a qualified tuition program	98
established pursuant to section 529 of the Internal Revenue	99
Code.	100
(10) (a) Deduct, to the extent not otherwise allowable as a	101
deduction or exclusion in computing federal or Ohio adjusted	102
gross income for the taxable year, the amount the taxpayer paid	103

during the taxable year for medical care insurance and qualified 104
long-term care insurance for the taxpayer, the taxpayer's 105
spouse, and dependents. No deduction for medical care insurance 106
under division (A) (10) (a) of this section shall be allowed 107
either to any taxpayer who is eligible to participate in any 108
subsidized health plan maintained by any employer of the 109
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 110
entitled to, or on application would be entitled to, benefits 111
under part A of Title XVIII of the "Social Security Act," 49 112
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 113
division (A) (10) (a) of this section, "subsidized health plan" 114
means a health plan for which the employer pays any portion of 115
the plan's cost. The deduction allowed under division (A) (10) (a) 116
of this section shall be the net of any related premium refunds, 117
related premium reimbursements, or related insurance premium 118
dividends received during the taxable year. 119

(b) Deduct, to the extent not otherwise deducted or 120
excluded in computing federal or Ohio adjusted gross income 121
during the taxable year, the amount the taxpayer paid during the 122
taxable year, not compensated for by any insurance or otherwise, 123
for medical care of the taxpayer, the taxpayer's spouse, and 124
dependents, to the extent the expenses exceed seven and one-half 125
per cent of the taxpayer's federal adjusted gross income. 126

(c) For purposes of division (A) (10) of this section, 127
"medical care" has the meaning given in section 213 of the 128
Internal Revenue Code, subject to the special rules, 129
limitations, and exclusions set forth therein, and "qualified 130
long-term care" has the same meaning given in section 7702B(c) 131
of the Internal Revenue Code. Solely for purposes of division 132
(A) (10) (a) of this section, "dependent" includes a person who 133
otherwise would be a "qualifying relative" and thus a 134

"dependent" under section 152 of the Internal Revenue Code but 135
for the fact that the person fails to meet the income and 136
support limitations under section 152(d)(1)(B) and (C) of the 137
Internal Revenue Code. 138

(11)(a) Deduct any amount included in federal adjusted 139
gross income solely because the amount represents a 140
reimbursement or refund of expenses that in any year the 141
taxpayer had deducted as an itemized deduction pursuant to 142
section 63 of the Internal Revenue Code and applicable United 143
States department of the treasury regulations. The deduction 144
otherwise allowed under division (A)(11)(a) of this section 145
shall be reduced to the extent the reimbursement is attributable 146
to an amount the taxpayer deducted under this section in any 147
taxable year. 148

(b) Add any amount not otherwise included in Ohio adjusted 149
gross income for any taxable year to the extent that the amount 150
is attributable to the recovery during the taxable year of any 151
amount deducted or excluded in computing federal or Ohio 152
adjusted gross income in any taxable year. 153

(12) Deduct any portion of the deduction described in 154
section 1341(a)(2) of the Internal Revenue Code, for repaying 155
previously reported income received under a claim of right, that 156
meets both of the following requirements: 157

(a) It is allowable for repayment of an item that was 158
included in the taxpayer's adjusted gross income for a prior 159
taxable year and did not qualify for a credit under division (A) 160
or (B) of section 5747.05 of the Revised Code for that year; 161

(b) It does not otherwise reduce the taxpayer's adjusted 162
gross income for the current or any other taxable year. 163

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

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

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

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

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

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

(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections

329.11 to 329.14 of the Revised Code for the purpose of matching 193
funds deposited by program participants. On request of the tax 194
commissioner, the taxpayer shall provide any information that, 195
in the tax commissioner's opinion, is necessary to establish the 196
amount deducted under division (A)(16) of this section. 197

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 198
(v) of this section, add five-sixths of the amount of 199
depreciation expense allowed by subsection (k) of section 168 of 200
the Internal Revenue Code, including the taxpayer's 201
proportionate or distributive share of the amount of 202
depreciation expense allowed by that subsection to a pass- 203
through entity in which the taxpayer has a direct or indirect 204
ownership interest. 205

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 206
of this section, add five-sixths of the amount of qualifying 207
section 179 depreciation expense, including the taxpayer's 208
proportionate or distributive share of the amount of qualifying 209
section 179 depreciation expense allowed to any pass-through 210
entity in which the taxpayer has a direct or indirect ownership 211
interest. 212

(iii) Subject to division (A) (17) (a) (v) of this section, 213
for taxable years beginning in 2012 or thereafter, if the 214
increase in income taxes withheld by the taxpayer is equal to or 215
greater than ten per cent of income taxes withheld by the 216
taxpayer during the taxpayer's immediately preceding taxable 217
year, "two-thirds" shall be substituted for "five-sixths" for 218
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 219

(iv) Subject to division (A) (17) (a) (v) of this section, 220
for taxable years beginning in 2012 or thereafter, a taxpayer is 221
not required to add an amount under division (A) (17) of this 222

section if the increase in income taxes withheld by the taxpayer 223
and by any pass-through entity in which the taxpayer has a 224
direct or indirect ownership interest is equal to or greater 225
than the sum of (I) the amount of qualifying section 179 226
depreciation expense and (II) the amount of depreciation expense 227
allowed to the taxpayer by subsection (k) of section 168 of the 228
Internal Revenue Code, and including the taxpayer's 229
proportionate or distributive shares of such amounts allowed to 230
any such pass-through entities. 231

(v) If a taxpayer directly or indirectly incurs a net 232
operating loss for the taxable year for federal income tax 233
purposes, to the extent such loss resulted from depreciation 234
expense allowed by subsection (k) of section 168 of the Internal 235
Revenue Code and by qualifying section 179 depreciation expense, 236
"the entire" shall be substituted for "five-sixths of the" for 237
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 238

The tax commissioner, under procedures established by the 239
commissioner, may waive the add-backs related to a pass-through 240
entity if the taxpayer owns, directly or indirectly, less than 241
five per cent of the pass-through entity. 242

(b) Nothing in division (A) (17) of this section shall be 243
construed to adjust or modify the adjusted basis of any asset. 244

(c) To the extent the add-back required under division (A) 245
(17) (a) of this section is attributable to property generating 246
nonbusiness income or loss allocated under section 5747.20 of 247
the Revised Code, the add-back shall be situated to the same 248
location as the nonbusiness income or loss generated by the 249
property for the purpose of determining the credit under 250
division (A) of section 5747.05 of the Revised Code. Otherwise, 251
the add-back shall be apportioned, subject to one or more of the 252

four alternative methods of apportionment enumerated in section	253
5747.21 of the Revised Code.	254
(d) For the purposes of division (A) (17) (a) (v) of this	255
section, net operating loss carryback and carryforward shall not	256
include the allowance of any net operating loss deduction	257
carryback or carryforward to the taxable year to the extent such	258
loss resulted from depreciation allowed by section 168(k) of the	259
Internal Revenue Code and by the qualifying section 179	260
depreciation expense amount.	261
(e) For the purposes of divisions (A) (17) and (18) of this	262
section:	263
(i) "Income taxes withheld" means the total amount	264
withheld and remitted under sections 5747.06 and 5747.07 of the	265
Revised Code by an employer during the employer's taxable year.	266
(ii) "Increase in income taxes withheld" means the amount	267
by which the amount of income taxes withheld by an employer	268
during the employer's current taxable year exceeds the amount of	269
income taxes withheld by that employer during the employer's	270
immediately preceding taxable year.	271
(iii) "Qualifying section 179 depreciation expense" means	272
the difference between (I) the amount of depreciation expense	273
directly or indirectly allowed to a taxpayer under section 179	274
of the Internal Revised Code, and (II) the amount of	275
depreciation expense directly or indirectly allowed to the	276
taxpayer under section 179 of the Internal Revenue Code as that	277
section existed on December 31, 2002.	278
(18) (a) If the taxpayer was required to add an amount	279
under division (A) (17) (a) of this section for a taxable year,	280
deduct one of the following:	281

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

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

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

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

(c) No deduction is available under division (A) (18) (a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A) (18) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue

until the entire addition required by division (A) (17) (a) of 312
this section has been deducted. 313

(19) Deduct, to the extent not otherwise deducted or 314
excluded in computing federal or Ohio adjusted gross income for 315
the taxable year, the amount the taxpayer received during the 316
taxable year as reimbursement for life insurance premiums under 317
section 5919.31 of the Revised Code. 318

(20) Deduct, to the extent not otherwise deducted or 319
excluded in computing federal or Ohio adjusted gross income for 320
the taxable year, the amount the taxpayer received during the 321
taxable year as a death benefit paid by the adjutant general 322
under section 5919.33 of the Revised Code. 323

(21) Deduct, to the extent included in federal adjusted 324
gross income and not otherwise allowable as a deduction or 325
exclusion in computing federal or Ohio adjusted gross income for 326
the taxable year, military pay and allowances received by the 327
taxpayer during the taxable year for active duty service in the 328
armed forces of the United States, as defined in section 5907.01 329
of the Revised Code, or reserve components thereof or the 330
national guard. The deduction may not be claimed for military 331
pay and allowances received by the taxpayer while the taxpayer 332
is stationed in this state. 333

(22) Deduct, to the extent not otherwise allowable as a 334
deduction or exclusion in computing federal or Ohio adjusted 335
gross income for the taxable year and not otherwise compensated 336
for by any other source, the amount of qualified organ donation 337
expenses incurred by the taxpayer during the taxable year, not 338
to exceed ten thousand dollars. A taxpayer may deduct qualified 339
organ donation expenses only once for all taxable years 340
beginning with taxable years beginning in 2007. 341

For the purposes of division (A) (22) of this section: 342

(a) "Human organ" means all or any portion of a human 343
liver, pancreas, kidney, intestine, or lung, and any portion of 344
human bone marrow. 345

(b) "Qualified organ donation expenses" means travel 346
expenses, lodging expenses, and wages and salary forgone by a 347
taxpayer in connection with the taxpayer's donation, while 348
living, of one or more of the taxpayer's human organs to another 349
human being. 350

(23) Deduct, to the extent not otherwise deducted or 351
excluded in computing federal or Ohio adjusted gross income for 352
the taxable year, amounts received by the taxpayer as retired 353
personnel pay for service in the uniformed services or reserve 354
components thereof, or the national guard, or received by the 355
surviving spouse or former spouse of such a taxpayer under the 356
survivor benefit plan on account of such a taxpayer's death. If 357
the taxpayer receives income on account of retirement paid under 358
the federal civil service retirement system or federal employees 359
retirement system, or under any successor retirement program 360
enacted by the congress of the United States that is established 361
and maintained for retired employees of the United States 362
government, and such retirement income is based, in whole or in 363
part, on credit for the taxpayer's uniformed service, the 364
deduction allowed under this division shall include only that 365
portion of such retirement income that is attributable to the 366
taxpayer's uniformed service, to the extent that portion of such 367
retirement income is otherwise included in federal adjusted 368
gross income and is not otherwise deducted under this section. 369
Any amount deducted under division (A) (23) of this section is 370
not included in a taxpayer's adjusted gross income for the 371

purposes of section 5747.055 of the Revised Code. No amount may 372
be deducted under division (A) (23) of this section on the basis 373
of which a credit was claimed under section 5747.055 of the 374
Revised Code. 375

(24) Deduct, to the extent not otherwise deducted or 376
excluded in computing federal or Ohio adjusted gross income for 377
the taxable year, the amount the taxpayer received during the 378
taxable year from the military injury relief fund created in 379
section 5902.05 of the Revised Code. 380

(25) Deduct, to the extent not otherwise deducted or 381
excluded in computing federal or Ohio adjusted gross income for 382
the taxable year, the amount the taxpayer received as a veterans 383
bonus during the taxable year from the Ohio department of 384
veterans services as authorized by Section 2r of Article VIII, 385
Ohio Constitution. 386

(26) Deduct, to the extent not otherwise deducted or 387
excluded in computing federal or Ohio adjusted gross income for 388
the taxable year, any income derived from a transfer agreement 389
or from the enterprise transferred under that agreement under 390
section 4313.02 of the Revised Code. 391

(27) Deduct, to the extent not otherwise deducted or 392
excluded in computing federal or Ohio adjusted gross income for 393
the taxable year, Ohio college opportunity or federal Pell grant 394
amounts received by the taxpayer or the taxpayer's spouse or 395
dependent pursuant to section 3333.122 of the Revised Code or 20 396
U.S.C. 1070a, et seq., and used to pay room or board furnished 397
by the educational institution for which the grant was awarded 398
at the institution's facilities, including meal plans 399
administered by the institution. For the purposes of this 400
division, receipt of a grant includes the distribution of a 401

grant directly to an educational institution and the crediting 402
of the grant to the enrollee's account with the institution. 403

(28) Deduct from the portion of an individual's federal 404
adjusted gross income that is business income, to the extent not 405
otherwise deducted or excluded in computing federal adjusted 406
gross income for the taxable year, one hundred twenty-five 407
thousand dollars for each spouse if spouses file separate 408
returns under section 5747.08 of the Revised Code or two hundred 409
fifty thousand dollars for all other individuals. 410

(29) Deduct, as provided under section 5747.78 of the 411
Revised Code, contributions to ABLE savings accounts made in 412
accordance with sections 113.50 to 113.56 of the Revised Code. 413

(30) (a) Deduct, to the extent not otherwise deducted or 414
excluded in computing federal or Ohio adjusted gross income 415
during the taxable year, all of the following: 416

(i) Compensation paid to a qualifying employee described 417
in division (A) (14) (a) of section 5703.94 of the Revised Code to 418
the extent such compensation is for disaster work conducted in 419
this state during a disaster response period pursuant to a 420
qualifying solicitation received by the employee's employer; 421

(ii) Compensation paid to a qualifying employee described 422
in division (A) (14) (b) of section 5703.94 of the Revised Code to 423
the extent such compensation is for disaster work conducted in 424
this state by the employee during the disaster response period 425
on critical infrastructure owned or used by the employee's 426
employer; 427

(iii) Income received by an out-of-state disaster business 428
for disaster work conducted in this state during a disaster 429
response period, or, if the out-of-state disaster business is a 430

pass-through entity, a taxpayer's distributive share of the 431
pass-through entity's income from the business conducting 432
disaster work in this state during a disaster response period, 433
if, in either case, the disaster work is conducted pursuant to a 434
qualifying solicitation received by the business. 435

(b) All terms used in division (A) (30) of this section 436
have the same meanings as in section 5703.94 of the Revised 437
Code. 438

(31) For a taxpayer who is a qualifying Ohio educator, 439
deduct, to the extent not otherwise deducted or excluded in 440
computing federal or Ohio adjusted gross income for the taxable 441
year, the lesser of three hundred dollars or the amount of 442
expenses described in subsections (a) (2) (D) (i) and (ii) of 443
section 62 of the Internal Revenue Code paid or incurred by the 444
taxpayer during the taxpayer's taxable year in excess of the 445
amount the taxpayer is authorized to deduct for that taxable 446
year under subsection (a) (2) (D) of that section. 447

(32) Deduct, to the extent not otherwise deducted or 448
excluded in computing federal or Ohio adjusted gross income for 449
the taxable year, amounts received by the taxpayer as a 450
disability severance payment, computed under 10 U.S.C. 1212, 451
following discharge or release under honorable conditions from 452
the armed forces of the United States, as defined in section 453
5907.01 of the Revised Code. 454

(33) Deduct, to the extent not otherwise deducted or 455
excluded in computing federal adjusted gross income or Ohio 456
adjusted gross income, amounts not subject to tax due to an 457
agreement entered into under division (A) (2) of section 5747.05 458
of the Revised Code. 459

(34) Deduct amounts as provided under section 5747.79 of 460
the Revised Code related to the taxpayer's qualifying capital 461
gains and deductible payroll. 462

To the extent a qualifying capital gain described under 463
division (A) (34) of this section is business income, the 464
taxpayer shall deduct those gains under this division before 465
deducting any such gains under division (A) (28) of this section. 466

(35) (a) For taxable years beginning in or after 2026, 467
deduct, to the extent not otherwise deducted or excluded in 468
computing federal or Ohio adjusted gross income for the taxable 469
year: 470

(i) One hundred per cent of the capital gain received by 471
the taxpayer in the taxable year from a qualifying interest in 472
an Ohio venture capital operating company attributable to the 473
company's investments in Ohio businesses during the period for 474
which the company was an Ohio venture operating company; and 475

(ii) Fifty per cent of the capital gain received by the 476
taxpayer in the taxable year from a qualifying interest in an 477
Ohio venture capital operating company attributable to the 478
company's investments in all other businesses during the period 479
for which the company was an Ohio venture operating company. 480

(b) Add amounts previously deducted by the taxpayer under 481
division (A) (35) (a) of this section if the director of 482
development certifies to the tax commissioner that the 483
requirements for the deduction were not met. 484

(c) All terms used in division (A) (35) of this section 485
have the same meanings as in section 122.851 of the Revised 486
Code. 487

(d) To the extent a capital gain described in division (A) 488

(35) (a) of this section is business income, the taxpayer shall 489
apply that division before applying division (A) (28) of this 490
section. 491

(36) Add, to the extent not otherwise included in 492
computing federal or Ohio adjusted gross income for any taxable 493
year, the taxpayer's proportionate share of the amount of the 494
tax levied under section 5747.38 of the Revised Code and paid by 495
an electing pass-through entity for the taxable year. 496

Notwithstanding any provision of the Revised Code to the 497
contrary, the portion of the addition required by division (A) 498
(36) of this section related to the apportioned business income 499
of the pass-through entity shall be considered business income 500
under division (B) of this section. Such addition is eligible 501
for the deduction in division (A) (28) of this section, subject 502
to the applicable dollar limitations, and the tax rate 503
prescribed by division (A) (4) (a) of section 5747.02 of the 504
Revised Code. The taxpayer shall provide, upon request of the 505
tax commissioner, any documentation necessary to verify the 506
portion of the addition that is business income under this 507
division. 508

(37) Deduct, to the extent not otherwise deducted or 509
excluded in computing federal or Ohio adjusted gross income for 510
the taxable year, amounts delivered to a qualifying institution 511
pursuant to section 3333.128 of the Revised Code for the benefit 512
of the taxpayer or the taxpayer's spouse or dependent. 513

(38) Deduct, to the extent not otherwise deducted or 514
excluded in computing federal or Ohio adjusted gross income for 515
the taxable year, amounts received under the Ohio adoption grant 516
program pursuant to section 5180.451 of the Revised Code. 517

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

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

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

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

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

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

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

Notwithstanding any provision of the Revised Code to the contrary, the portion of the addition required by division (A)

(41) of this section related to the apportioned business income 547
of the pass-through entity shall be considered business income 548
under division (B) of this section. Such addition is eligible 549
for the deduction in division (A) (28) of this section, subject 550
to the applicable dollar limitations, and the tax rate 551
prescribed by division (A) (4) (a) of section 5747.02 of the 552
Revised Code. The taxpayer shall provide, upon request of the 553
tax commissioner, any documentation necessary to verify the 554
portion of the addition that is business income under this 555
division. 556

(42) Deduct amounts contributed to a homeownership savings 557
account and calculated pursuant to divisions (B) and (C) of 558
section 5747.85 of the Revised Code. 559

(43) If the taxpayer is the account owner of a 560
homeownership savings account, upon withdrawal or transfer of 561
funds from the account, or closure of the account containing 562
funds that are not used for eligible expenses, add the amount of 563
such funds not used for an eligible expense. The addition 564
required under this division shall not exceed the sum of the 565
amounts deducted by the taxpayer for such account under division 566
(A) (42) of this section in any taxable year and the amount of 567
any funds deposited in the account by a contributor other than 568
the account owner. As used in division (A) (43) of this section, 569
"homeownership savings account," "contributor," "account owner," 570
and "eligible expenses" have the same meanings as in section 571
5747.85 of the Revised Code. 572

(44) Deduct, to the extent not otherwise deducted or 573
excluded in computing federal or Ohio adjusted gross income 574
during the taxable year, up to seven hundred fifty dollars of 575
contributions the taxpayer makes to a pregnancy resource center 576

that meets the criteria in division (B) of section 5180.71 of 577
the Revised Code. 578

(B) "Business income" means income, including gain or 579
loss, arising from transactions, activities, and sources in the 580
regular course of a trade or business and includes income, gain, 581
or loss from real property, tangible property, and intangible 582
property if the acquisition, rental, management, and disposition 583
of the property constitute integral parts of the regular course 584
of a trade or business operation. "Business income" includes 585
income, including gain or loss, from a partial or complete 586
liquidation of a business, including, but not limited to, gain 587
or loss from the sale or other disposition of goodwill or the 588
sale of an equity or ownership interest in a business. 589

As used in this division, the "sale of an equity or 590
ownership interest in a business" means sales to which either or 591
both of the following apply: 592

(1) The sale is treated for federal income tax purposes as 593
the sale of assets. 594

(2) The seller materially participated, as described in 26 595
C.F.R. 1.469-5T, in the activities of the business during the 596
taxable year in which the sale occurs or during any of the five 597
preceding taxable years. 598

(C) "Nonbusiness income" means all income other than 599
business income and may include, but is not limited to, 600
compensation, rents and royalties from real or tangible personal 601
property, capital gains, interest, dividends and distributions, 602
patent or copyright royalties, or lottery winnings, prizes, and 603
awards. 604

(D) "Compensation" means any form of remuneration paid to 605

an employee for personal services. 606

(E) "Fiduciary" means a guardian, trustee, executor, 607
administrator, receiver, conservator, or any other person acting 608
in any fiduciary capacity for any individual, trust, or estate. 609

(F) "Fiscal year" means an accounting period of twelve 610
months ending on the last day of any month other than December. 611

(G) "Individual" means any natural person. 612

(H) "Internal Revenue Code" means the "Internal Revenue 613
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 614

(I) "Resident" means any of the following: 615

(1) An individual who is domiciled in this state, subject 616
to section 5747.24 of the Revised Code; 617

(2) The estate of a decedent who at the time of death was 618
domiciled in this state. The domicile tests of section 5747.24 619
of the Revised Code are not controlling for purposes of division 620
(I) (2) of this section. 621

(3) A trust that, in whole or part, resides in this state. 622
If only part of a trust resides in this state, the trust is a 623
resident only with respect to that part. 624

For the purposes of division (I) (3) of this section: 625

(a) A trust resides in this state for the trust's current 626
taxable year to the extent, as described in division (I) (3) (d) 627
of this section, that the trust consists directly or indirectly, 628
in whole or in part, of assets, net of any related liabilities, 629
that were transferred, or caused to be transferred, directly or 630
indirectly, to the trust by any of the following: 631

(i) A person, a court, or a governmental entity or 632

instrumentality on account of the death of a decedent, but only 633
if the trust is described in division (I) (3) (e) (i) or (ii) of 634
this section; 635

(ii) A person who was domiciled in this state for the 636
purposes of this chapter when the person directly or indirectly 637
transferred assets to an irrevocable trust, but only if at least 638
one of the trust's qualifying beneficiaries is domiciled in this 639
state for the purposes of this chapter during all or some 640
portion of the trust's current taxable year; 641

(iii) A person who was domiciled in this state for the 642
purposes of this chapter when the trust document or instrument 643
or part of the trust document or instrument became irrevocable, 644
but only if at least one of the trust's qualifying beneficiaries 645
is a resident domiciled in this state for the purposes of this 646
chapter during all or some portion of the trust's current 647
taxable year. If a trust document or instrument became 648
irrevocable upon the death of a person who at the time of death 649
was domiciled in this state for purposes of this chapter, that 650
person is a person described in division (I) (3) (a) (iii) of this 651
section. 652

(b) A trust is irrevocable to the extent that the 653
transferor is not considered to be the owner of the net assets 654
of the trust under sections 671 to 678 of the Internal Revenue 655
Code. 656

(c) With respect to a trust other than a charitable lead 657
trust, "qualifying beneficiary" has the same meaning as 658
"potential current beneficiary" as defined in section 1361(e) (2) 659
of the Internal Revenue Code, and with respect to a charitable 660
lead trust "qualifying beneficiary" is any current, future, or 661
contingent beneficiary, but with respect to any trust 662

"qualifying beneficiary" excludes a person or a governmental 663
entity or instrumentality to any of which a contribution would 664
qualify for the charitable deduction under section 170 of the 665
Internal Revenue Code. 666

(d) For the purposes of division (I) (3) (a) of this 667
section, the extent to which a trust consists directly or 668
indirectly, in whole or in part, of assets, net of any related 669
liabilities, that were transferred directly or indirectly, in 670
whole or part, to the trust by any of the sources enumerated in 671
that division shall be ascertained by multiplying the fair 672
market value of the trust's assets, net of related liabilities, 673
by the qualifying ratio, which shall be computed as follows: 674

(i) The first time the trust receives assets, the 675
numerator of the qualifying ratio is the fair market value of 676
those assets at that time, net of any related liabilities, from 677
sources enumerated in division (I) (3) (a) of this section. The 678
denominator of the qualifying ratio is the fair market value of 679
all the trust's assets at that time, net of any related 680
liabilities. 681

(ii) Each subsequent time the trust receives assets, a 682
revised qualifying ratio shall be computed. The numerator of the 683
revised qualifying ratio is the sum of (1) the fair market value 684
of the trust's assets immediately prior to the subsequent 685
transfer, net of any related liabilities, multiplied by the 686
qualifying ratio last computed without regard to the subsequent 687
transfer, and (2) the fair market value of the subsequently 688
transferred assets at the time transferred, net of any related 689
liabilities, from sources enumerated in division (I) (3) (a) of 690
this section. The denominator of the revised qualifying ratio is 691
the fair market value of all the trust's assets immediately 692

after the subsequent transfer, net of any related liabilities. 693

(iii) Whether a transfer to the trust is by or from any of 694
the sources enumerated in division (I) (3) (a) of this section 695
shall be ascertained without regard to the domicile of the 696
trust's beneficiaries. 697

(e) For the purposes of division (I) (3) (a) (i) of this 698
section: 699

(i) A trust is described in division (I) (3) (e) (i) of this 700
section if the trust is a testamentary trust and the testator of 701
that testamentary trust was domiciled in this state at the time 702
of the testator's death for purposes of the taxes levied under 703
Chapter 5731. of the Revised Code. 704

(ii) A trust is described in division (I) (3) (e) (ii) of 705
this section if the transfer is a qualifying transfer described 706
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 707
trust is an irrevocable inter vivos trust, and at least one of 708
the trust's qualifying beneficiaries is domiciled in this state 709
for purposes of this chapter during all or some portion of the 710
trust's current taxable year. 711

(f) For the purposes of division (I) (3) (e) (ii) of this 712
section, a "qualifying transfer" is a transfer of assets, net of 713
any related liabilities, directly or indirectly to a trust, if 714
the transfer is described in any of the following: 715

(i) The transfer is made to a trust, created by the 716
decedent before the decedent's death and while the decedent was 717
domiciled in this state for the purposes of this chapter, and, 718
prior to the death of the decedent, the trust became irrevocable 719
while the decedent was domiciled in this state for the purposes 720
of this chapter. 721

(ii) The transfer is made to a trust to which the 722
decedent, prior to the decedent's death, had directly or 723
indirectly transferred assets, net of any related liabilities, 724
while the decedent was domiciled in this state for the purposes 725
of this chapter, and prior to the death of the decedent the 726
trust became irrevocable while the decedent was domiciled in 727
this state for the purposes of this chapter. 728

(iii) The transfer is made on account of a contractual 729
relationship existing directly or indirectly between the 730
transferor and either the decedent or the estate of the decedent 731
at any time prior to the date of the decedent's death, and the 732
decedent was domiciled in this state at the time of death for 733
purposes of the taxes levied under Chapter 5731. of the Revised 734
Code. 735

(iv) The transfer is made to a trust on account of a 736
contractual relationship existing directly or indirectly between 737
the transferor and another person who at the time of the 738
decedent's death was domiciled in this state for purposes of 739
this chapter. 740

(v) The transfer is made to a trust on account of the will 741
of a testator who was domiciled in this state at the time of the 742
testator's death for purposes of the taxes levied under Chapter 743
5731. of the Revised Code. 744

(vi) The transfer is made to a trust created by or caused 745
to be created by a court, and the trust was directly or 746
indirectly created in connection with or as a result of the 747
death of an individual who, for purposes of the taxes levied 748
under Chapter 5731. of the Revised Code, was domiciled in this 749
state at the time of the individual's death. 750

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

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

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

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

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

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

(O) "Dependents" means ~~one of the following:-~~

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

~~(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer-~~

filed a federal income tax return.	779
(P) "Principal county of employment" means, in the case of	780
a nonresident, the county within the state in which a taxpayer	781
performs services for an employer or, if those services are	782
performed in more than one county, the county in which the major	783
portion of the services are performed.	784
(Q) As used in sections 5747.50 to 5747.55 of the Revised	785
Code:	786
(1) "Subdivision" means any county, municipal corporation,	787
park district, or township.	788
(2) "Essential local government purposes" includes all	789
functions that any subdivision is required by general law to	790
exercise, including like functions that are exercised under a	791
charter adopted pursuant to the Ohio Constitution.	792
(R) "Overpayment" means any amount already paid that	793
exceeds the figure determined to be the correct amount of the	794
tax.	795
(S) "Taxable income" or "Ohio taxable income" applies only	796
to estates and trusts, and means federal taxable income, as	797
defined and used in the Internal Revenue Code, adjusted as	798
follows:	799
(1) Add interest or dividends, net of ordinary, necessary,	800
and reasonable expenses not deducted in computing federal	801
taxable income, on obligations or securities of any state or of	802
any political subdivision or authority of any state, other than	803
this state and its subdivisions and authorities, but only to the	804
extent that such net amount is not otherwise includible in Ohio	805
taxable income and is described in either division (S) (1) (a) or	806
(b) of this section:	807

(a) The net amount is not attributable to the S portion of 808
an electing small business trust and has not been distributed to 809
beneficiaries for the taxable year; 810

(b) The net amount is attributable to the S portion of an 811
electing small business trust for the taxable year. 812

(2) Add interest or dividends, net of ordinary, necessary, 813
and reasonable expenses not deducted in computing federal 814
taxable income, on obligations of any authority, commission, 815
instrumentality, territory, or possession of the United States 816
to the extent that the interest or dividends are exempt from 817
federal income taxes but not from state income taxes, but only 818
to the extent that such net amount is not otherwise includible 819
in Ohio taxable income and is described in either division (S) 820
(1) (a) or (b) of this section; 821

(3) Add the amount of personal exemption allowed to the 822
estate pursuant to section 642(b) of the Internal Revenue Code; 823

(4) Deduct interest or dividends, net of related expenses 824
deducted in computing federal taxable income, on obligations of 825
the United States and its territories and possessions or of any 826
authority, commission, or instrumentality of the United States 827
to the extent that the interest or dividends are exempt from 828
state taxes under the laws of the United States, but only to the 829
extent that such amount is included in federal taxable income 830
and is described in either division (S) (1) (a) or (b) of this 831
section; 832

(5) Deduct the amount of wages and salaries, if any, not 833
otherwise allowable as a deduction but that would have been 834
allowable as a deduction in computing federal taxable income for 835
the taxable year, had the work opportunity tax credit allowed 836

under sections 38, 51, and 52 of the Internal Revenue Code not 837
been in effect, but only to the extent such amount relates 838
either to income included in federal taxable income for the 839
taxable year or to income of the S portion of an electing small 840
business trust for the taxable year; 841

(6) Deduct any interest or interest equivalent, net of 842
related expenses deducted in computing federal taxable income, 843
on public obligations and purchase obligations, but only to the 844
extent that such net amount relates either to income included in 845
federal taxable income for the taxable year or to income of the 846
S portion of an electing small business trust for the taxable 847
year; 848

(7) Add any loss or deduct any gain resulting from sale, 849
exchange, or other disposition of public obligations to the 850
extent that such loss has been deducted or such gain has been 851
included in computing either federal taxable income or income of 852
the S portion of an electing small business trust for the 853
taxable year; 854

(8) Except in the case of the final return of an estate, 855
add any amount deducted by the taxpayer on both its Ohio estate 856
tax return pursuant to section 5731.14 of the Revised Code, and 857
on its federal income tax return in determining federal taxable 858
income; 859

(9) (a) Deduct any amount included in federal taxable 860
income solely because the amount represents a reimbursement or 861
refund of expenses that in a previous year the decedent had 862
deducted as an itemized deduction pursuant to section 63 of the 863
Internal Revenue Code and applicable treasury regulations. The 864
deduction otherwise allowed under division (S) (9) (a) of this 865
section shall be reduced to the extent the reimbursement is 866

attributable to an amount the taxpayer or decedent deducted 867
under this section in any taxable year. 868

(b) Add any amount not otherwise included in Ohio taxable 869
income for any taxable year to the extent that the amount is 870
attributable to the recovery during the taxable year of any 871
amount deducted or excluded in computing federal or Ohio taxable 872
income in any taxable year, but only to the extent such amount 873
has not been distributed to beneficiaries for the taxable year. 874

(10) Deduct any portion of the deduction described in 875
section 1341(a) (2) of the Internal Revenue Code, for repaying 876
previously reported income received under a claim of right, that 877
meets both of the following requirements: 878

(a) It is allowable for repayment of an item that was 879
included in the taxpayer's taxable income or the decedent's 880
adjusted gross income for a prior taxable year and did not 881
qualify for a credit under division (A) or (B) of section 882
5747.05 of the Revised Code for that year. 883

(b) It does not otherwise reduce the taxpayer's taxable 884
income or the decedent's adjusted gross income for the current 885
or any other taxable year. 886

(11) Add any amount claimed as a credit under section 887
5747.059 of the Revised Code to the extent that the amount 888
satisfies either of the following: 889

(a) The amount was deducted or excluded from the 890
computation of the taxpayer's federal taxable income as required 891
to be reported for the taxpayer's taxable year under the 892
Internal Revenue Code; 893

(b) The amount resulted in a reduction in the taxpayer's 894
federal taxable income as required to be reported for any of the 895

taxpayer's taxable years under the Internal Revenue Code. 896

(12) Deduct any amount, net of related expenses deducted 897
in computing federal taxable income, that a trust is required to 898
report as farm income on its federal income tax return, but only 899
if the assets of the trust include at least ten acres of land 900
satisfying the definition of "land devoted exclusively to 901
agricultural use" under section 5713.30 of the Revised Code, 902
regardless of whether the land is valued for tax purposes as 903
such land under sections 5713.30 to 5713.38 of the Revised Code. 904
If the trust is a pass-through entity investor, section 5747.231 905
of the Revised Code applies in ascertaining if the trust is 906
eligible to claim the deduction provided by division (S) (12) of 907
this section in connection with the pass-through entity's farm 908
income. 909

Except for farm income attributable to the S portion of an 910
electing small business trust, the deduction provided by 911
division (S) (12) of this section is allowed only to the extent 912
that the trust has not distributed such farm income. 913

(13) Add the net amount of income described in section 914
641(c) of the Internal Revenue Code to the extent that amount is 915
not included in federal taxable income. 916

(14) Add or deduct the amount the taxpayer would be 917
required to add or deduct under division (A) (17) or (18) of this 918
section if the taxpayer's Ohio taxable income was computed in 919
the same manner as an individual's Ohio adjusted gross income is 920
computed under this section. 921

(15) Add, to the extent not otherwise included in 922
computing taxable income or Ohio taxable income for any taxable 923
year, the taxpayer's proportionate share of the amount of the 924

tax levied under section 5747.38 of the Revised Code and paid by	925
an electing pass-through entity for the taxable year.	926
(16) Add any income taxes deducted in computing federal	927
taxable income or Ohio taxable income to the extent the income	928
taxes were derived from income subject to a tax levied in	929
another state or the District of Columbia when such tax was	930
enacted for purposes of complying with internal revenue service	931
notice 2020-75.	932
(T) "School district income" and "school district income	933
tax" have the same meanings as in section 5748.01 of the Revised	934
Code.	935
(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S)	936
(7) of this section, "public obligations," "purchase	937
obligations," and "interest or interest equivalent" have the	938
same meanings as in section 5709.76 of the Revised Code.	939
(V) "Limited liability company" means any limited	940
liability company formed under former Chapter 1705. of the	941
Revised Code as that chapter existed prior to February 11, 2022,	942
Chapter 1706. of the Revised Code, or the laws of any other	943
state.	944
(W) "Pass-through entity investor" means any person who,	945
during any portion of a taxable year of a pass-through entity,	946
is a partner, member, shareholder, or equity investor in that	947
pass-through entity.	948
(X) "Banking day" has the same meaning as in section	949
1304.01 of the Revised Code.	950
(Y) "Month" means a calendar month.	951
(Z) "Quarter" means the first three months, the second	952

three months, the third three months, or the last three months 953
of the taxpayer's taxable year. 954

(AA) (1) "Modified business income" means the business 955
income included in a trust's Ohio taxable income after such 956
taxable income is first reduced by the qualifying trust amount, 957
if any. 958

(2) "Qualifying trust amount" of a trust means capital 959
gains and losses from the sale, exchange, or other disposition 960
of equity or ownership interests in, or debt obligations of, a 961
qualifying investee to the extent included in the trust's Ohio 962
taxable income, but only if the following requirements are 963
satisfied: 964

(a) The book value of the qualifying investee's physical 965
assets in this state and everywhere, as of the last day of the 966
qualifying investee's fiscal or calendar year ending immediately 967
prior to the date on which the trust recognizes the gain or 968
loss, is available to the trust. 969

(b) The requirements of section 5747.011 of the Revised 970
Code are satisfied for the trust's taxable year in which the 971
trust recognizes the gain or loss. 972

Any gain or loss that is not a qualifying trust amount is 973
modified business income, qualifying investment income, or 974
modified nonbusiness income, as the case may be. 975

(3) "Modified nonbusiness income" means a trust's Ohio 976
taxable income other than modified business income, other than 977
the qualifying trust amount, and other than qualifying 978
investment income, as defined in section 5747.012 of the Revised 979
Code, to the extent such qualifying investment income is not 980
otherwise part of modified business income. 981

(4) "Modified Ohio taxable income" applies only to trusts,	982
and means the sum of the amounts described in divisions (AA) (4)	983
(a) to (c) of this section:	984
(a) The fraction, calculated under section 5747.013, and	985
applying section 5747.231 of the Revised Code, multiplied by the	986
sum of the following amounts:	987
(i) The trust's modified business income;	988
(ii) The trust's qualifying investment income, as defined	989
in section 5747.012 of the Revised Code, but only to the extent	990
the qualifying investment income does not otherwise constitute	991
modified business income and does not otherwise constitute a	992
qualifying trust amount.	993
(b) The qualifying trust amount multiplied by a fraction,	994
the numerator of which is the sum of the book value of the	995
qualifying investee's physical assets in this state on the last	996
day of the qualifying investee's fiscal or calendar year ending	997
immediately prior to the day on which the trust recognizes the	998
qualifying trust amount, and the denominator of which is the sum	999
of the book value of the qualifying investee's total physical	1000
assets everywhere on the last day of the qualifying investee's	1001
fiscal or calendar year ending immediately prior to the day on	1002
which the trust recognizes the qualifying trust amount. If, for	1003
a taxable year, the trust recognizes a qualifying trust amount	1004
with respect to more than one qualifying investee, the amount	1005
described in division (AA) (4) (b) of this section shall equal the	1006
sum of the products so computed for each such qualifying	1007
investee.	1008
(c) (i) With respect to a trust or portion of a trust that	1009
is a resident as ascertained in accordance with division (I) (3)	1010

(d) of this section, its modified nonbusiness income. 1011

(ii) With respect to a trust or portion of a trust that is 1012
not a resident as ascertained in accordance with division (I) (3) 1013
(d) of this section, the amount of its modified nonbusiness 1014
income satisfying the descriptions in divisions (B) (2) to (5) of 1015
section 5747.20 of the Revised Code, except as otherwise 1016
provided in division (AA) (4) (c) (ii) of this section. With 1017
respect to a trust or portion of a trust that is not a resident 1018
as ascertained in accordance with division (I) (3) (d) of this 1019
section, the trust's portion of modified nonbusiness income 1020
recognized from the sale, exchange, or other disposition of a 1021
debt interest in or equity interest in a section 5747.212 1022
entity, as defined in section 5747.212 of the Revised Code, 1023
without regard to division (A) of that section, shall not be 1024
allocated to this state in accordance with section 5747.20 of 1025
the Revised Code but shall be apportioned to this state in 1026
accordance with division (B) of section 5747.212 of the Revised 1027
Code without regard to division (A) of that section. 1028

If the allocation and apportionment of a trust's income 1029
under divisions (AA) (4) (a) and (c) of this section do not fairly 1030
represent the modified Ohio taxable income of the trust in this 1031
state, the alternative methods described in division (C) of 1032
section 5747.21 of the Revised Code may be applied in the manner 1033
and to the same extent provided in that section. 1034

(5) (a) Except as set forth in division (AA) (5) (b) of this 1035
section, "qualifying investee" means a person in which a trust 1036
has an equity or ownership interest, or a person or unit of 1037
government the debt obligations of either of which are owned by 1038
a trust. For the purposes of division (AA) (2) (a) of this section 1039
and for the purpose of computing the fraction described in 1040

division (AA) (4) (b) of this section, all of the following apply: 1041

(i) If the qualifying investee is a member of a qualifying 1042
controlled group on the last day of the qualifying investee's 1043
fiscal or calendar year ending immediately prior to the date on 1044
which the trust recognizes the gain or loss, then "qualifying 1045
investee" includes all persons in the qualifying controlled 1046
group on such last day. 1047

(ii) If the qualifying investee, or if the qualifying 1048
investee and any members of the qualifying controlled group of 1049
which the qualifying investee is a member on the last day of the 1050
qualifying investee's fiscal or calendar year ending immediately 1051
prior to the date on which the trust recognizes the gain or 1052
loss, separately or cumulatively own, directly or indirectly, on 1053
the last day of the qualifying investee's fiscal or calendar 1054
year ending immediately prior to the date on which the trust 1055
recognizes the qualifying trust amount, more than fifty per cent 1056
of the equity of a pass-through entity, then the qualifying 1057
investee and the other members are deemed to own the 1058
proportionate share of the pass-through entity's physical assets 1059
which the pass-through entity directly or indirectly owns on the 1060
last day of the pass-through entity's calendar or fiscal year 1061
ending within or with the last day of the qualifying investee's 1062
fiscal or calendar year ending immediately prior to the date on 1063
which the trust recognizes the qualifying trust amount. 1064

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1065
section, "upper level pass-through entity" means a pass-through 1066
entity directly or indirectly owning any equity of another pass- 1067
through entity, and "lower level pass-through entity" means that 1068
other pass-through entity. 1069

An upper level pass-through entity, whether or not it is 1070

also a qualifying investee, is deemed to own, on the last day of 1071
the upper level pass-through entity's calendar or fiscal year, 1072
the proportionate share of the lower level pass-through entity's 1073
physical assets that the lower level pass-through entity 1074
directly or indirectly owns on the last day of the lower level 1075
pass-through entity's calendar or fiscal year ending within or 1076
with the last day of the upper level pass-through entity's 1077
fiscal or calendar year. If the upper level pass-through entity 1078
directly and indirectly owns less than fifty per cent of the 1079
equity of the lower level pass-through entity on each day of the 1080
upper level pass-through entity's calendar or fiscal year in 1081
which or with which ends the calendar or fiscal year of the 1082
lower level pass-through entity and if, based upon clear and 1083
convincing evidence, complete information about the location and 1084
cost of the physical assets of the lower pass-through entity is 1085
not available to the upper level pass-through entity, then 1086
solely for purposes of ascertaining if a gain or loss 1087
constitutes a qualifying trust amount, the upper level pass- 1088
through entity shall be deemed as owning no equity of the lower 1089
level pass-through entity for each day during the upper level 1090
pass-through entity's calendar or fiscal year in which or with 1091
which ends the lower level pass-through entity's calendar or 1092
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1093
shall be construed to provide for any deduction or exclusion in 1094
computing any trust's Ohio taxable income. 1095

(b) With respect to a trust that is not a resident for the 1096
taxable year and with respect to a part of a trust that is not a 1097
resident for the taxable year, "qualifying investee" for that 1098
taxable year does not include a C corporation if both of the 1099
following apply: 1100

(i) During the taxable year the trust or part of the trust 1101

recognizes a gain or loss from the sale, exchange, or other 1102
disposition of equity or ownership interests in, or debt 1103
obligations of, the C corporation. 1104

(ii) Such gain or loss constitutes nonbusiness income. 1105

(6) "Available" means information is such that a person is 1106
able to learn of the information by the due date plus 1107
extensions, if any, for filing the return for the taxable year 1108
in which the trust recognizes the gain or loss. 1109

(BB) "Qualifying controlled group" has the same meaning as 1110
in section 5733.04 of the Revised Code. 1111

(CC) "Related member" has the same meaning as in section 1112
5733.042 of the Revised Code. 1113

(DD) (1) For the purposes of division (DD) of this section: 1114

(a) "Qualifying person" means any person other than a 1115
qualifying corporation. 1116

(b) "Qualifying corporation" means any person classified 1117
for federal income tax purposes as an association taxable as a 1118
corporation, except either of the following: 1119

(i) A corporation that has made an election under 1120
subchapter S, chapter one, subtitle A, of the Internal Revenue 1121
Code for its taxable year ending within, or on the last day of, 1122
the investor's taxable year; 1123

(ii) A subsidiary that is wholly owned by any corporation 1124
that has made an election under subchapter S, chapter one, 1125
subtitle A of the Internal Revenue Code for its taxable year 1126
ending within, or on the last day of, the investor's taxable 1127
year. 1128

(2) For the purposes of this chapter, unless expressly 1129
stated otherwise, no qualifying person indirectly owns any asset 1130
directly or indirectly owned by any qualifying corporation. 1131

(EE) For purposes of this chapter and Chapter 5751. of the 1132
Revised Code: 1133

(1) "Trust" does not include a qualified pre-income tax 1134
trust. 1135

(2) A "qualified pre-income tax trust" is any pre-income 1136
tax trust that makes a qualifying pre-income tax trust election 1137
as described in division (EE) (3) of this section. 1138

(3) A "qualifying pre-income tax trust election" is an 1139
election by a pre-income tax trust to subject to the tax imposed 1140
by section 5751.02 of the Revised Code the pre-income tax trust 1141
and all pass-through entities of which the trust owns or 1142
controls, directly, indirectly, or constructively through 1143
related interests, five per cent or more of the ownership or 1144
equity interests. The trustee shall notify the tax commissioner 1145
in writing of the election on or before April 15, 2006. The 1146
election, if timely made, shall be effective on and after 1147
January 1, 2006, and shall apply for all tax periods and tax 1148
years until revoked by the trustee of the trust. 1149

(4) A "pre-income tax trust" is a trust that satisfies all 1150
of the following requirements: 1151

(a) The document or instrument creating the trust was 1152
executed by the grantor before January 1, 1972; 1153

(b) The trust became irrevocable upon the creation of the 1154
trust; and 1155

(c) The grantor was domiciled in this state at the time 1156

the trust was created. 1157

(FF) "Uniformed services" means all of the following: 1158

(1) "Armed forces of the United States" as defined in 1159
section 5907.01 of the Revised Code; 1160

(2) The commissioned corps of the national oceanic and 1161
atmospheric administration; 1162

(3) The commissioned corps of the public health service. 1163

(GG) "Taxable business income" means the amount by which 1164
an individual's business income that is included in federal 1165
adjusted gross income exceeds the amount of business income the 1166
individual is authorized to deduct under division (A) (28) of 1167
this section for the taxable year. 1168

(HH) "Employer" does not include a franchisor with respect 1169
to the franchisor's relationship with a franchisee or an 1170
employee of a franchisee, unless the franchisor agrees to assume 1171
that role in writing or a court of competent jurisdiction 1172
determines that the franchisor exercises a type or degree of 1173
control over the franchisee or the franchisee's employees that 1174
is not customarily exercised by a franchisor for the purpose of 1175
protecting the franchisor's trademark, brand, or both. For 1176
purposes of this division, "franchisor" and "franchisee" have 1177
the same meanings as in 16 C.F.R. 436.1. 1178

(II) "Modified adjusted gross income" means Ohio adjusted 1179
gross income plus any amount deducted under divisions (A) (28) 1180
and (34) of this section for the taxable year. 1181

(JJ) "Qualifying Ohio educator" means an individual who, 1182
for a taxable year, qualifies as an eligible educator, as that 1183
term is defined in section 62 of the Internal Revenue Code, and 1184

who holds a certificate, license, or permit described in Chapter 1185
3319. or section 3301.071 of the Revised Code. 1186

(KK) "Professional employer organization," "professional 1187
employer organization agreement," and "professional employer 1188
organization reporting entity" have the same meanings as in 1189
section 4125.01 of the Revised Code. 1190

(LL) "Alternate employer organization" and "alternate 1191
employer organization agreement" have the same meanings as in 1192
section 4133.01 of the Revised Code. 1193

(MM) "Casino gaming" has the same meaning as in section 1194
3772.01 of the Revised Code, "lottery sports gaming" has the 1195
same meaning as in section 3770.23 of the Revised Code, "sports 1196
gaming" has the same meaning as in section 3775.01 of the 1197
Revised Code, and "video lottery terminal" has the same meaning 1198
as in section 3770.21 of the Revised Code. 1199

Section 2. That existing sections 5701.11 and 5747.01 of 1200
the Revised Code are hereby repealed. 1201