

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 281

Representative Rogers

**Cosponsors: Representatives Cera, Fedor, Clyde, Antonio, Bishoff, Sweeney,
Smith, K.**

A BILL

To amend section 5747.01 and to enact section 1
5747.82 of the Revised Code to enact the "Blair 2
Deduction" to allow recent college graduates to 3
claim an income tax deduction for qualified 4
higher education expenses. 5

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

Section 1. That section 5747.01 be amended and section 6
5747.82 of the Revised Code be enacted to read as follows: 7

Sec. 5747.01. Except as otherwise expressly provided or 8
clearly appearing from the context, any term used in this 9
chapter that is not otherwise defined in this section has the 10
same meaning as when used in a comparable context in the laws of 11
the United States relating to federal income taxes or if not 12
used in a comparable context in those laws, has the same meaning 13
as in section 5733.40 of the Revised Code. Any reference in this 14
chapter to the Internal Revenue Code includes other laws of the 15
United States relating to federal income taxes. 16

As used in this chapter: 17

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

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

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

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

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

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion,

if any, of such distribution that does not exceed the 47
undistributed net income of the trust for the three taxable 48
years preceding the taxable year in which the distribution is 49
made to the extent that the portion was not included in the 50
trust's taxable income for any of the trust's taxable years 51
beginning in 2002 or thereafter. "Undistributed net income of a 52
trust" means the taxable income of the trust increased by (a) (i) 53
the additions to adjusted gross income required under division 54
(A) of this section and (ii) the personal exemptions allowed to 55
the trust pursuant to section 642(b) of the Internal Revenue 56
Code, and decreased by (b) (i) the deductions to adjusted gross 57
income required under division (A) of this section, (ii) the 58
amount of federal income taxes attributable to such income, and 59
(iii) the amount of taxable income that has been included in the 60
adjusted gross income of a beneficiary by reason of a prior 61
accumulation distribution. Any undistributed net income included 62
in the adjusted gross income of a beneficiary shall reduce the 63
undistributed net income of the trust commencing with the 64
earliest years of the accumulation period. 65

(7) Deduct the amount of wages and salaries, if any, not 66
otherwise allowable as a deduction but that would have been 67
allowable as a deduction in computing federal adjusted gross 68
income for the taxable year, had the targeted jobs credit 69
allowed and determined under sections 38, 51, and 52 of the 70
Internal Revenue Code not been in effect. 71

(8) Deduct any interest or interest equivalent on public 72
obligations and purchase obligations to the extent that the 73
interest or interest equivalent is included in federal adjusted 74
gross income. 75

(9) Add any loss or deduct any gain resulting from the 76

sale, exchange, or other disposition of public obligations to 77
the extent that the loss has been deducted or the gain has been 78
included in computing federal adjusted gross income. 79

(10) Deduct or add amounts, as provided under section 80
5747.70 of the Revised Code, related to contributions to 81
variable college savings program accounts made or tuition units 82
purchased pursuant to Chapter 3334. of the Revised Code. 83

(11) (a) Deduct, to the extent not otherwise allowable as a 84
deduction or exclusion in computing federal or Ohio adjusted 85
gross income for the taxable year, the amount the taxpayer paid 86
during the taxable year for medical care insurance and qualified 87
long-term care insurance for the taxpayer, the taxpayer's 88
spouse, and dependents. No deduction for medical care insurance 89
under division (A) (11) of this section shall be allowed either 90
to any taxpayer who is eligible to participate in any subsidized 91
health plan maintained by any employer of the taxpayer or of the 92
taxpayer's spouse, or to any taxpayer who is entitled to, or on 93
application would be entitled to, benefits under part A of Title 94
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 95
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 96
of this section, "subsidized health plan" means a health plan 97
for which the employer pays any portion of the plan's cost. The 98
deduction allowed under division (A) (11) (a) of this section 99
shall be the net of any related premium refunds, related premium 100
reimbursements, or related insurance premium dividends received 101
during the taxable year. 102

(b) Deduct, to the extent not otherwise deducted or 103
excluded in computing federal or Ohio adjusted gross income 104
during the taxable year, the amount the taxpayer paid during the 105
taxable year, not compensated for by any insurance or otherwise, 106

for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

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

States department of the treasury regulations. The deduction 137
otherwise allowed under division (A) (12) (a) of this section 138
shall be reduced to the extent the reimbursement is attributable 139
to an amount the taxpayer deducted under this section in any 140
taxable year. 141

(b) Add any amount not otherwise included in Ohio adjusted 142
gross income for any taxable year to the extent that the amount 143
is attributable to the recovery during the taxable year of any 144
amount deducted or excluded in computing federal or Ohio 145
adjusted gross income in any taxable year. 146

(13) Deduct any portion of the deduction described in 147
section 1341(a) (2) of the Internal Revenue Code, for repaying 148
previously reported income received under a claim of right, that 149
meets both of the following requirements: 150

(a) It is allowable for repayment of an item that was 151
included in the taxpayer's adjusted gross income for a prior 152
taxable year and did not qualify for a credit under division (A) 153
or (B) of section 5747.05 of the Revised Code for that year; 154

(b) It does not otherwise reduce the taxpayer's adjusted 155
gross income for the current or any other taxable year. 156

(14) Deduct an amount equal to the deposits made to, and 157
net investment earnings of, a medical savings account during the 158
taxable year, in accordance with section 3924.66 of the Revised 159
Code. The deduction allowed by division (A) (14) of this section 160
does not apply to medical savings account deposits and earnings 161
otherwise deducted or excluded for the current or any other 162
taxable year from the taxpayer's federal adjusted gross income. 163

(15) (a) Add an amount equal to the funds withdrawn from a 164
medical savings account during the taxable year, and the net 165

investment earnings on those funds, when the funds withdrawn 166
were used for any purpose other than to reimburse an account 167
holder for, or to pay, eligible medical expenses, in accordance 168
with section 3924.66 of the Revised Code; 169

(b) Add the amounts distributed from a medical savings 170
account under division (A) (2) of section 3924.68 of the Revised 171
Code during the taxable year. 172

(16) Add any amount claimed as a credit under section 173
5747.059 or 5747.65 of the Revised Code to the extent that such 174
amount satisfies either of the following: 175

(a) The amount was deducted or excluded from the 176
computation of the taxpayer's federal adjusted gross income as 177
required to be reported for the taxpayer's taxable year under 178
the Internal Revenue Code; 179

(b) The amount resulted in a reduction of the taxpayer's 180
federal adjusted gross income as required to be reported for any 181
of the taxpayer's taxable years under the Internal Revenue Code. 182

(17) Deduct the amount contributed by the taxpayer to an 183
individual development account program established by a county 184
department of job and family services pursuant to sections 185
329.11 to 329.14 of the Revised Code for the purpose of matching 186
funds deposited by program participants. On request of the tax 187
commissioner, the taxpayer shall provide any information that, 188
in the tax commissioner's opinion, is necessary to establish the 189
amount deducted under division (A) (17) of this section. 190

(18) Beginning in taxable year 2001 but not for any 191
taxable year beginning after December 31, 2005, if the taxpayer 192
is married and files a joint return and the combined federal 193
adjusted gross income of the taxpayer and the taxpayer's spouse 194

for the taxable year does not exceed one hundred thousand 195
dollars, or if the taxpayer is single and has a federal adjusted 196
gross income for the taxable year not exceeding fifty thousand 197
dollars, deduct amounts paid during the taxable year for 198
qualified tuition and fees paid to an eligible institution for 199
the taxpayer, the taxpayer's spouse, or any dependent of the 200
taxpayer, who is a resident of this state and is enrolled in or 201
attending a program that culminates in a degree or diploma at an 202
eligible institution. The deduction may be claimed only to the 203
extent that qualified tuition and fees are not otherwise 204
deducted or excluded for any taxable year from federal or Ohio 205
adjusted gross income. The deduction may not be claimed for 206
educational expenses for which the taxpayer claims a credit 207
under section 5747.27 of the Revised Code. 208

(19) Add any reimbursement received during the taxable 209
year of any amount the taxpayer deducted under division (A) (18) 210
of this section in any previous taxable year to the extent the 211
amount is not otherwise included in Ohio adjusted gross income. 212

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 213
(v) of this section, add five-sixths of the amount of 214
depreciation expense allowed by subsection (k) of section 168 of 215
the Internal Revenue Code, including the taxpayer's 216
proportionate or distributive share of the amount of 217
depreciation expense allowed by that subsection to a pass- 218
through entity in which the taxpayer has a direct or indirect 219
ownership interest. 220

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 221
of this section, add five-sixths of the amount of qualifying 222
section 179 depreciation expense, including the taxpayer's 223
proportionate or distributive share of the amount of qualifying 224

section 179 depreciation expense allowed to any pass-through 225
entity in which the taxpayer has a direct or indirect ownership 226
interest. 227

(iii) Subject to division (A) (20) (a) (v) of this section, 228
for taxable years beginning in 2012 or thereafter, if the 229
increase in income taxes withheld by the taxpayer is equal to or 230
greater than ten per cent of income taxes withheld by the 231
taxpayer during the taxpayer's immediately preceding taxable 232
year, "two-thirds" shall be substituted for "five-sixths" for 233
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 234

(iv) Subject to division (A) (20) (a) (v) of this section, 235
for taxable years beginning in 2012 or thereafter, a taxpayer is 236
not required to add an amount under division (A) (20) of this 237
section if the increase in income taxes withheld by the taxpayer 238
and by any pass-through entity in which the taxpayer has a 239
direct or indirect ownership interest is equal to or greater 240
than the sum of (I) the amount of qualifying section 179 241
depreciation expense and (II) the amount of depreciation expense 242
allowed to the taxpayer by subsection (k) of section 168 of the 243
Internal Revenue Code, and including the taxpayer's 244
proportionate or distributive shares of such amounts allowed to 245
any such pass-through entities. 246

(v) If a taxpayer directly or indirectly incurs a net 247
operating loss for the taxable year for federal income tax 248
purposes, to the extent such loss resulted from depreciation 249
expense allowed by subsection (k) of section 168 of the Internal 250
Revenue Code and by qualifying section 179 depreciation expense, 251
"the entire" shall be substituted for "five-sixths of the" for 252
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 253

The tax commissioner, under procedures established by the 254

commissioner, may waive the add-backs related to a pass-through 255
entity if the taxpayer owns, directly or indirectly, less than 256
five per cent of the pass-through entity. 257

(b) Nothing in division (A) (20) of this section shall be 258
construed to adjust or modify the adjusted basis of any asset. 259

(c) To the extent the add-back required under division (A) 260
(20) (a) of this section is attributable to property generating 261
nonbusiness income or loss allocated under section 5747.20 of 262
the Revised Code, the add-back shall be situated to the same 263
location as the nonbusiness income or loss generated by the 264
property for the purpose of determining the credit under 265
division (A) of section 5747.05 of the Revised Code. Otherwise, 266
the add-back shall be apportioned, subject to one or more of the 267
four alternative methods of apportionment enumerated in section 268
5747.21 of the Revised Code. 269

(d) For the purposes of division (A) (20) (a) (v) of this 270
section, net operating loss carryback and carryforward shall not 271
include the allowance of any net operating loss deduction 272
carryback or carryforward to the taxable year to the extent such 273
loss resulted from depreciation allowed by section 168(k) of the 274
Internal Revenue Code and by the qualifying section 179 275
depreciation expense amount. 276

(e) For the purposes of divisions (A) (20) and (21) of this 277
section: 278

(i) "Income taxes withheld" means the total amount 279
withheld and remitted under sections 5747.06 and 5747.07 of the 280
Revised Code by an employer during the employer's taxable year. 281

(ii) "Increase in income taxes withheld" means the amount 282
by which the amount of income taxes withheld by an employer 283

during the employer's current taxable year exceeds the amount of 284
income taxes withheld by that employer during the employer's 285
immediately preceding taxable year. 286

(iii) "Qualifying section 179 depreciation expense" means 287
the difference between (I) the amount of depreciation expense 288
directly or indirectly allowed to a taxpayer under section 179 289
of the Internal Revised Code, and (II) the amount of 290
depreciation expense directly or indirectly allowed to the 291
taxpayer under section 179 of the Internal Revenue Code as that 292
section existed on December 31, 2002. 293

(21) (a) If the taxpayer was required to add an amount 294
under division (A) (20) (a) of this section for a taxable year, 295
deduct one of the following: 296

(i) One-fifth of the amount so added for each of the five 297
succeeding taxable years if the amount so added was five-sixths 298
of qualifying section 179 depreciation expense or depreciation 299
expense allowed by subsection (k) of section 168 of the Internal 300
Revenue Code; 301

(ii) One-half of the amount so added for each of the two 302
succeeding taxable years if the amount so added was two-thirds 303
of such depreciation expense; 304

(iii) One-sixth of the amount so added for each of the six 305
succeeding taxable years if the entire amount of such 306
depreciation expense was so added. 307

(b) If the amount deducted under division (A) (21) (a) of 308
this section is attributable to an add-back allocated under 309
division (A) (20) (c) of this section, the amount deducted shall 310
be situated to the same location. Otherwise, the add-back shall 311
be apportioned using the apportionment factors for the taxable 312

year in which the deduction is taken, subject to one or more of 313
the four alternative methods of apportionment enumerated in 314
section 5747.21 of the Revised Code. 315

(c) No deduction is available under division (A) (21) (a) of 316
this section with regard to any depreciation allowed by section 317
168(k) of the Internal Revenue Code and by the qualifying 318
section 179 depreciation expense amount to the extent that such 319
depreciation results in or increases a federal net operating 320
loss carryback or carryforward. If no such deduction is 321
available for a taxable year, the taxpayer may carry forward the 322
amount not deducted in such taxable year to the next taxable 323
year and add that amount to any deduction otherwise available 324
under division (A) (21) (a) of this section for that next taxable 325
year. The carryforward of amounts not so deducted shall continue 326
until the entire addition required by division (A) (20) (a) of 327
this section has been deducted. 328

(d) No refund shall be allowed as a result of adjustments 329
made by division (A) (21) of this section. 330

(22) Deduct, to the extent not otherwise deducted or 331
excluded in computing federal or Ohio adjusted gross income for 332
the taxable year, the amount the taxpayer received during the 333
taxable year as reimbursement for life insurance premiums under 334
section 5919.31 of the Revised Code. 335

(23) Deduct, to the extent not otherwise deducted or 336
excluded in computing federal or Ohio adjusted gross income for 337
the taxable year, the amount the taxpayer received during the 338
taxable year as a death benefit paid by the adjutant general 339
under section 5919.33 of the Revised Code. 340

(24) Deduct, to the extent included in federal adjusted 341

gross income and not otherwise allowable as a deduction or 342
exclusion in computing federal or Ohio adjusted gross income for 343
the taxable year, military pay and allowances received by the 344
taxpayer during the taxable year for active duty service in the 345
United States army, air force, navy, marine corps, or coast 346
guard or reserve components thereof or the national guard. The 347
deduction may not be claimed for military pay and allowances 348
received by the taxpayer while the taxpayer is stationed in this 349
state. 350

(25) Deduct, to the extent not otherwise allowable as a 351
deduction or exclusion in computing federal or Ohio adjusted 352
gross income for the taxable year and not otherwise compensated 353
for by any other source, the amount of qualified organ donation 354
expenses incurred by the taxpayer during the taxable year, not 355
to exceed ten thousand dollars. A taxpayer may deduct qualified 356
organ donation expenses only once for all taxable years 357
beginning with taxable years beginning in 2007. 358

For the purposes of division (A) (25) of this section: 359

(a) "Human organ" means all or any portion of a human 360
liver, pancreas, kidney, intestine, or lung, and any portion of 361
human bone marrow. 362

(b) "Qualified organ donation expenses" means travel 363
expenses, lodging expenses, and wages and salary forgone by a 364
taxpayer in connection with the taxpayer's donation, while 365
living, of one or more of the taxpayer's human organs to another 366
human being. 367

(26) Deduct, to the extent not otherwise deducted or 368
excluded in computing federal or Ohio adjusted gross income for 369
the taxable year, amounts received by the taxpayer as retired 370

personnel pay for service in the uniformed services or reserve 371
components thereof, or the national guard, or received by the 372
surviving spouse or former spouse of such a taxpayer under the 373
survivor benefit plan on account of such a taxpayer's death. If 374
the taxpayer receives income on account of retirement paid under 375
the federal civil service retirement system or federal employees 376
retirement system, or under any successor retirement program 377
enacted by the congress of the United States that is established 378
and maintained for retired employees of the United States 379
government, and such retirement income is based, in whole or in 380
part, on credit for the taxpayer's uniformed service, the 381
deduction allowed under this division shall include only that 382
portion of such retirement income that is attributable to the 383
taxpayer's uniformed service, to the extent that portion of such 384
retirement income is otherwise included in federal adjusted 385
gross income and is not otherwise deducted under this section. 386
Any amount deducted under division (A) (26) of this section is 387
not included in a taxpayer's adjusted gross income for the 388
purposes of section 5747.055 of the Revised Code. No amount may 389
be deducted under division (A) (26) of this section on the basis 390
of which a credit was claimed under section 5747.055 of the 391
Revised Code. 392

(27) Deduct, to the extent not otherwise deducted or 393
excluded in computing federal or Ohio adjusted gross income for 394
the taxable year, the amount the taxpayer received during the 395
taxable year from the military injury relief fund created in 396
section 5101.98 of the Revised Code. 397

(28) Deduct, to the extent not otherwise deducted or 398
excluded in computing federal or Ohio adjusted gross income for 399
the taxable year, the amount the taxpayer received as a veterans 400
bonus during the taxable year from the Ohio department of 401

veterans services as authorized by Section 2r of Article VIII, 402
Ohio Constitution. 403

(29) Deduct, to the extent not otherwise deducted or 404
excluded in computing federal or Ohio adjusted gross income for 405
the taxable year, any income derived from a transfer agreement 406
or from the enterprise transferred under that agreement under 407
section 4313.02 of the Revised Code. 408

(30) Deduct, to the extent not otherwise deducted or 409
excluded in computing federal or Ohio adjusted gross income for 410
the taxable year, Ohio college opportunity or federal Pell grant 411
amounts received by the taxpayer or the taxpayer's spouse or 412
dependent pursuant to section 3333.122 of the Revised Code or 20 413
U.S.C. 1070a, et seq., and used to pay room or board furnished 414
by the educational institution for which the grant was awarded 415
at the institution's facilities, including meal plans 416
administered by the institution. For the purposes of this 417
division, receipt of a grant includes the distribution of a 418
grant directly to an educational institution and the crediting 419
of the grant to the enrollee's account with the institution. 420

(31) Deduct one-half of the taxpayer's Ohio small business 421
investor income, the deduction not to exceed sixty-two thousand 422
five hundred dollars for each spouse if spouses file separate 423
returns under section 5747.08 of the Revised Code or one hundred 424
twenty-five thousand dollars for all other taxpayers. No pass- 425
through entity may claim a deduction under this division. 426

For the purposes of this division, "Ohio small business 427
investor income" means the portion of a taxpayer's adjusted 428
gross income that is business income reduced by deductions from 429
business income and apportioned or allocated to this state under 430
sections 5747.21 and 5747.22 of the Revised Code, to the extent 431

not otherwise deducted or excluded in computing federal or Ohio 432
adjusted gross income for the taxable year. 433

(32) Deduct qualified higher education expenses to the 434
extent allowed under section 5747.82 of the Revised Code. 435

(B) "Business income" means income, including gain or 436
loss, arising from transactions, activities, and sources in the 437
regular course of a trade or business and includes income, gain, 438
or loss from real property, tangible property, and intangible 439
property if the acquisition, rental, management, and disposition 440
of the property constitute integral parts of the regular course 441
of a trade or business operation. "Business income" includes 442
income, including gain or loss, from a partial or complete 443
liquidation of a business, including, but not limited to, gain 444
or loss from the sale or other disposition of goodwill. 445

(C) "Nonbusiness income" means all income other than 446
business income and may include, but is not limited to, 447
compensation, rents and royalties from real or tangible personal 448
property, capital gains, interest, dividends and distributions, 449
patent or copyright royalties, or lottery winnings, prizes, and 450
awards. 451

(D) "Compensation" means any form of remuneration paid to 452
an employee for personal services. 453

(E) "Fiduciary" means a guardian, trustee, executor, 454
administrator, receiver, conservator, or any other person acting 455
in any fiduciary capacity for any individual, trust, or estate. 456

(F) "Fiscal year" means an accounting period of twelve 457
months ending on the last day of any month other than December. 458

(G) "Individual" means any natural person. 459

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 460
461

(I) "Resident" means any of the following, provided that 462
division (I) (3) of this section applies only to taxable years of 463
a trust beginning in 2002 or thereafter: 464

(1) An individual who is domiciled in this state, subject 465
to section 5747.24 of the Revised Code; 466

(2) The estate of a decedent who at the time of death was 467
domiciled in this state. The domicile tests of section 5747.24 468
of the Revised Code are not controlling for purposes of division 469
(I) (2) of this section. 470

(3) A trust that, in whole or part, resides in this state. 471
If only part of a trust resides in this state, the trust is a 472
resident only with respect to that part. 473

For the purposes of division (I) (3) of this section: 474

(a) A trust resides in this state for the trust's current 475
taxable year to the extent, as described in division (I) (3) (d) 476
of this section, that the trust consists directly or indirectly, 477
in whole or in part, of assets, net of any related liabilities, 478
that were transferred, or caused to be transferred, directly or 479
indirectly, to the trust by any of the following: 480

(i) A person, a court, or a governmental entity or 481
instrumentality on account of the death of a decedent, but only 482
if the trust is described in division (I) (3) (e) (i) or (ii) of 483
this section; 484

(ii) A person who was domiciled in this state for the 485
purposes of this chapter when the person directly or indirectly 486
transferred assets to an irrevocable trust, but only if at least 487

one of the trust's qualifying beneficiaries is domiciled in this 488
state for the purposes of this chapter during all or some 489
portion of the trust's current taxable year; 490

(iii) A person who was domiciled in this state for the 491
purposes of this chapter when the trust document or instrument 492
or part of the trust document or instrument became irrevocable, 493
but only if at least one of the trust's qualifying beneficiaries 494
is a resident domiciled in this state for the purposes of this 495
chapter during all or some portion of the trust's current 496
taxable year. If a trust document or instrument became 497
irrevocable upon the death of a person who at the time of death 498
was domiciled in this state for purposes of this chapter, that 499
person is a person described in division (I) (3) (a) (iii) of this 500
section. 501

(b) A trust is irrevocable to the extent that the 502
transferor is not considered to be the owner of the net assets 503
of the trust under sections 671 to 678 of the Internal Revenue 504
Code. 505

(c) With respect to a trust other than a charitable lead 506
trust, "qualifying beneficiary" has the same meaning as 507
"potential current beneficiary" as defined in section 1361(e) (2) 508
of the Internal Revenue Code, and with respect to a charitable 509
lead trust "qualifying beneficiary" is any current, future, or 510
contingent beneficiary, but with respect to any trust 511
"qualifying beneficiary" excludes a person or a governmental 512
entity or instrumentality to any of which a contribution would 513
qualify for the charitable deduction under section 170 of the 514
Internal Revenue Code. 515

(d) For the purposes of division (I) (3) (a) of this 516
section, the extent to which a trust consists directly or 517

indirectly, in whole or in part, of assets, net of any related 518
liabilities, that were transferred directly or indirectly, in 519
whole or part, to the trust by any of the sources enumerated in 520
that division shall be ascertained by multiplying the fair 521
market value of the trust's assets, net of related liabilities, 522
by the qualifying ratio, which shall be computed as follows: 523

(i) The first time the trust receives assets, the 524
numerator of the qualifying ratio is the fair market value of 525
those assets at that time, net of any related liabilities, from 526
sources enumerated in division (I) (3) (a) of this section. The 527
denominator of the qualifying ratio is the fair market value of 528
all the trust's assets at that time, net of any related 529
liabilities. 530

(ii) Each subsequent time the trust receives assets, a 531
revised qualifying ratio shall be computed. The numerator of the 532
revised qualifying ratio is the sum of (1) the fair market value 533
of the trust's assets immediately prior to the subsequent 534
transfer, net of any related liabilities, multiplied by the 535
qualifying ratio last computed without regard to the subsequent 536
transfer, and (2) the fair market value of the subsequently 537
transferred assets at the time transferred, net of any related 538
liabilities, from sources enumerated in division (I) (3) (a) of 539
this section. The denominator of the revised qualifying ratio is 540
the fair market value of all the trust's assets immediately 541
after the subsequent transfer, net of any related liabilities. 542

(iii) Whether a transfer to the trust is by or from any of 543
the sources enumerated in division (I) (3) (a) of this section 544
shall be ascertained without regard to the domicile of the 545
trust's beneficiaries. 546

(e) For the purposes of division (I) (3) (a) (i) of this 547

section: 548

(i) A trust is described in division (I) (3) (e) (i) of this 549
section if the trust is a testamentary trust and the testator of 550
that testamentary trust was domiciled in this state at the time 551
of the testator's death for purposes of the taxes levied under 552
Chapter 5731. of the Revised Code. 553

(ii) A trust is described in division (I) (3) (e) (ii) of 554
this section if the transfer is a qualifying transfer described 555
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 556
trust is an irrevocable inter vivos trust, and at least one of 557
the trust's qualifying beneficiaries is domiciled in this state 558
for purposes of this chapter during all or some portion of the 559
trust's current taxable year. 560

(f) For the purposes of division (I) (3) (e) (ii) of this 561
section, a "qualifying transfer" is a transfer of assets, net of 562
any related liabilities, directly or indirectly to a trust, if 563
the transfer is described in any of the following: 564

(i) The transfer is made to a trust, created by the 565
decedent before the decedent's death and while the decedent was 566
domiciled in this state for the purposes of this chapter, and, 567
prior to the death of the decedent, the trust became irrevocable 568
while the decedent was domiciled in this state for the purposes 569
of this chapter. 570

(ii) The transfer is made to a trust to which the 571
decedent, prior to the decedent's death, had directly or 572
indirectly transferred assets, net of any related liabilities, 573
while the decedent was domiciled in this state for the purposes 574
of this chapter, and prior to the death of the decedent the 575
trust became irrevocable while the decedent was domiciled in 576

this state for the purposes of this chapter. 577

(iii) The transfer is made on account of a contractual 578
relationship existing directly or indirectly between the 579
transferor and either the decedent or the estate of the decedent 580
at any time prior to the date of the decedent's death, and the 581
decedent was domiciled in this state at the time of death for 582
purposes of the taxes levied under Chapter 5731. of the Revised 583
Code. 584

(iv) The transfer is made to a trust on account of a 585
contractual relationship existing directly or indirectly between 586
the transferor and another person who at the time of the 587
decedent's death was domiciled in this state for purposes of 588
this chapter. 589

(v) The transfer is made to a trust on account of the will 590
of a testator who was domiciled in this state at the time of the 591
testator's death for purposes of the taxes levied under Chapter 592
5731. of the Revised Code. 593

(vi) The transfer is made to a trust created by or caused 594
to be created by a court, and the trust was directly or 595
indirectly created in connection with or as a result of the 596
death of an individual who, for purposes of the taxes levied 597
under Chapter 5731. of the Revised Code, was domiciled in this 598
state at the time of the individual's death. 599

(g) The tax commissioner may adopt rules to ascertain the 600
part of a trust residing in this state. 601

(J) "Nonresident" means an individual or estate that is 602
not a resident. An individual who is a resident for only part of 603
a taxable year is a nonresident for the remainder of that 604
taxable year. 605

(K) "Pass-through entity" has the same meaning as in 606
section 5733.04 of the Revised Code. 607

(L) "Return" means the notifications and reports required 608
to be filed pursuant to this chapter for the purpose of 609
reporting the tax due and includes declarations of estimated tax 610
when so required. 611

(M) "Taxable year" means the calendar year or the 612
taxpayer's fiscal year ending during the calendar year, or 613
fractional part thereof, upon which the adjusted gross income is 614
calculated pursuant to this chapter. 615

(N) "Taxpayer" means any person subject to the tax imposed 616
by section 5747.02 of the Revised Code or any pass-through 617
entity that makes the election under division (D) of section 618
5747.08 of the Revised Code. 619

(O) "Dependents" means dependents as defined in the 620
Internal Revenue Code and as claimed in the taxpayer's federal 621
income tax return for the taxable year or which the taxpayer 622
would have been permitted to claim had the taxpayer filed a 623
federal income tax return. 624

(P) "Principal county of employment" means, in the case of 625
a nonresident, the county within the state in which a taxpayer 626
performs services for an employer or, if those services are 627
performed in more than one county, the county in which the major 628
portion of the services are performed. 629

(Q) As used in sections 5747.50 to 5747.55 of the Revised 630
Code: 631

(1) "Subdivision" means any county, municipal corporation, 632
park district, or township. 633

(2) "Essential local government purposes" includes all 634
functions that any subdivision is required by general law to 635
exercise, including like functions that are exercised under a 636
charter adopted pursuant to the Ohio Constitution. 637

(R) "Overpayment" means any amount already paid that 638
exceeds the figure determined to be the correct amount of the 639
tax. 640

(S) "Taxable income" or "Ohio taxable income" applies only 641
to estates and trusts, and means federal taxable income, as 642
defined and used in the Internal Revenue Code, adjusted as 643
follows: 644

(1) Add interest or dividends, net of ordinary, necessary, 645
and reasonable expenses not deducted in computing federal 646
taxable income, on obligations or securities of any state or of 647
any political subdivision or authority of any state, other than 648
this state and its subdivisions and authorities, but only to the 649
extent that such net amount is not otherwise includible in Ohio 650
taxable income and is described in either division (S) (1) (a) or 651
(b) of this section: 652

(a) The net amount is not attributable to the S portion of 653
an electing small business trust and has not been distributed to 654
beneficiaries for the taxable year; 655

(b) The net amount is attributable to the S portion of an 656
electing small business trust for the taxable year. 657

(2) Add interest or dividends, net of ordinary, necessary, 658
and reasonable expenses not deducted in computing federal 659
taxable income, on obligations of any authority, commission, 660
instrumentality, territory, or possession of the United States 661
to the extent that the interest or dividends are exempt from 662

federal income taxes but not from state income taxes, but only 663
to the extent that such net amount is not otherwise includible 664
in Ohio taxable income and is described in either division (S) 665
(1) (a) or (b) of this section; 666

(3) Add the amount of personal exemption allowed to the 667
estate pursuant to section 642(b) of the Internal Revenue Code; 668

(4) Deduct interest or dividends, net of related expenses 669
deducted in computing federal taxable income, on obligations of 670
the United States and its territories and possessions or of any 671
authority, commission, or instrumentality of the United States 672
to the extent that the interest or dividends are exempt from 673
state taxes under the laws of the United States, but only to the 674
extent that such amount is included in federal taxable income 675
and is described in either division (S) (1) (a) or (b) of this 676
section; 677

(5) Deduct the amount of wages and salaries, if any, not 678
otherwise allowable as a deduction but that would have been 679
allowable as a deduction in computing federal taxable income for 680
the taxable year, had the targeted jobs credit allowed under 681
sections 38, 51, and 52 of the Internal Revenue Code not been in 682
effect, but only to the extent such amount relates either to 683
income included in federal taxable income for the taxable year 684
or to income of the S portion of an electing small business 685
trust for the taxable year; 686

(6) Deduct any interest or interest equivalent, net of 687
related expenses deducted in computing federal taxable income, 688
on public obligations and purchase obligations, but only to the 689
extent that such net amount relates either to income included in 690
federal taxable income for the taxable year or to income of the 691
S portion of an electing small business trust for the taxable 692

year; 693

(7) Add any loss or deduct any gain resulting from sale, 694
exchange, or other disposition of public obligations to the 695
extent that such loss has been deducted or such gain has been 696
included in computing either federal taxable income or income of 697
the S portion of an electing small business trust for the 698
taxable year; 699

(8) Except in the case of the final return of an estate, 700
add any amount deducted by the taxpayer on both its Ohio estate 701
tax return pursuant to section 5731.14 of the Revised Code, and 702
on its federal income tax return in determining federal taxable 703
income; 704

(9) (a) Deduct any amount included in federal taxable 705
income solely because the amount represents a reimbursement or 706
refund of expenses that in a previous year the decedent had 707
deducted as an itemized deduction pursuant to section 63 of the 708
Internal Revenue Code and applicable treasury regulations. The 709
deduction otherwise allowed under division (S) (9) (a) of this 710
section shall be reduced to the extent the reimbursement is 711
attributable to an amount the taxpayer or decedent deducted 712
under this section in any taxable year. 713

(b) Add any amount not otherwise included in Ohio taxable 714
income for any taxable year to the extent that the amount is 715
attributable to the recovery during the taxable year of any 716
amount deducted or excluded in computing federal or Ohio taxable 717
income in any taxable year, but only to the extent such amount 718
has not been distributed to beneficiaries for the taxable year. 719

(10) Deduct any portion of the deduction described in 720
section 1341(a) (2) of the Internal Revenue Code, for repaying 721

previously reported income received under a claim of right, that 722
meets both of the following requirements: 723

(a) It is allowable for repayment of an item that was 724
included in the taxpayer's taxable income or the decedent's 725
adjusted gross income for a prior taxable year and did not 726
qualify for a credit under division (A) or (B) of section 727
5747.05 of the Revised Code for that year. 728

(b) It does not otherwise reduce the taxpayer's taxable 729
income or the decedent's adjusted gross income for the current 730
or any other taxable year. 731

(11) Add any amount claimed as a credit under section 732
5747.059 or 5747.65 of the Revised Code to the extent that the 733
amount satisfies either of the following: 734

(a) The amount was deducted or excluded from the 735
computation of the taxpayer's federal taxable income as required 736
to be reported for the taxpayer's taxable year under the 737
Internal Revenue Code; 738

(b) The amount resulted in a reduction in the taxpayer's 739
federal taxable income as required to be reported for any of the 740
taxpayer's taxable years under the Internal Revenue Code. 741

(12) Deduct any amount, net of related expenses deducted 742
in computing federal taxable income, that a trust is required to 743
report as farm income on its federal income tax return, but only 744
if the assets of the trust include at least ten acres of land 745
satisfying the definition of "land devoted exclusively to 746
agricultural use" under section 5713.30 of the Revised Code, 747
regardless of whether the land is valued for tax purposes as 748
such land under sections 5713.30 to 5713.38 of the Revised Code. 749
If the trust is a pass-through entity investor, section 5747.231 750

of the Revised Code applies in ascertaining if the trust is 751
eligible to claim the deduction provided by division (S) (12) of 752
this section in connection with the pass-through entity's farm 753
income. 754

Except for farm income attributable to the S portion of an 755
electing small business trust, the deduction provided by 756
division (S) (12) of this section is allowed only to the extent 757
that the trust has not distributed such farm income. Division 758
(S) (12) of this section applies only to taxable years of a trust 759
beginning in 2002 or thereafter. 760

(13) Add the net amount of income described in section 761
641(c) of the Internal Revenue Code to the extent that amount is 762
not included in federal taxable income. 763

(14) Add or deduct the amount the taxpayer would be 764
required to add or deduct under division (A) (20) or (21) of this 765
section if the taxpayer's Ohio taxable income were computed in 766
the same manner as an individual's Ohio adjusted gross income is 767
computed under this section. In the case of a trust, division 768
(S) (14) of this section applies only to any of the trust's 769
taxable years beginning in 2002 or thereafter. 770

(T) "School district income" and "school district income 771
tax" have the same meanings as in section 5748.01 of the Revised 772
Code. 773

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 774
(7) of this section, "public obligations," "purchase 775
obligations," and "interest or interest equivalent" have the 776
same meanings as in section 5709.76 of the Revised Code. 777

(V) "Limited liability company" means any limited 778
liability company formed under Chapter 1705. of the Revised Code 779

or under the laws of any other state. 780

(W) "Pass-through entity investor" means any person who, 781
during any portion of a taxable year of a pass-through entity, 782
is a partner, member, shareholder, or equity investor in that 783
pass-through entity. 784

(X) "Banking day" has the same meaning as in section 785
1304.01 of the Revised Code. 786

(Y) "Month" means a calendar month. 787

(Z) "Quarter" means the first three months, the second 788
three months, the third three months, or the last three months 789
of the taxpayer's taxable year. 790

(AA) (1) "Eligible institution" means a state university or 791
state institution of higher education as defined in section 792
3345.011 of the Revised Code, or a private, nonprofit college, 793
university, or other post-secondary institution located in this 794
state that possesses a certificate of authorization issued by 795
the Ohio board of regents pursuant to Chapter 1713. of the 796
Revised Code or a certificate of registration issued by the 797
state board of career colleges and schools under Chapter 3332. 798
of the Revised Code. 799

(2) "Qualified tuition and fees" means tuition and fees 800
imposed by an eligible institution as a condition of enrollment 801
or attendance, not exceeding two thousand five hundred dollars 802
in each of the individual's first two years of post-secondary 803
education. If the individual is a part-time student, "qualified 804
tuition and fees" includes tuition and fees paid for the 805
academic equivalent of the first two years of post-secondary 806
education during a maximum of five taxable years, not exceeding 807
a total of five thousand dollars. "Qualified tuition and fees" 808

does not include: 809

(a) Expenses for any course or activity involving sports, 810
games, or hobbies unless the course or activity is part of the 811
individual's degree or diploma program; 812

(b) The cost of books, room and board, student activity 813
fees, athletic fees, insurance expenses, or other expenses 814
unrelated to the individual's academic course of instruction; 815

(c) Tuition, fees, or other expenses paid or reimbursed 816
through an employer, scholarship, grant in aid, or other 817
educational benefit program. 818

(BB) (1) "Modified business income" means the business 819
income included in a trust's Ohio taxable income after such 820
taxable income is first reduced by the qualifying trust amount, 821
if any. 822

(2) "Qualifying trust amount" of a trust means capital 823
gains and losses from the sale, exchange, or other disposition 824
of equity or ownership interests in, or debt obligations of, a 825
qualifying investee to the extent included in the trust's Ohio 826
taxable income, but only if the following requirements are 827
satisfied: 828

(a) The book value of the qualifying investee's physical 829
assets in this state and everywhere, as of the last day of the 830
qualifying investee's fiscal or calendar year ending immediately 831
prior to the date on which the trust recognizes the gain or 832
loss, is available to the trust. 833

(b) The requirements of section 5747.011 of the Revised 834
Code are satisfied for the trust's taxable year in which the 835
trust recognizes the gain or loss. 836

Any gain or loss that is not a qualifying trust amount is 837
modified business income, qualifying investment income, or 838
modified nonbusiness income, as the case may be. 839

(3) "Modified nonbusiness income" means a trust's Ohio 840
taxable income other than modified business income, other than 841
the qualifying trust amount, and other than qualifying 842
investment income, as defined in section 5747.012 of the Revised 843
Code, to the extent such qualifying investment income is not 844
otherwise part of modified business income. 845

(4) "Modified Ohio taxable income" applies only to trusts, 846
and means the sum of the amounts described in divisions (BB) (4) 847
(a) to (c) of this section: 848

(a) The fraction, calculated under section 5747.013, and 849
applying section 5747.231 of the Revised Code, multiplied by the 850
sum of the following amounts: 851

(i) The trust's modified business income; 852

(ii) The trust's qualifying investment income, as defined 853
in section 5747.012 of the Revised Code, but only to the extent 854
the qualifying investment income does not otherwise constitute 855
modified business income and does not otherwise constitute a 856
qualifying trust amount. 857

(b) The qualifying trust amount multiplied by a fraction, 858
the numerator of which is the sum of the book value of the 859
qualifying investee's physical assets in this state on the last 860
day of the qualifying investee's fiscal or calendar year ending 861
immediately prior to the day on which the trust recognizes the 862
qualifying trust amount, and the denominator of which is the sum 863
of the book value of the qualifying investee's total physical 864
assets everywhere on the last day of the qualifying investee's 865

fiscal or calendar year ending immediately prior to the day on 866
which the trust recognizes the qualifying trust amount. If, for 867
a taxable year, the trust recognizes a qualifying trust amount 868
with respect to more than one qualifying investee, the amount 869
described in division (BB) (4) (b) of this section shall equal the 870
sum of the products so computed for each such qualifying 871
investee. 872

(c) (i) With respect to a trust or portion of a trust that 873
is a resident as ascertained in accordance with division (I) (3) 874
(d) of this section, its modified nonbusiness income. 875

(ii) With respect to a trust or portion of a trust that is 876
not a resident as ascertained in accordance with division (I) (3) 877
(d) of this section, the amount of its modified nonbusiness 878
income satisfying the descriptions in divisions (B) (2) to (5) of 879
section 5747.20 of the Revised Code, except as otherwise 880
provided in division (BB) (4) (c) (ii) of this section. With 881
respect to a trust or portion of a trust that is not a resident 882
as ascertained in accordance with division (I) (3) (d) of this 883
section, the trust's portion of modified nonbusiness income 884
recognized from the sale, exchange, or other disposition of a 885
debt interest in or equity interest in a section 5747.212 886
entity, as defined in section 5747.212 of the Revised Code, 887
without regard to division (A) of that section, shall not be 888
allocated to this state in accordance with section 5747.20 of 889
the Revised Code but shall be apportioned to this state in 890
accordance with division (B) of section 5747.212 of the Revised 891
Code without regard to division (A) of that section. 892

If the allocation and apportionment of a trust's income 893
under divisions (BB) (4) (a) and (c) of this section do not fairly 894
represent the modified Ohio taxable income of the trust in this 895

state, the alternative methods described in division (C) of 896
section 5747.21 of the Revised Code may be applied in the manner 897
and to the same extent provided in that section. 898

(5) (a) Except as set forth in division (BB) (5) (b) of this 899
section, "qualifying investee" means a person in which a trust 900
has an equity or ownership interest, or a person or unit of 901
government the debt obligations of either of which are owned by 902
a trust. For the purposes of division (BB) (2) (a) of this section 903
and for the purpose of computing the fraction described in 904
division (BB) (4) (b) of this section, all of the following apply: 905

(i) If the qualifying investee is a member of a qualifying 906
controlled group on the last day of the qualifying investee's 907
fiscal or calendar year ending immediately prior to the date on 908
which the trust recognizes the gain or loss, then "qualifying 909
investee" includes all persons in the qualifying controlled 910
group on such last day. 911

(ii) If the qualifying investee, or if the qualifying 912
investee and any members of the qualifying controlled group of 913
which the qualifying investee is a member on the last day of the 914
qualifying investee's fiscal or calendar year ending immediately 915
prior to the date on which the trust recognizes the gain or 916
loss, separately or cumulatively own, directly or indirectly, on 917
the last day of the qualifying investee's fiscal or calendar 918
year ending immediately prior to the date on which the trust 919
recognizes the qualifying trust amount, more than fifty per cent 920
of the equity of a pass-through entity, then the qualifying 921
investee and the other members are deemed to own the 922
proportionate share of the pass-through entity's physical assets 923
which the pass-through entity directly or indirectly owns on the 924
last day of the pass-through entity's calendar or fiscal year 925

ending within or with the last day of the qualifying investee's 926
fiscal or calendar year ending immediately prior to the date on 927
which the trust recognizes the qualifying trust amount. 928

(iii) For the purposes of division (BB) (5) (a) (iii) of this 929
section, "upper level pass-through entity" means a pass-through 930
entity directly or indirectly owning any equity of another pass- 931
through entity, and "lower level pass-through entity" means that 932
other pass-through entity. 933

An upper level pass-through entity, whether or not it is 934
also a qualifying investee, is deemed to own, on the last day of 935
the upper level pass-through entity's calendar or fiscal year, 936
the proportionate share of the lower level pass-through entity's 937
physical assets that the lower level pass-through entity 938
directly or indirectly owns on the last day of the lower level 939
pass-through entity's calendar or fiscal year ending within or 940
with the last day of the upper level pass-through entity's 941
fiscal or calendar year. If the upper level pass-through entity 942
directly and indirectly owns less than fifty per cent of the 943
equity of the lower level pass-through entity on each day of the 944
upper level pass-through entity's calendar or fiscal year in 945
which or with which ends the calendar or fiscal year of the 946
lower level pass-through entity and if, based upon clear and 947
convincing evidence, complete information about the location and 948
cost of the physical assets of the lower pass-through entity is 949
not available to the upper level pass-through entity, then 950
solely for purposes of ascertaining if a gain or loss 951
constitutes a qualifying trust amount, the upper level pass- 952
through entity shall be deemed as owning no equity of the lower 953
level pass-through entity for each day during the upper level 954
pass-through entity's calendar or fiscal year in which or with 955
which ends the lower level pass-through entity's calendar or 956

fiscal year. Nothing in division (BB) (5) (a) (iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

(EE) (1) For the purposes of division (EE) of this section:

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

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

(i) A corporation that has made an election under	984
subchapter S, chapter one, subtitle A, of the Internal Revenue	985
Code for its taxable year ending within, or on the last day of,	986
the investor's taxable year;	987
(ii) A subsidiary that is wholly owned by any corporation	988
that has made an election under subchapter S, chapter one,	989
subtitle A of the Internal Revenue Code for its taxable year	990
ending within, or on the last day of, the investor's taxable	991
year.	992
(2) For the purposes of this chapter, unless expressly	993
stated otherwise, no qualifying person indirectly owns any asset	994
directly or indirectly owned by any qualifying corporation.	995
(FF) For purposes of this chapter and Chapter 5751. of the	996
Revised Code:	997
(1) "Trust" does not include a qualified pre-income tax	998
trust.	999
(2) A "qualified pre-income tax trust" is any pre-income	1000
tax trust that makes a qualifying pre-income tax trust election	1001
as described in division (FF)(3) of this section.	1002
(3) A "qualifying pre-income tax trust election" is an	1003
election by a pre-income tax trust to subject to the tax imposed	1004
by section 5751.02 of the Revised Code the pre-income tax trust	1005
and all pass-through entities of which the trust owns or	1006
controls, directly, indirectly, or constructively through	1007
related interests, five per cent or more of the ownership or	1008
equity interests. The trustee shall notify the tax commissioner	1009
in writing of the election on or before April 15, 2006. The	1010
election, if timely made, shall be effective on and after	1011
January 1, 2006, and shall apply for all tax periods and tax	1012

years until revoked by the trustee of the trust. 1013

(4) A "pre-income tax trust" is a trust that satisfies all 1014
of the following requirements: 1015

(a) The document or instrument creating the trust was 1016
executed by the grantor before January 1, 1972; 1017

(b) The trust became irrevocable upon the creation of the 1018
trust; and 1019

(c) The grantor was domiciled in this state at the time 1020
the trust was created. 1021

(GG) "Uniformed services" has the same meaning as in 10
U.S.C. 101. 1022
1023

Sec. 5747.82. (A) As used in this section: 1024

(1) "Higher education expenses" means all of the following 1025
expenses incurred by a taxpayer while enrolled in an eligible 1026
educational institution: 1027

(a) Tuition, fees, books, supplies, and equipment required 1028
for the enrollment or attendance of the taxpayer at the eligible 1029
educational institution; 1030

(b) Room and board expenses incurred while the taxpayer is 1031
carrying at least one-half of the normal full-time academic 1032
workload for the course of the study the taxpayer is pursuing, 1033
as determined by the eligible educational institution, to the 1034
extent that the expenses for an academic period do not exceed 1035
the greater of the following: 1036

(i) The allowance for room and board determined by the 1037
eligible educational institution for federal financial aid 1038
purposes for that academic period; 1039

(ii) If the taxpayer lives in a residence that is owned or operated by or located on the campus of the eligible educational institution, the amount actually charged to the taxpayer for room and board for that academic period; 1040
1041
1042
1043

(c) Expenses for special needs services required by the taxpayer in connection with the taxpayer's enrollment or attendance at the eligible educational institution. 1044
1045
1046

(2) "Eligible educational institution" has the same meaning as in section 529 of the Internal Revenue Code. 1047
1048

(3) "Qualified higher education expenses" means the total amount of higher education expenses paid by a taxpayer toward the completion of a degree program at an eligible educational institution, excluding the following: 1049
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1051
1052

(a) The amount of such expenses paid on behalf of the taxpayer in the form of grants, scholarships, gifts, or bequests; 1053
1054
1055

(b) The amount of any tuition units or payments applied toward such expenses under a qualified tuition program established under section 529 of the Internal Revenue Code. 1056
1057
1058

"Qualified higher education expenses" shall be reduced by the amount of any reduction in federal income tax resulting from a federal deduction or credit claimed by the taxpayer on the basis of such expenses. 1059
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(B) An individual who graduates on or after the effective date of the enactment of this section with an associate, technical, baccalaureate, master's, professional, or other advanced degree from an eligible educational institution may deduct from the individual's federal adjusted gross income for a taxable year the lesser of ten thousand dollars or the qualified 1063
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higher education expenses paid by the taxpayer toward the 1069
completion of that degree to the extent that such expenses are 1070
not otherwise deducted or excluded in computing Ohio adjusted 1071
gross income for the taxable year and not otherwise deducted by 1072
the taxpayer under this section and division (A) (32) of section 1073
5747.01 of the Revised Code in computing Ohio adjusted gross 1074
income for a prior taxable year. The taxpayer may make the 1075
deduction for the taxable year immediately following the taxable 1076
year in which the taxpayer earned the degree and for each 1077
ensuing taxable year, provided the aggregate amount a taxpayer 1078
deducts under this section and division (A) (32) of section 1079
5747.01 of the Revised Code for all taxable years does not 1080
exceed the total amount of those qualified higher education 1081
expenses. 1082

(C) An individual who is allowed a deduction under this 1083
section and division (A) (32) of section 5747.01 of the Revised 1084
Code may elect to defer the deduction for each taxable year that 1085
includes a date on which the individual is enrolled full-time in 1086
an eligible educational institution to pursue a more advanced 1087
degree. Evidence of such enrollment shall be retained for 1088
inspection by the tax commissioner until the expiration of four 1089
years after the end of the last taxable year the deduction is 1090
made. 1091

(D) An individual who is allowed a deduction under this 1092
section and division (A) (32) of section 5747.01 of the Revised 1093
Code shall retain evidence of graduation for inspection by the 1094
tax commissioner until the expiration of four years after the 1095
end of the last taxable year the deduction is made. 1096

Any amount deducted pursuant to this section shall be 1097
included in Ohio adjusted gross income for the purpose of 1098

<u>determining eligibility for the credit allowed under section</u>	1099
<u>5747.056 of the Revised Code.</u>	1100
Section 2. That existing section 5747.01 of the Revised	1101
Code is hereby repealed.	1102