

As Introduced

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H. B. No. 358

Representatives Dever, Conditt

A BILL

To amend section 5747.01 and to enact section 1
5747.78 of the Revised Code to allow an income 2
tax deduction for contributions to ABLE savings 3
accounts. 4

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

Section 1. That section 5747.01 be amended and section 5
5747.78 of the Revised Code be enacted to read as follows: 6

Sec. 5747.01. Except as otherwise expressly provided or 7
clearly appearing from the context, any term used in this 8
chapter that is not otherwise defined in this section has the 9
same meaning as when used in a comparable context in the laws of 10
the United States relating to federal income taxes or if not 11
used in a comparable context in those laws, has the same meaning 12
as in section 5733.40 of the Revised Code. Any reference in this 13
chapter to the Internal Revenue Code includes other laws of the 14
United States relating to federal income taxes. 15

As used in this chapter: 16

(A) "Adjusted gross income" or "Ohio adjusted gross 17
income" means federal adjusted gross income, as defined and used 18
in the Internal Revenue Code, adjusted as provided in this 19

section:	20
(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.	21 22 23 24
(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.	25 26 27 28 29
(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.	30 31 32 33 34 35
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	36 37
(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.	38 39 40 41
(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 undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is	42 43 44 45 46 47 48

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

(7) Deduct the amount of wages and salaries, if any, not 65
otherwise allowable as a deduction but that would have been 66
allowable as a deduction in computing federal adjusted gross 67
income for the taxable year, had the targeted jobs credit 68
allowed and determined under sections 38, 51, and 52 of the 69
Internal Revenue Code not been in effect. 70

(8) Deduct any interest or interest equivalent on public 71
obligations and purchase obligations to the extent that the 72
interest or interest equivalent is included in federal adjusted 73
gross income. 74

(9) Add any loss or deduct any gain resulting from the 75
sale, exchange, or other disposition of public obligations to 76
the extent that the loss has been deducted or the gain has been 77
included in computing federal adjusted gross income. 78

(10) Deduct or add amounts, as provided under section 79
5747.70 of the Revised Code, related to contributions to 80
variable college savings program accounts made or tuition units 81
purchased pursuant to Chapter 3334. of the Revised Code. 82

(11) (a) Deduct, to the extent not otherwise allowable as a 83
deduction or exclusion in computing federal or Ohio adjusted 84
gross income for the taxable year, the amount the taxpayer paid 85
during the taxable year for medical care insurance and qualified 86
long-term care insurance for the taxpayer, the taxpayer's 87
spouse, and dependents. No deduction for medical care insurance 88
under division (A) (11) of this section shall be allowed either 89
to any taxpayer who is eligible to participate in any subsidized 90
health plan maintained by any employer of the taxpayer or of the 91
taxpayer's spouse, or to any taxpayer who is entitled to, or on 92
application would be entitled to, benefits under part A of Title 93
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 94
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 95
of this section, "subsidized health plan" means a health plan 96
for which the employer pays any portion of the plan's cost. The 97
deduction allowed under division (A) (11) (a) of this section 98
shall be the net of any related premium refunds, related premium 99
reimbursements, or related insurance premium dividends received 100
during the taxable year. 101

(b) Deduct, to the extent not otherwise deducted or 102
excluded in computing federal or Ohio adjusted gross income 103
during the taxable year, the amount the taxpayer paid during the 104
taxable year, not compensated for by any insurance or otherwise, 105
for medical care of the taxpayer, the taxpayer's spouse, and 106
dependents, to the extent the expenses exceed seven and one-half 107
per cent of the taxpayer's federal adjusted gross income. 108

(c) Deduct, to the extent not otherwise deducted or 109
excluded in computing federal or Ohio adjusted gross income, any 110
amount included in federal adjusted gross income under section 111
105 or not excluded under section 106 of the Internal Revenue 112
Code solely because it relates to an accident and health plan 113
for a person who otherwise would be a "qualifying relative" and 114
thus a "dependent" under section 152 of the Internal Revenue 115
Code but for the fact that the person fails to meet the income 116
and support limitations under section 152(d)(1)(B) and (C) of 117
the Internal Revenue Code. 118

(d) For purposes of division (A)(11) of this section, 119
"medical care" has the meaning given in section 213 of the 120
Internal Revenue Code, subject to the special rules, 121
limitations, and exclusions set forth therein, and "qualified 122
long-term care" has the same meaning given in section 7702B(c) 123
of the Internal Revenue Code. Solely for purposes of divisions 124
(A)(11)(a) and (c) of this section, "dependent" includes a 125
person who otherwise would be a "qualifying relative" and thus a 126
"dependent" under section 152 of the Internal Revenue Code but 127
for the fact that the person fails to meet the income and 128
support limitations under section 152(d)(1)(B) and (C) of the 129
Internal Revenue Code. 130

(12)(a) Deduct any amount included in federal adjusted 131
gross income solely because the amount represents a 132
reimbursement or refund of expenses that in any year the 133
taxpayer had deducted as an itemized deduction pursuant to 134
section 63 of the Internal Revenue Code and applicable United 135
States department of the treasury regulations. The deduction 136
otherwise allowed under division (A)(12)(a) of this section 137
shall be reduced to the extent the reimbursement is attributable 138
to an amount the taxpayer deducted under this section in any 139

taxable year.	140
(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.	141 142 143 144 145
(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:	146 147 148 149
(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;	150 151 152 153
(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	154 155
(14) 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)(14) 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.	156 157 158 159 160 161 162
(15) (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;	163 164 165 166 167 168

(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.	169 170 171
(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:	172 173 174
(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;	175 176 177 178
(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.	179 180 181
(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) (17) of this section.	182 183 184 185 186 187 188 189
(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for	190 191 192 193 194 195 196 197

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

(19) Add any reimbursement received during the taxable 208
year of any amount the taxpayer deducted under division (A) (18) 209
of this section in any previous taxable year to the extent the 210
amount is not otherwise included in Ohio adjusted gross income. 211

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 212
(v) of this section, add five-sixths of the amount of 213
depreciation expense allowed by subsection (k) of section 168 of 214
the Internal Revenue Code, including the taxpayer's 215
proportionate or distributive share of the amount of 216
depreciation expense allowed by that subsection to a pass- 217
through entity in which the taxpayer has a direct or indirect 218
ownership interest. 219

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 220
of this section, add five-sixths of the amount of qualifying 221
section 179 depreciation expense, including the taxpayer's 222
proportionate or distributive share of the amount of qualifying 223
section 179 depreciation expense allowed to any pass-through 224
entity in which the taxpayer has a direct or indirect ownership 225
interest. 226

(iii) Subject to division (A) (20) (a) (v) of this section, 227

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

(iv) Subject to division (A) (20) (a) (v) of this section, 234
for taxable years beginning in 2012 or thereafter, a taxpayer is 235
not required to add an amount under division (A) (20) of this 236
section if the increase in income taxes withheld by the taxpayer 237
and by any pass-through entity in which the taxpayer has a 238
direct or indirect ownership interest is equal to or greater 239
than the sum of (I) the amount of qualifying section 179 240
depreciation expense and (II) the amount of depreciation expense 241
allowed to the taxpayer by subsection (k) of section 168 of the 242
Internal Revenue Code, and including the taxpayer's 243
proportionate or distributive shares of such amounts allowed to 244
any such pass-through entities. 245

(v) If a taxpayer directly or indirectly incurs a net 246
operating loss for the taxable year for federal income tax 247
purposes, to the extent such loss resulted from depreciation 248
expense allowed by subsection (k) of section 168 of the Internal 249
Revenue Code and by qualifying section 179 depreciation expense, 250
"the entire" shall be substituted for "five-sixths of the" for 251
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 252

The tax commissioner, under procedures established by the 253
commissioner, may waive the add-backs related to a pass-through 254
entity if the taxpayer owns, directly or indirectly, less than 255
five per cent of the pass-through entity. 256

(b) Nothing in division (A) (20) of this section shall be 257

construed to adjust or modify the adjusted basis of any asset.	258
(c) To the extent the add-back required under division (A)	259
(20) (a) of this section is attributable to property generating	260
nonbusiness income or loss allocated under section 5747.20 of	261
the Revised Code, the add-back shall be situated to the same	262
location as the nonbusiness income or loss generated by the	263
property for the purpose of determining the credit under	264
division (A) of section 5747.05 of the Revised Code. Otherwise,	265
the add-back shall be apportioned, subject to one or more of the	266
four alternative methods of apportionment enumerated in section	267
5747.21 of the Revised Code.	268
(d) For the purposes of division (A) (20) (a) (v) of this	269
section, net operating loss carryback and carryforward shall not	270
include the allowance of any net operating loss deduction	271
carryback or carryforward to the taxable year to the extent such	272
loss resulted from depreciation allowed by section 168(k) of the	273
Internal Revenue Code and by the qualifying section 179	274
depreciation expense amount.	275
(e) For the purposes of divisions (A) (20) and (21) of this	276
section:	277
(i) "Income taxes withheld" means the total amount	278
withheld and remitted under sections 5747.06 and 5747.07 of the	279
Revised Code by an employer during the employer's taxable year.	280
(ii) "Increase in income taxes withheld" means the amount	281
by which the amount of income taxes withheld by an employer	282
during the employer's current taxable year exceeds the amount of	283
income taxes withheld by that employer during the employer's	284
immediately preceding taxable year.	285
(iii) "Qualifying section 179 depreciation expense" means	286

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

(21) (a) If the taxpayer was required to add an amount 293
under division (A) (20) (a) of this section for a taxable year, 294
deduct one of the following: 295

(i) One-fifth of the amount so added for each of the five 296
succeeding taxable years if the amount so added was five-sixths 297
of qualifying section 179 depreciation expense or depreciation 298
expense allowed by subsection (k) of section 168 of the Internal 299
Revenue Code; 300

(ii) One-half of the amount so added for each of the two 301
succeeding taxable years if the amount so added was two-thirds 302
of such depreciation expense; 303

(iii) One-sixth of the amount so added for each of the six 304
succeeding taxable years if the entire amount of such 305
depreciation expense was so added. 306

(b) If the amount deducted under division (A) (21) (a) of 307
this section is attributable to an add-back allocated under 308
division (A) (20) (c) of this section, the amount deducted shall 309
be situated to the same location. Otherwise, the add-back shall 310
be apportioned using the apportionment factors for the taxable 311
year in which the deduction is taken, subject to one or more of 312
the four alternative methods of apportionment enumerated in 313
section 5747.21 of the Revised Code. 314

(c) No deduction is available under division (A) (21) (a) of 315

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

(d) No refund shall be allowed as a result of adjustments 328
made by division (A) (21) of this section. 329

(22) Deduct, to the extent not otherwise deducted or 330
excluded in computing federal or Ohio adjusted gross income for 331
the taxable year, the amount the taxpayer received during the 332
taxable year as reimbursement for life insurance premiums under 333
section 5919.31 of the Revised Code. 334

(23) Deduct, to the extent not otherwise deducted or 335
excluded in computing federal or Ohio adjusted gross income for 336
the taxable year, the amount the taxpayer received during the 337
taxable year as a death benefit paid by the adjutant general 338
under section 5919.33 of the Revised Code. 339

(24) Deduct, to the extent included in federal adjusted 340
gross income and not otherwise allowable as a deduction or 341
exclusion in computing federal or Ohio adjusted gross income for 342
the taxable year, military pay and allowances received by the 343
taxpayer during the taxable year for active duty service in the 344
United States army, air force, navy, marine corps, or coast 345

guard or reserve components thereof or the national guard. The 346
deduction may not be claimed for military pay and allowances 347
received by the taxpayer while the taxpayer is stationed in this 348
state. 349

(25) Deduct, to the extent not otherwise allowable as a 350
deduction or exclusion in computing federal or Ohio adjusted 351
gross income for the taxable year and not otherwise compensated 352
for by any other source, the amount of qualified organ donation 353
expenses incurred by the taxpayer during the taxable year, not 354
to exceed ten thousand dollars. A taxpayer may deduct qualified 355
organ donation expenses only once for all taxable years 356
beginning with taxable years beginning in 2007. 357

For the purposes of division (A) (25) of this section: 358

(a) "Human organ" means all or any portion of a human 359
liver, pancreas, kidney, intestine, or lung, and any portion of 360
human bone marrow. 361

(b) "Qualified organ donation expenses" means travel 362
expenses, lodging expenses, and wages and salary forgone by a 363
taxpayer in connection with the taxpayer's donation, while 364
living, of one or more of the taxpayer's human organs to another 365
human being. 366

(26) Deduct, to the extent not otherwise deducted or 367
excluded in computing federal or Ohio adjusted gross income for 368
the taxable year, amounts received by the taxpayer as retired 369
personnel pay for service in the uniformed services or reserve 370
components thereof, or the national guard, or received by the 371
surviving spouse or former spouse of such a taxpayer under the 372
survivor benefit plan on account of such a taxpayer's death. If 373
the taxpayer receives income on account of retirement paid under 374

the federal civil service retirement system or federal employees 375
retirement system, or under any successor retirement program 376
enacted by the congress of the United States that is established 377
and maintained for retired employees of the United States 378
government, and such retirement income is based, in whole or in 379
part, on credit for the taxpayer's uniformed service, the 380
deduction allowed under this division shall include only that 381
portion of such retirement income that is attributable to the 382
taxpayer's uniformed service, to the extent that portion of such 383
retirement income is otherwise included in federal adjusted 384
gross income and is not otherwise deducted under this section. 385
Any amount deducted under division (A) (26) of this section is 386
not included in a taxpayer's adjusted gross income for the 387
purposes of section 5747.055 of the Revised Code. No amount may 388
be deducted under division (A) (26) of this section on the basis 389
of which a credit was claimed under section 5747.055 of the 390
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, the amount the taxpayer received during the 394
taxable year from the military injury relief fund created in 395
section 5101.98 of the Revised Code. 396

(28) Deduct, to the extent not otherwise deducted or 397
excluded in computing federal or Ohio adjusted gross income for 398
the taxable year, the amount the taxpayer received as a veterans 399
bonus during the taxable year from the Ohio department of 400
veterans services as authorized by Section 2r of Article VIII, 401
Ohio Constitution. 402

(29) Deduct, to the extent not otherwise deducted or 403
excluded in computing federal or Ohio adjusted gross income for 404

the taxable year, any income derived from a transfer agreement 405
or from the enterprise transferred under that agreement under 406
section 4313.02 of the Revised Code. 407

(30) Deduct, to the extent not otherwise deducted or 408
excluded in computing federal or Ohio adjusted gross income for 409
the taxable year, Ohio college opportunity or federal Pell grant 410
amounts received by the taxpayer or the taxpayer's spouse or 411
dependent pursuant to section 3333.122 of the Revised Code or 20 412
U.S.C. 1070a, et seq., and used to pay room or board furnished 413
by the educational institution for which the grant was awarded 414
at the institution's facilities, including meal plans 415
administered by the institution. For the purposes of this 416
division, receipt of a grant includes the distribution of a 417
grant directly to an educational institution and the crediting 418
of the grant to the enrollee's account with the institution. 419

(31) Deduct one-half of the taxpayer's Ohio small business 420
investor income, the deduction not to exceed sixty-two thousand 421
five hundred dollars for each spouse if spouses file separate 422
returns under section 5747.08 of the Revised Code or one hundred 423
twenty-five thousand dollars for all other taxpayers. No pass- 424
through entity may claim a deduction under this division. 425

For the purposes of this division, "Ohio small business 426
investor income" means the portion of a taxpayer's adjusted 427
gross income that is business income reduced by deductions from 428
business income and apportioned or allocated to this state under 429
sections 5747.21 and 5747.22 of the Revised Code, to the extent 430
not otherwise deducted or excluded in computing federal or Ohio 431
adjusted gross income for the taxable year. 432

(32) Deduct, as provided under section 5747.78 of the 433
Revised Code, contributions to ABLE savings accounts made in 434

<u>accordance with sections 113.50 to 113.56 of the Revised Code.</u>	435
(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.	436 437 438 439 440 441 442 443 444 445
(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.	446 447 448 449 450 451
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	452 453
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	454 455 456
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	457 458
(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 income. 753
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Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter. 755
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(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income. 761
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(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter. 764
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(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code. 771
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(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code. 774
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(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state. 778
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(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 taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

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

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

(i) The trust's modified business income;

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

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount

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

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

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or 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 subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(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 1022
U.S.C. 101. 1023

Sec. 5747.78. In computing Ohio adjusted gross income, a 1024
deduction from federal adjusted gross income is allowed to a 1025
contributor for amounts contributed during the taxable year to 1026
an ABLE savings account opened in accordance with sections 1027
113.50 to 113.56 of the Revised Code to the extent that the 1028
amounts contributed have not been deducted in computing the 1029
contributor's federal adjusted gross income for the taxable 1030
year. The total amount of contributions deducted in any taxable 1031
year by a taxpayer or the taxpayer and the taxpayer's spouse, 1032
regardless of whether the taxpayer and the taxpayer's spouse 1033
file separate returns or a joint return, shall not exceed the 1034
annual contribution limit for each beneficiary for whom 1035
contributions are made. If the total annual contributions for a 1036
beneficiary exceed the annual contribution limit, the excess may 1037
be carried forward and deducted in future taxable years until 1038
the contributions have been fully deducted. 1039

As used in this section, "annual contribution limit" means 1040
the limit prescribed in section 5747.70 of the Revised Code on 1041
the dollar amount of contributions and purchases that a 1042
taxpayer, or a taxpayer and the taxpayer's spouse, may deduct 1043
during a taxable year under that section with respect to each 1044
beneficiary for whom contributions or purchases are made. 1045

Section 2. That existing section 5747.01 of the Revised Code is hereby repealed. 1046
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Section 3. The amendment or enactment by this act of sections 5747.01 and 5747.78 of the Revised Code applies to taxable years beginning in or after the calendar year in which the act takes effect. 1048
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