

**As Introduced**

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**H. B. No. 186**

**Representatives Rogers, Scherer**

**Cosponsors: Representatives Antani, Antonio, Arndt, Bishoff, Bocchieri, Boggs, Celebrezze, Cera, Clyde, Fedor, Henne, Hood, O'Brien, Patterson, Ramos, Sheehy, Smith, K., Sweeney, Vitale, West**

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**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 an individual obtaining a 3  
post-secondary degree or credential from an 4  
eligible educational institution to claim an 5  
income tax deduction for qualified higher 6  
education expenses. 7

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

**Section 1.** That section 5747.01 be amended and section 8  
5747.82 of the Revised Code be enacted to read as follows: 9

**Sec. 5747.01.** Except as otherwise expressly provided or 10  
clearly appearing from the context, any term used in this 11  
chapter that is not otherwise defined in this section has the 12  
same meaning as when used in a comparable context in the laws of 13  
the United States relating to federal income taxes or if not 14  
used in a comparable context in those laws, has the same meaning 15  
as in section 5733.40 of the Revised Code. Any reference in this 16  
chapter to the Internal Revenue Code includes other laws of the 17

United States relating to federal income taxes.	18
As used in this chapter:	19
(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:	20 21 22 23
(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.	24 25 26 27
(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.	28 29 30 31 32
(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.	33 34 35 36 37 38
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	39 40
(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.	41 42 43 44
(6) In the case of a taxpayer who is a beneficiary of a	45

trust that makes an accumulation distribution as defined in 46  
section 665 of the Internal Revenue Code, add, for the 47  
beneficiary's taxable years beginning before 2002, the portion, 48  
if any, of such distribution that does not exceed the 49  
undistributed net income of the trust for the three taxable 50  
years preceding the taxable year in which the distribution is 51  
made to the extent that the portion was not included in the 52  
trust's taxable income for any of the trust's taxable years 53  
beginning in 2002 or thereafter. "Undistributed net income of a 54  
trust" means the taxable income of the trust increased by (a) (i) 55  
the additions to adjusted gross income required under division 56  
(A) of this section and (ii) the personal exemptions allowed to 57  
the trust pursuant to section 642(b) of the Internal Revenue 58  
Code, and decreased by (b) (i) the deductions to adjusted gross 59  
income required under division (A) of this section, (ii) the 60  
amount of federal income taxes attributable to such income, and 61  
(iii) the amount of taxable income that has been included in the 62  
adjusted gross income of a beneficiary by reason of a prior 63  
accumulation distribution. Any undistributed net income included 64  
in the adjusted gross income of a beneficiary shall reduce the 65  
undistributed net income of the trust commencing with the 66  
earliest years of the accumulation period. 67

(7) Deduct the amount of wages and salaries, if any, not 68  
otherwise allowable as a deduction but that would have been 69  
allowable as a deduction in computing federal adjusted gross 70  
income for the taxable year, had the targeted jobs credit 71  
allowed and determined under sections 38, 51, and 52 of the 72  
Internal Revenue Code not been in effect. 73

(8) Deduct any interest or interest equivalent on public 74  
obligations and purchase obligations to the extent that the 75  
interest or interest equivalent is included in federal adjusted 76

gross income.	77
(9) Add any loss or deduct any gain resulting from the	78
sale, exchange, or other disposition of public obligations to	79
the extent that the loss has been deducted or the gain has been	80
included in computing federal adjusted gross income.	81
(10) Deduct or add amounts, as provided under section	82
5747.70 of the Revised Code, related to contributions to	83
variable college savings program accounts made or tuition units	84
purchased pursuant to Chapter 3334. of the Revised Code.	85
(11) (a) Deduct, to the extent not otherwise allowable as a	86
deduction or exclusion in computing federal or Ohio adjusted	87
gross income for the taxable year, the amount the taxpayer paid	88
during the taxable year for medical care insurance and qualified	89
long-term care insurance for the taxpayer, the taxpayer's	90
spouse, and dependents. No deduction for medical care insurance	91
under division (A) (11) of this section shall be allowed either	92
to any taxpayer who is eligible to participate in any subsidized	93
health plan maintained by any employer of the taxpayer or of the	94
taxpayer's spouse, or to any taxpayer who is entitled to, or on	95
application would be entitled to, benefits under part A of Title	96
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42	97
U.S.C. 301, as amended. For the purposes of division (A) (11) (a)	98
of this section, "subsidized health plan" means a health plan	99
for which the employer pays any portion of the plan's cost. The	100
deduction allowed under division (A) (11) (a) of this section	101
shall be the net of any related premium refunds, related premium	102
reimbursements, or related insurance premium dividends received	103
during the taxable year.	104
(b) Deduct, to the extent not otherwise deducted or	105
excluded in computing federal or Ohio adjusted gross income	106

during the taxable year, the amount the taxpayer paid during the 107  
taxable year, not compensated for by any insurance or otherwise, 108  
for medical care of the taxpayer, the taxpayer's spouse, and 109  
dependents, to the extent the expenses exceed seven and one-half 110  
per cent of the taxpayer's federal adjusted gross income. 111

(c) Deduct, to the extent not otherwise deducted or 112  
excluded in computing federal or Ohio adjusted gross income, any 113  
amount included in federal adjusted gross income under section 114  
105 or not excluded under section 106 of the Internal Revenue 115  
Code solely because it relates to an accident and health plan 116  
for a person who otherwise would be a "qualifying relative" and 117  
thus a "dependent" under section 152 of the Internal Revenue 118  
Code but for the fact that the person fails to meet the income 119  
and support limitations under section 152(d)(1)(B) and (C) of 120  
the Internal Revenue Code. 121

(d) For purposes of division (A)(11) of this section, 122  
"medical care" has the meaning given in section 213 of the 123  
Internal Revenue Code, subject to the special rules, 124  
limitations, and exclusions set forth therein, and "qualified 125  
long-term care" has the same meaning given in section 7702B(c) 126  
of the Internal Revenue Code. Solely for purposes of divisions 127  
(A)(11)(a) and (c) of this section, "dependent" includes a 128  
person who otherwise would be a "qualifying relative" and thus a 129  
"dependent" under section 152 of the Internal Revenue Code but 130  
for the fact that the person fails to meet the income and 131  
support limitations under section 152(d)(1)(B) and (C) of the 132  
Internal Revenue Code. 133

(12)(a) Deduct any amount included in federal adjusted 134  
gross income solely because the amount represents a 135  
reimbursement or refund of expenses that in any year the 136

taxpayer had deducted as an itemized deduction pursuant to 137  
section 63 of the Internal Revenue Code and applicable United 138  
States department of the treasury regulations. The deduction 139  
otherwise allowed under division (A) (12) (a) of this section 140  
shall be reduced to the extent the reimbursement is attributable 141  
to an amount the taxpayer deducted under this section in any 142  
taxable year. 143

(b) Add any amount not otherwise included in Ohio adjusted 144  
gross income for any taxable year to the extent that the amount 145  
is attributable to the recovery during the taxable year of any 146  
amount deducted or excluded in computing federal or Ohio 147  
adjusted gross income in any taxable year. 148

(13) Deduct any portion of the deduction described in 149  
section 1341(a) (2) of the Internal Revenue Code, for repaying 150  
previously reported income received under a claim of right, that 151  
meets both of the following requirements: 152

(a) It is allowable for repayment of an item that was 153  
included in the taxpayer's adjusted gross income for a prior 154  
taxable year and did not qualify for a credit under division (A) 155  
or (B) of section 5747.05 of the Revised Code for that year; 156

(b) It does not otherwise reduce the taxpayer's adjusted 157  
gross income for the current or any other taxable year. 158

(14) Deduct an amount equal to the deposits made to, and 159  
net investment earnings of, a medical savings account during the 160  
taxable year, in accordance with section 3924.66 of the Revised 161  
Code. The deduction allowed by division (A) (14) of this section 162  
does not apply to medical savings account deposits and earnings 163  
otherwise deducted or excluded for the current or any other 164  
taxable year from the taxpayer's federal adjusted gross income. 165

(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;	166 167 168 169 170 171
(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.	172 173 174
(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:	175 176 177
(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;	178 179 180 181
(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.	182 183 184
(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.	185 186 187 188 189 190 191 192
(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer	193 194

is married and files a joint return and the combined federal 195  
adjusted gross income of the taxpayer and the taxpayer's spouse 196  
for the taxable year does not exceed one hundred thousand 197  
dollars, or if the taxpayer is single and has a federal adjusted 198  
gross income for the taxable year not exceeding fifty thousand 199  
dollars, deduct amounts paid during the taxable year for 200  
qualified tuition and fees paid to an eligible institution for 201  
the taxpayer, the taxpayer's spouse, or any dependent of the 202  
taxpayer, who is a resident of this state and is enrolled in or 203  
attending a program that culminates in a degree or diploma at an 204  
eligible institution. The deduction may be claimed only to the 205  
extent that qualified tuition and fees are not otherwise 206  
deducted or excluded for any taxable year from federal or Ohio 207  
adjusted gross income. The deduction may not be claimed for 208  
educational expenses for which the taxpayer claims a credit 209  
under section 5747.27 of the Revised Code. 210

(19) Add any reimbursement received during the taxable 211  
year of any amount the taxpayer deducted under division (A) (18) 212  
of this section in any previous taxable year to the extent the 213  
amount is not otherwise included in Ohio adjusted gross income. 214

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 215  
(v) of this section, add five-sixths of the amount of 216  
depreciation expense allowed by subsection (k) of section 168 of 217  
the Internal Revenue Code, including the taxpayer's 218  
proportionate or distributive share of the amount of 219  
depreciation expense allowed by that subsection to a pass- 220  
through entity in which the taxpayer has a direct or indirect 221  
ownership interest. 222

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 223  
of this section, add five-sixths of the amount of qualifying 224

section 179 depreciation expense, including the taxpayer's 225  
proportionate or distributive share of the amount of qualifying 226  
section 179 depreciation expense allowed to any pass-through 227  
entity in which the taxpayer has a direct or indirect ownership 228  
interest. 229

(iii) Subject to division (A) (20) (a) (v) of this section, 230  
for taxable years beginning in 2012 or thereafter, if the 231  
increase in income taxes withheld by the taxpayer is equal to or 232  
greater than ten per cent of income taxes withheld by the 233  
taxpayer during the taxpayer's immediately preceding taxable 234  
year, "two-thirds" shall be substituted for "five-sixths" for 235  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 236

(iv) Subject to division (A) (20) (a) (v) of this section, 237  
for taxable years beginning in 2012 or thereafter, a taxpayer is 238  
not required to add an amount under division (A) (20) of this 239  
section if the increase in income taxes withheld by the taxpayer 240  
and by any pass-through entity in which the taxpayer has a 241  
direct or indirect ownership interest is equal to or greater 242  
than the sum of (I) the amount of qualifying section 179 243  
depreciation expense and (II) the amount of depreciation expense 244  
allowed to the taxpayer by subsection (k) of section 168 of the 245  
Internal Revenue Code, and including the taxpayer's 246  
proportionate or distributive shares of such amounts allowed to 247  
any such pass-through entities. 248

(v) If a taxpayer directly or indirectly incurs a net 249  
operating loss for the taxable year for federal income tax 250  
purposes, to the extent such loss resulted from depreciation 251  
expense allowed by subsection (k) of section 168 of the Internal 252  
Revenue Code and by qualifying section 179 depreciation expense, 253  
"the entire" shall be substituted for "five-sixths of the" for 254

the purpose of divisions (A) (20) (a) (i) and (ii) of this section.	255
The tax commissioner, under procedures established by the	256
commissioner, may waive the add-backs related to a pass-through	257
entity if the taxpayer owns, directly or indirectly, less than	258
five per cent of the pass-through entity.	259
(b) Nothing in division (A) (20) of this section shall be	260
construed to adjust or modify the adjusted basis of any asset.	261
(c) To the extent the add-back required under division (A)	262
(20) (a) of this section is attributable to property generating	263
nonbusiness income or loss allocated under section 5747.20 of	264
the Revised Code, the add-back shall be situated to the same	265
location as the nonbusiness income or loss generated by the	266
property for the purpose of determining the credit under	267
division (A) of section 5747.05 of the Revised Code. Otherwise,	268
the add-back shall be apportioned, subject to one or more of the	269
four alternative methods of apportionment enumerated in section	270
5747.21 of the Revised Code.	271
(d) For the purposes of division (A) (20) (a) (v) of this	272
section, net operating loss carryback and carryforward shall not	273
include the allowance of any net operating loss deduction	274
carryback or carryforward to the taxable year to the extent such	275
loss resulted from depreciation allowed by section 168(k) of the	276
Internal Revenue Code and by the qualifying section 179	277
depreciation expense amount.	278
(e) For the purposes of divisions (A) (20) and (21) of this	279
section:	280
(i) "Income taxes withheld" means the total amount	281
withheld and remitted under sections 5747.06 and 5747.07 of the	282
Revised Code by an employer during the employer's taxable year.	283

(ii) "Increase in income taxes withheld" means the amount 284  
by which the amount of income taxes withheld by an employer 285  
during the employer's current taxable year exceeds the amount of 286  
income taxes withheld by that employer during the employer's 287  
immediately preceding taxable year. 288

(iii) "Qualifying section 179 depreciation expense" means 289  
the difference between (I) the amount of depreciation expense 290  
directly or indirectly allowed to a taxpayer under section 179 291  
of the Internal Revised Code, and (II) the amount of 292  
depreciation expense directly or indirectly allowed to the 293  
taxpayer under section 179 of the Internal Revenue Code as that 294  
section existed on December 31, 2002. 295

(21) (a) If the taxpayer was required to add an amount 296  
under division (A) (20) (a) of this section for a taxable year, 297  
deduct one of the following: 298

(i) One-fifth of the amount so added for each of the five 299  
succeeding taxable years if the amount so added was five-sixths 300  
of qualifying section 179 depreciation expense or depreciation 301  
expense allowed by subsection (k) of section 168 of the Internal 302  
Revenue Code; 303

(ii) One-half of the amount so added for each of the two 304  
succeeding taxable years if the amount so added was two-thirds 305  
of such depreciation expense; 306

(iii) One-sixth of the amount so added for each of the six 307  
succeeding taxable years if the entire amount of such 308  
depreciation expense was so added. 309

(b) If the amount deducted under division (A) (21) (a) of 310  
this section is attributable to an add-back allocated under 311  
division (A) (20) (c) of this section, the amount deducted shall 312

be situated to the same location. Otherwise, the add-back shall 313  
be apportioned using the apportionment factors for the taxable 314  
year in which the deduction is taken, subject to one or more of 315  
the four alternative methods of apportionment enumerated in 316  
section 5747.21 of the Revised Code. 317

(c) No deduction is available under division (A) (21) (a) of 318  
this section with regard to any depreciation allowed by section 319  
168(k) of the Internal Revenue Code and by the qualifying 320  
section 179 depreciation expense amount to the extent that such 321  
depreciation results in or increases a federal net operating 322  
loss carryback or carryforward. If no such deduction is 323  
available for a taxable year, the taxpayer may carry forward the 324  
amount not deducted in such taxable year to the next taxable 325  
year and add that amount to any deduction otherwise available 326  
under division (A) (21) (a) of this section for that next taxable 327  
year. The carryforward of amounts not so deducted shall continue 328  
until the entire addition required by division (A) (20) (a) of 329  
this section has been deducted. 330

(d) No refund shall be allowed as a result of adjustments 331  
made by division (A) (21) of this section. 332

(22) Deduct, to the extent not otherwise deducted or 333  
excluded in computing federal or Ohio adjusted gross income for 334  
the taxable year, the amount the taxpayer received during the 335  
taxable year as reimbursement for life insurance premiums under 336  
section 5919.31 of the Revised Code. 337

(23) Deduct, to the extent not otherwise deducted or 338  
excluded in computing federal or Ohio adjusted gross income for 339  
the taxable year, the amount the taxpayer received during the 340  
taxable year as a death benefit paid by the adjutant general 341  
under section 5919.33 of the Revised Code. 342

(24) Deduct, to the extent included in federal adjusted 343  
gross income and not otherwise allowable as a deduction or 344  
exclusion in computing federal or Ohio adjusted gross income for 345  
the taxable year, military pay and allowances received by the 346  
taxpayer during the taxable year for active duty service in the 347  
United States army, air force, navy, marine corps, or coast 348  
guard or reserve components thereof or the national guard. The 349  
deduction may not be claimed for military pay and allowances 350  
received by the taxpayer while the taxpayer is stationed in this 351  
state. 352

(25) Deduct, to the extent not otherwise allowable as a 353  
deduction or exclusion in computing federal or Ohio adjusted 354  
gross income for the taxable year and not otherwise compensated 355  
for by any other source, the amount of qualified organ donation 356  
expenses incurred by the taxpayer during the taxable year, not 357  
to exceed ten thousand dollars. A taxpayer may deduct qualified 358  
organ donation expenses only once for all taxable years 359  
beginning with taxable years beginning in 2007. 360

For the purposes of division (A) (25) of this section: 361

(a) "Human organ" means all or any portion of a human 362  
liver, pancreas, kidney, intestine, or lung, and any portion of 363  
human bone marrow. 364

(b) "Qualified organ donation expenses" means travel 365  
expenses, lodging expenses, and wages and salary forgone by a 366  
taxpayer in connection with the taxpayer's donation, while 367  
living, of one or more of the taxpayer's human organs to another 368  
human being. 369

(26) Deduct, to the extent not otherwise deducted or 370  
excluded in computing federal or Ohio adjusted gross income for 371

the taxable year, amounts received by the taxpayer as retired 372  
personnel pay for service in the uniformed services or reserve 373  
components thereof, or the national guard, or received by the 374  
surviving spouse or former spouse of such a taxpayer under the 375  
survivor benefit plan on account of such a taxpayer's death. If 376  
the taxpayer receives income on account of retirement paid under 377  
the federal civil service retirement system or federal employees 378  
retirement system, or under any successor retirement program 379  
enacted by the congress of the United States that is established 380  
and maintained for retired employees of the United States 381  
government, and such retirement income is based, in whole or in 382  
part, on credit for the taxpayer's uniformed service, the 383  
deduction allowed under this division shall include only that 384  
portion of such retirement income that is attributable to the 385  
taxpayer's uniformed service, to the extent that portion of such 386  
retirement income is otherwise included in federal adjusted 387  
gross income and is not otherwise deducted under this section. 388  
Any amount deducted under division (A) (26) of this section is 389  
not included in a taxpayer's adjusted gross income for the 390  
purposes of section 5747.055 of the Revised Code. No amount may 391  
be deducted under division (A) (26) of this section on the basis 392  
of which a credit was claimed under section 5747.055 of the 393  
Revised Code. 394

(27) Deduct, to the extent not otherwise deducted or 395  
excluded in computing federal or Ohio adjusted gross income for 396  
the taxable year, the amount the taxpayer received during the 397  
taxable year from the military injury relief fund created in 398  
section 5902.05 of the Revised Code. 399

(28) Deduct, to the extent not otherwise deducted or 400  
excluded in computing federal or Ohio adjusted gross income for 401  
the taxable year, the amount the taxpayer received as a veterans 402

bonus during the taxable year from the Ohio department of 403  
veterans services as authorized by Section 2r of Article VIII, 404  
Ohio Constitution. 405

(29) Deduct, to the extent not otherwise deducted or 406  
excluded in computing federal or Ohio adjusted gross income for 407  
the taxable year, any income derived from a transfer agreement 408  
or from the enterprise transferred under that agreement under 409  
section 4313.02 of the Revised Code. 410

(30) Deduct, to the extent not otherwise deducted or 411  
excluded in computing federal or Ohio adjusted gross income for 412  
the taxable year, Ohio college opportunity or federal Pell grant 413  
amounts received by the taxpayer or the taxpayer's spouse or 414  
dependent pursuant to section 3333.122 of the Revised Code or 20 415  
U.S.C. 1070a, et seq., and used to pay room or board furnished 416  
by the educational institution for which the grant was awarded 417  
at the institution's facilities, including meal plans 418  
administered by the institution. For the purposes of this 419  
division, receipt of a grant includes the distribution of a 420  
grant directly to an educational institution and the crediting 421  
of the grant to the enrollee's account with the institution. 422

(31) (a) For taxable years beginning in 2015, deduct from 423  
the portion of an individual's adjusted gross income that is 424  
business income, to the extent not otherwise deducted or 425  
excluded in computing federal or Ohio adjusted gross income for 426  
the taxable year, the lesser of the following amounts: 427

(i) Seventy-five per cent of the individual's business 428  
income; 429

(ii) Ninety-three thousand seven hundred fifty dollars for 430  
each spouse if spouses file separate returns under section 431

5747.08 of the Revised Code or one hundred eighty-seven thousand 432  
five hundred dollars for all other individuals. 433

(b) For taxable years beginning in 2016 or thereafter, 434  
deduct from the portion of an individual's adjusted gross income 435  
that is business income, to the extent not otherwise deducted or 436  
excluded in computing federal adjusted gross income for the 437  
taxable year, one hundred twenty-five thousand dollars for each 438  
spouse if spouses file separate returns under section 5747.08 of 439  
the Revised Code or two hundred fifty thousand dollars for all 440  
other individuals. 441

(32) Deduct, as provided under section 5747.78 of the 442  
Revised Code, contributions to ABLE savings accounts made in 443  
accordance with sections 113.50 to 113.56 of the Revised Code. 444

(33) Deduct qualified higher education expenses to the 445  
extent allowed under section 5747.82 of the Revised Code. 446

(B) "Business income" means income, including gain or 447  
loss, arising from transactions, activities, and sources in the 448  
regular course of a trade or business and includes income, gain, 449  
or loss from real property, tangible property, and intangible 450  
property if the acquisition, rental, management, and disposition 451  
of the property constitute integral parts of the regular course 452  
of a trade or business operation. "Business income" includes 453  
income, including gain or loss, from a partial or complete 454  
liquidation of a business, including, but not limited to, gain 455  
or loss from the sale or other disposition of goodwill. 456

(C) "Nonbusiness income" means all income other than 457  
business income and may include, but is not limited to, 458  
compensation, rents and royalties from real or tangible personal 459  
property, capital gains, interest, dividends and distributions, 460

patent or copyright royalties, or lottery winnings, prizes, and awards.	461 462
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	463 464
(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.	465 466 467
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	468 469
(G) "Individual" means any natural person.	470
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	471 472
(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	473 474 475
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	476 477
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	478 479 480 481
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	482 483 484
For the purposes of division (I) (3) of this section:	485
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d)	486 487

of this section, that the trust consists directly or indirectly, 488  
in whole or in part, of assets, net of any related liabilities, 489  
that were transferred, or caused to be transferred, directly or 490  
indirectly, to the trust by any of the following: 491

(i) A person, a court, or a governmental entity or 492  
instrumentality on account of the death of a decedent, but only 493  
if the trust is described in division (I) (3) (e) (i) or (ii) of 494  
this section; 495

(ii) A person who was domiciled in this state for the 496  
purposes of this chapter when the person directly or indirectly 497  
transferred assets to an irrevocable trust, but only if at least 498  
one of the trust's qualifying beneficiaries is domiciled in this 499  
state for the purposes of this chapter during all or some 500  
portion of the trust's current taxable year; 501

(iii) A person who was domiciled in this state for the 502  
purposes of this chapter when the trust document or instrument 503  
or part of the trust document or instrument became irrevocable, 504  
but only if at least one of the trust's qualifying beneficiaries 505  
is a resident domiciled in this state for the purposes of this 506  
chapter during all or some portion of the trust's current 507  
taxable year. If a trust document or instrument became 508  
irrevocable upon the death of a person who at the time of death 509  
was domiciled in this state for purposes of this chapter, that 510  
person is a person described in division (I) (3) (a) (iii) of this 511  
section. 512

(b) A trust is irrevocable to the extent that the 513  
transferor is not considered to be the owner of the net assets 514  
of the trust under sections 671 to 678 of the Internal Revenue 515  
Code. 516

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

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

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

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the

qualifying ratio last computed without regard to the subsequent 547  
transfer, and (2) the fair market value of the subsequently 548  
transferred assets at the time transferred, net of any related 549  
liabilities, from sources enumerated in division (I) (3) (a) of 550  
this section. The denominator of the revised qualifying ratio is 551  
the fair market value of all the trust's assets immediately 552  
after the subsequent transfer, net of any related liabilities. 553

(iii) Whether a transfer to the trust is by or from any of 554  
the sources enumerated in division (I) (3) (a) of this section 555  
shall be ascertained without regard to the domicile of the 556  
trust's beneficiaries. 557

(e) For the purposes of division (I) (3) (a) (i) of this 558  
section: 559

(i) A trust is described in division (I) (3) (e) (i) of this 560  
section if the trust is a testamentary trust and the testator of 561  
that testamentary trust was domiciled in this state at the time 562  
of the testator's death for purposes of the taxes levied under 563  
Chapter 5731. of the Revised Code. 564

(ii) A trust is described in division (I) (3) (e) (ii) of 565  
this section if the transfer is a qualifying transfer described 566  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 567  
trust is an irrevocable inter vivos trust, and at least one of 568  
the trust's qualifying beneficiaries is domiciled in this state 569  
for purposes of this chapter during all or some portion of the 570  
trust's current taxable year. 571

(f) For the purposes of division (I) (3) (e) (ii) of this 572  
section, a "qualifying transfer" is a transfer of assets, net of 573  
any related liabilities, directly or indirectly to a trust, if 574  
the transfer is described in any of the following: 575

(i) The transfer is made to a trust, created by the 576  
decedent before the decedent's death and while the decedent was 577  
domiciled in this state for the purposes of this chapter, and, 578  
prior to the death of the decedent, the trust became irrevocable 579  
while the decedent was domiciled in this state for the purposes 580  
of this chapter. 581

(ii) The transfer is made to a trust to which the 582  
decedent, prior to the decedent's death, had directly or 583  
indirectly transferred assets, net of any related liabilities, 584  
while the decedent was domiciled in this state for the purposes 585  
of this chapter, and prior to the death of the decedent the 586  
trust became irrevocable while the decedent was domiciled in 587  
this state for the purposes of this chapter. 588

(iii) The transfer is made on account of a contractual 589  
relationship existing directly or indirectly between the 590  
transferor and either the decedent or the estate of the decedent 591  
at any time prior to the date of the decedent's death, and the 592  
decedent was domiciled in this state at the time of death for 593  
purposes of the taxes levied under Chapter 5731. of the Revised 594  
Code. 595

(iv) The transfer is made to a trust on account of a 596  
contractual relationship existing directly or indirectly between 597  
the transferor and another person who at the time of the 598  
decedent's death was domiciled in this state for purposes of 599  
this chapter. 600

(v) The transfer is made to a trust on account of the will 601  
of a testator who was domiciled in this state at the time of the 602  
testator's death for purposes of the taxes levied under Chapter 603  
5731. of the Revised Code. 604

(vi) The transfer is made to a trust created by or caused 605  
to be created by a court, and the trust was directly or 606  
indirectly created in connection with or as a result of the 607  
death of an individual who, for purposes of the taxes levied 608  
under Chapter 5731. of the Revised Code, was domiciled in this 609  
state at the time of the individual's death. 610

(g) The tax commissioner may adopt rules to ascertain the 611  
part of a trust residing in this state. 612

(J) "Nonresident" means an individual or estate that is 613  
not a resident. An individual who is a resident for only part of 614  
a taxable year is a nonresident for the remainder of that 615  
taxable year. 616

(K) "Pass-through entity" has the same meaning as in 617  
section 5733.04 of the Revised Code. 618

(L) "Return" means the notifications and reports required 619  
to be filed pursuant to this chapter for the purpose of 620  
reporting the tax due and includes declarations of estimated tax 621  
when so required. 622

(M) "Taxable year" means the calendar year or the 623  
taxpayer's fiscal year ending during the calendar year, or 624  
fractional part thereof, upon which the adjusted gross income is 625  
calculated pursuant to this chapter. 626

(N) "Taxpayer" means any person subject to the tax imposed 627  
by section 5747.02 of the Revised Code or any pass-through 628  
entity that makes the election under division (D) of section 629  
5747.08 of the Revised Code. 630

(O) "Dependents" means dependents as defined in the 631  
Internal Revenue Code and as claimed in the taxpayer's federal 632  
income tax return for the taxable year or which the taxpayer 633

would have been permitted to claim had the taxpayer filed a 634  
federal income tax return. 635

(P) "Principal county of employment" means, in the case of 636  
a nonresident, the county within the state in which a taxpayer 637  
performs services for an employer or, if those services are 638  
performed in more than one county, the county in which the major 639  
portion of the services are performed. 640

(Q) As used in sections 5747.50 to 5747.55 of the Revised 641  
Code: 642

(1) "Subdivision" means any county, municipal corporation, 643  
park district, or township. 644

(2) "Essential local government purposes" includes all 645  
functions that any subdivision is required by general law to 646  
exercise, including like functions that are exercised under a 647  
charter adopted pursuant to the Ohio Constitution. 648

(R) "Overpayment" means any amount already paid that 649  
exceeds the figure determined to be the correct amount of the 650  
tax. 651

(S) "Taxable income" or "Ohio taxable income" applies only 652  
to estates and trusts, and means federal taxable income, as 653  
defined and used in the Internal Revenue Code, adjusted as 654  
follows: 655

(1) Add interest or dividends, net of ordinary, necessary, 656  
and reasonable expenses not deducted in computing federal 657  
taxable income, on obligations or securities of any state or of 658  
any political subdivision or authority of any state, other than 659  
this state and its subdivisions and authorities, but only to the 660  
extent that such net amount is not otherwise includible in Ohio 661  
taxable income and is described in either division (S) (1) (a) or 662

(b) of this section: 663

(a) The net amount is not attributable to the S portion of 664  
an electing small business trust and has not been distributed to 665  
beneficiaries for the taxable year; 666

(b) The net amount is attributable to the S portion of an 667  
electing small business trust for the taxable year. 668

(2) Add interest or dividends, net of ordinary, necessary, 669  
and reasonable expenses not deducted in computing federal 670  
taxable income, on obligations of any authority, commission, 671  
instrumentality, territory, or possession of the United States 672  
to the extent that the interest or dividends are exempt from 673  
federal income taxes but not from state income taxes, but only 674  
to the extent that such net amount is not otherwise includible 675  
in Ohio taxable income and is described in either division (S) 676  
(1) (a) or (b) of this section; 677

(3) Add the amount of personal exemption allowed to the 678  
estate pursuant to section 642(b) of the Internal Revenue Code; 679

(4) Deduct interest or dividends, net of related expenses 680  
deducted in computing federal taxable income, on obligations of 681  
the United States and its territories and possessions or of any 682  
authority, commission, or instrumentality of the United States 683  
to the extent that the interest or dividends are exempt from 684  
state taxes under the laws of the United States, but only to the 685  
extent that such amount is included in federal taxable income 686  
and is described in either division (S) (1) (a) or (b) of this 687  
section; 688

(5) Deduct the amount of wages and salaries, if any, not 689  
otherwise allowable as a deduction but that would have been 690  
allowable as a deduction in computing federal taxable income for 691

the taxable year, had the targeted jobs credit allowed under 692  
sections 38, 51, and 52 of the Internal Revenue Code not been in 693  
effect, but only to the extent such amount relates either to 694  
income included in federal taxable income for the taxable year 695  
or to income of the S portion of an electing small business 696  
trust for the taxable year; 697

(6) Deduct any interest or interest equivalent, net of 698  
related expenses deducted in computing federal taxable income, 699  
on public obligations and purchase obligations, but only to the 700  
extent that such net amount relates either to income included in 701  
federal taxable income for the taxable year or to income of the 702  
S portion of an electing small business trust for the taxable 703  
year; 704

(7) Add any loss or deduct any gain resulting from sale, 705  
exchange, or other disposition of public obligations to the 706  
extent that such loss has been deducted or such gain has been 707  
included in computing either federal taxable income or income of 708  
the S portion of an electing small business trust for the 709  
taxable year; 710

(8) Except in the case of the final return of an estate, 711  
add any amount deducted by the taxpayer on both its Ohio estate 712  
tax return pursuant to section 5731.14 of the Revised Code, and 713  
on its federal income tax return in determining federal taxable 714  
income; 715

(9) (a) Deduct any amount included in federal taxable 716  
income solely because the amount represents a reimbursement or 717  
refund of expenses that in a previous year the decedent had 718  
deducted as an itemized deduction pursuant to section 63 of the 719  
Internal Revenue Code and applicable treasury regulations. The 720  
deduction otherwise allowed under division (S) (9) (a) of this 721

section shall be reduced to the extent the reimbursement is 722  
attributable to an amount the taxpayer or decedent deducted 723  
under this section in any taxable year. 724

(b) Add any amount not otherwise included in Ohio taxable 725  
income for any taxable year to the extent that the amount is 726  
attributable to the recovery during the taxable year of any 727  
amount deducted or excluded in computing federal or Ohio taxable 728  
income in any taxable year, but only to the extent such amount 729  
has not been distributed to beneficiaries for the taxable year. 730

(10) Deduct any portion of the deduction described in 731  
section 1341(a)(2) of the Internal Revenue Code, for repaying 732  
previously reported income received under a claim of right, that 733  
meets both of the following requirements: 734

(a) It is allowable for repayment of an item that was 735  
included in the taxpayer's taxable income or the decedent's 736  
adjusted gross income for a prior taxable year and did not 737  
qualify for a credit under division (A) or (B) of section 738  
5747.05 of the Revised Code for that year. 739

(b) It does not otherwise reduce the taxpayer's taxable 740  
income or the decedent's adjusted gross income for the current 741  
or any other taxable year. 742

(11) Add any amount claimed as a credit under section 743  
5747.059 or 5747.65 of the Revised Code to the extent that the 744  
amount satisfies either of the following: 745

(a) The amount was deducted or excluded from the 746  
computation of the taxpayer's federal taxable income as required 747  
to be reported for the taxpayer's taxable year under the 748  
Internal Revenue Code; 749

(b) The amount resulted in a reduction in the taxpayer's 750

federal taxable income as required to be reported for any of the 751  
taxpayer's taxable years under the Internal Revenue Code. 752

(12) Deduct any amount, net of related expenses deducted 753  
in computing federal taxable income, that a trust is required to 754  
report as farm income on its federal income tax return, but only 755  
if the assets of the trust include at least ten acres of land 756  
satisfying the definition of "land devoted exclusively to 757  
agricultural use" under section 5713.30 of the Revised Code, 758  
regardless of whether the land is valued for tax purposes as 759  
such land under sections 5713.30 to 5713.38 of the Revised Code. 760  
If the trust is a pass-through entity investor, section 5747.231 761  
of the Revised Code applies in ascertaining if the trust is 762  
eligible to claim the deduction provided by division (S)(12) of 763  
this section in connection with the pass-through entity's farm 764  
income. 765

Except for farm income attributable to the S portion of an 766  
electing small business trust, the deduction provided by 767  
division (S)(12) of this section is allowed only to the extent 768  
that the trust has not distributed such farm income. Division 769  
(S)(12) of this section applies only to taxable years of a trust 770  
beginning in 2002 or thereafter. 771

(13) Add the net amount of income described in section 772  
641(c) of the Internal Revenue Code to the extent that amount is 773  
not included in federal taxable income. 774

(14) Add or deduct the amount the taxpayer would be 775  
required to add or deduct under division (A)(20) or (21) of this 776  
section if the taxpayer's Ohio taxable income were computed in 777  
the same manner as an individual's Ohio adjusted gross income is 778  
computed under this section. In the case of a trust, division 779  
(S)(14) of this section applies only to any of the trust's 780

taxable years beginning in 2002 or thereafter.	781
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	782 783 784
(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.	785 786 787 788
(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.	789 790 791
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	792 793 794 795
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	796 797
(Y) "Month" means a calendar month.	798
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	799 800 801
(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the	802 803 804 805 806 807 808

state board of career colleges and schools under Chapter 3332. 809  
of the Revised Code. 810

(2) "Qualified tuition and fees" means tuition and fees 811  
imposed by an eligible institution as a condition of enrollment 812  
or attendance, not exceeding two thousand five hundred dollars 813  
in each of the individual's first two years of post-secondary 814  
education. If the individual is a part-time student, "qualified 815  
tuition and fees" includes tuition and fees paid for the 816  
academic equivalent of the first two years of post-secondary 817  
education during a maximum of five taxable years, not exceeding 818  
a total of five thousand dollars. "Qualified tuition and fees" 819  
does not include: 820

(a) Expenses for any course or activity involving sports, 821  
games, or hobbies unless the course or activity is part of the 822  
individual's degree or diploma program; 823

(b) The cost of books, room and board, student activity 824  
fees, athletic fees, insurance expenses, or other expenses 825  
unrelated to the individual's academic course of instruction; 826

(c) Tuition, fees, or other expenses paid or reimbursed 827  
through an employer, scholarship, grant in aid, or other 828  
educational benefit program. 829

(BB) (1) "Modified business income" means the business 830  
income included in a trust's Ohio taxable income after such 831  
taxable income is first reduced by the qualifying trust amount, 832  
if any. 833

(2) "Qualifying trust amount" of a trust means capital 834  
gains and losses from the sale, exchange, or other disposition 835  
of equity or ownership interests in, or debt obligations of, a 836  
qualifying investee to the extent included in the trust's Ohio 837

taxable income, but only if the following requirements are	838
satisfied:	839
(a) The book value of the qualifying investee's physical	840
assets in this state and everywhere, as of the last day of the	841
qualifying investee's fiscal or calendar year ending immediately	842
prior to the date on which the trust recognizes the gain or	843
loss, is available to the trust.	844
(b) The requirements of section 5747.011 of the Revised	845
Code are satisfied for the trust's taxable year in which the	846
trust recognizes the gain or loss.	847
Any gain or loss that is not a qualifying trust amount is	848
modified business income, qualifying investment income, or	849
modified nonbusiness income, as the case may be.	850
(3) "Modified nonbusiness income" means a trust's Ohio	851
taxable income other than modified business income, other than	852
the qualifying trust amount, and other than qualifying	853
investment income, as defined in section 5747.012 of the Revised	854
Code, to the extent such qualifying investment income is not	855
otherwise part of modified business income.	856
(4) "Modified Ohio taxable income" applies only to trusts,	857
and means the sum of the amounts described in divisions (BB) (4)	858
(a) to (c) of this section:	859
(a) The fraction, calculated under section 5747.013, and	860
applying section 5747.231 of the Revised Code, multiplied by the	861
sum of the following amounts:	862
(i) The trust's modified business income;	863
(ii) The trust's qualifying investment income, as defined	864
in section 5747.012 of the Revised Code, but only to the extent	865

the qualifying investment income does not otherwise constitute 866  
modified business income and does not otherwise constitute a 867  
qualifying trust amount. 868

(b) The qualifying trust amount multiplied by a fraction, 869  
the numerator of which is the sum of the book value of the 870  
qualifying investee's physical assets in this state on the last 871  
day of the qualifying investee's fiscal or calendar year ending 872  
immediately prior to the day on which the trust recognizes the 873  
qualifying trust amount, and the denominator of which is the sum 874  
of the book value of the qualifying investee's total physical 875  
assets everywhere on the last day of the qualifying investee's 876  
fiscal or calendar year ending immediately prior to the day on 877  
which the trust recognizes the qualifying trust amount. If, for 878  
a taxable year, the trust recognizes a qualifying trust amount 879  
with respect to more than one qualifying investee, the amount 880  
described in division (BB) (4) (b) of this section shall equal the 881  
sum of the products so computed for each such qualifying 882  
investee. 883

(c) (i) With respect to a trust or portion of a trust that 884  
is a resident as ascertained in accordance with division (I) (3) 885  
(d) of this section, its modified nonbusiness income. 886

(ii) With respect to a trust or portion of a trust that is 887  
not a resident as ascertained in accordance with division (I) (3) 888  
(d) of this section, the amount of its modified nonbusiness 889  
income satisfying the descriptions in divisions (B) (2) to (5) of 890  
section 5747.20 of the Revised Code, except as otherwise 891  
provided in division (BB) (4) (c) (ii) of this section. With 892  
respect to a trust or portion of a trust that is not a resident 893  
as ascertained in accordance with division (I) (3) (d) of this 894  
section, the trust's portion of modified nonbusiness income 895

recognized from the sale, exchange, or other disposition of a 896  
debt interest in or equity interest in a section 5747.212 897  
entity, as defined in section 5747.212 of the Revised Code, 898  
without regard to division (A) of that section, shall not be 899  
allocated to this state in accordance with section 5747.20 of 900  
the Revised Code but shall be apportioned to this state in 901  
accordance with division (B) of section 5747.212 of the Revised 902  
Code without regard to division (A) of that section. 903

If the allocation and apportionment of a trust's income 904  
under divisions (BB) (4) (a) and (c) of this section do not fairly 905  
represent the modified Ohio taxable income of the trust in this 906  
state, the alternative methods described in division (C) of 907  
section 5747.21 of the Revised Code may be applied in the manner 908  
and to the same extent provided in that section. 909

(5) (a) Except as set forth in division (BB) (5) (b) of this 910  
section, "qualifying investee" means a person in which a trust 911  
has an equity or ownership interest, or a person or unit of 912  
government the debt obligations of either of which are owned by 913  
a trust. For the purposes of division (BB) (2) (a) of this section 914  
and for the purpose of computing the fraction described in 915  
division (BB) (4) (b) of this section, all of the following apply: 916

(i) If the qualifying investee is a member of a qualifying 917  
controlled group on the last day of the qualifying investee's 918  
fiscal or calendar year ending immediately prior to the date on 919  
which the trust recognizes the gain or loss, then "qualifying 920  
investee" includes all persons in the qualifying controlled 921  
group on such last day. 922

(ii) If the qualifying investee, or if the qualifying 923  
investee and any members of the qualifying controlled group of 924  
which the qualifying investee is a member on the last day of the 925

qualifying investee's fiscal or calendar year ending immediately 926  
prior to the date on which the trust recognizes the gain or 927  
loss, separately or cumulatively own, directly or indirectly, on 928  
the last day of the qualifying investee's fiscal or calendar 929  
year ending immediately prior to the date on which the trust 930  
recognizes the qualifying trust amount, more than fifty per cent 931  
of the equity of a pass-through entity, then the qualifying 932  
investee and the other members are deemed to own the 933  
proportionate share of the pass-through entity's physical assets 934  
which the pass-through entity directly or indirectly owns on the 935  
last day of the pass-through entity's calendar or fiscal year 936  
ending within or with the last day of the qualifying investee's 937  
fiscal or calendar year ending immediately prior to the date on 938  
which the trust recognizes the qualifying trust amount. 939

(iii) For the purposes of division (BB) (5) (a) (iii) of this 940  
section, "upper level pass-through entity" means a pass-through 941  
entity directly or indirectly owning any equity of another pass- 942  
through entity, and "lower level pass-through entity" means that 943  
other pass-through entity. 944

An upper level pass-through entity, whether or not it is 945  
also a qualifying investee, is deemed to own, on the last day of 946  
the upper level pass-through entity's calendar or fiscal year, 947  
the proportionate share of the lower level pass-through entity's 948  
physical assets that the lower level pass-through entity 949  
directly or indirectly owns on the last day of the lower level 950  
pass-through entity's calendar or fiscal year ending within or 951  
with the last day of the upper level pass-through entity's 952  
fiscal or calendar year. If the upper level pass-through entity 953  
directly and indirectly owns less than fifty per cent of the 954  
equity of the lower level pass-through entity on each day of the 955  
upper level pass-through entity's calendar or fiscal year in 956

which or with which ends the calendar or fiscal year of the 957  
lower level pass-through entity and if, based upon clear and 958  
convincing evidence, complete information about the location and 959  
cost of the physical assets of the lower pass-through entity is 960  
not available to the upper level pass-through entity, then 961  
solely for purposes of ascertaining if a gain or loss 962  
constitutes a qualifying trust amount, the upper level pass- 963  
through entity shall be deemed as owning no equity of the lower 964  
level pass-through entity for each day during the upper level 965  
pass-through entity's calendar or fiscal year in which or with 966  
which ends the lower level pass-through entity's calendar or 967  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 968  
shall be construed to provide for any deduction or exclusion in 969  
computing any trust's Ohio taxable income. 970

(b) With respect to a trust that is not a resident for the 971  
taxable year and with respect to a part of a trust that is not a 972  
resident for the taxable year, "qualifying investee" for that 973  
taxable year does not include a C corporation if both of the 974  
following apply: 975

(i) During the taxable year the trust or part of the trust 976  
recognizes a gain or loss from the sale, exchange, or other 977  
disposition of equity or ownership interests in, or debt 978  
obligations of, the C corporation. 979

(ii) Such gain or loss constitutes nonbusiness income. 980

(6) "Available" means information is such that a person is 981  
able to learn of the information by the due date plus 982  
extensions, if any, for filing the return for the taxable year 983  
in which the trust recognizes the gain or loss. 984

(CC) "Qualifying controlled group" has the same meaning as 985

in section 5733.04 of the Revised Code.	986
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	987 988
(EE) (1) For the purposes of division (EE) of this section:	989
(a) "Qualifying person" means any person other than a qualifying corporation.	990 991
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	992 993 994
(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;	995 996 997 998
(ii) A subsidiary that is wholly owned by any 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.	999 1000 1001 1002 1003
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	1004 1005 1006
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1007 1008
(1) "Trust" does not include a qualified pre-income tax trust.	1009 1010
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election	1011 1012

as described in division (FF) (3) of this section. 1013

(3) A "qualifying pre-income tax trust election" is an 1014  
election by a pre-income tax trust to subject to the tax imposed 1015  
by section 5751.02 of the Revised Code the pre-income tax trust 1016  
and all pass-through entities of which the trust owns or 1017  
controls, directly, indirectly, or constructively through 1018  
related interests, five per cent or more of the ownership or 1019  
equity interests. The trustee shall notify the tax commissioner 1020  
in writing of the election on or before April 15, 2006. The 1021  
election, if timely made, shall be effective on and after 1022  
January 1, 2006, and shall apply for all tax periods and tax 1023  
years until revoked by the trustee of the trust. 1024

(4) A "pre-income tax trust" is a trust that satisfies all 1025  
of the following requirements: 1026

(a) The document or instrument creating the trust was 1027  
executed by the grantor before January 1, 1972; 1028

(b) The trust became irrevocable upon the creation of the 1029  
trust; and 1030

(c) The grantor was domiciled in this state at the time 1031  
the trust was created. 1032

(GG) "Uniformed services" has the same meaning as in 10 1033  
U.S.C. 101. 1034

(HH) "Taxable business income" means the amount by which 1035  
an individual's business income that is included in federal 1036  
adjusted gross income exceeds the amount of business income the 1037  
individual is authorized to deduct under division (A) (31) of 1038  
this section for the taxable year. 1039

**Sec. 5747.82.** (A) As used in this section: 1040

(1) "Higher education expenses" means all of the following expenses incurred by a taxpayer while enrolled in an eligible educational institution: 1041  
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(a) Tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the taxpayer at the eligible education institution; 1044  
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(b) Room and board expenses incurred while the taxpayer is carrying at least one-half of the normal full-time academic workload for the course of study the taxpayer is pursuing, as determined by the eligible educational institution, to the extent that the expenses for an academic period do not exceed the greater of the following: 1047  
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(i) The allowance for room and board determined by the eligible educational institution for federal financial aid purposes for that academic period; 1053  
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(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. 1056  
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(c) Expenses for special needs services required by the taxpayer in connection with the taxpayer's enrollment or attendance at the eligible educational institution. 1060  
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(2) "Eligible educational institution" has the same meaning as in section 529 of the Internal Revenue Code. 1063  
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(3) (a) "Qualified higher education expenses" means the total amount of higher education expenses paid by a taxpayer toward the completion of a qualifying credential program, excluding the following: 1065  
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(i) The amount of such expenses paid on behalf of the taxpayer in the form of grants, scholarships, gifts, or bequests; 1069  
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(ii) 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. 1072  
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(b) "Qualified higher education expenses" shall be reduced by the following amounts, as applicable: 1075  
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(i) 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; 1077  
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(ii) For a taxpayer that obtained a qualifying credential during a taxable year ending before the effective date, an amount equal to the product of two thousand dollars multiplied by the number of the taxpayer's taxable years between and including the taxable year during which the taxpayer obtained that credential and the taxable year that includes the effective date, excluding any taxable year within that span that includes a date on which the individual is enrolled full-time in an eligible educational institution to pursue a qualifying credential. 1080  
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(4) "Annual contribution limit" means the limit prescribed in section 5747.70 of the Revised Code on the dollar amount of contributions and purchases that a taxpayer, or a taxpayer and the taxpayer's spouse, may deduct during a taxable year under that section with respect to each beneficiary for whom contributions or purchases are made. 1090  
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(5) "Qualifying credential" means a technical certification; an associate, technical, baccalaureate, master's, 1096  
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or professional degree; or another post-secondary credential 1098  
obtained from an eligible educational institution. 1099

(6) "Effective date" means the effective date of the 1100  
enactment of this section. 1101

(B) An individual who obtains a qualifying credential 1102  
before, on, or after the effective date may deduct from the 1103  
individual's federal adjusted gross income for a taxable year 1104  
the lesser of the annual contribution limit or the qualified 1105  
higher education expenses paid by the taxpayer toward the 1106  
completion of that credential to the extent that such expenses 1107  
are not otherwise deducted or excluded in computing Ohio 1108  
adjusted gross income for the taxable year and not otherwise 1109  
deducted by the taxpayer under this section and division (A) (33) 1110  
of section 5747.01 of the Revised Code in computing Ohio 1111  
adjusted gross income for a prior taxable year. The taxpayer may 1112  
make the deduction beginning with one of the following taxable 1113  
years, as applicable, and for each ensuing taxable year: 1114

(1) For a qualifying credential obtained during a taxable 1115  
year ending before the effective date, the taxable year that 1116  
includes the effective date; 1117

(2) For a qualifying credential obtained during any other 1118  
taxable year, the taxable year immediately following the taxable 1119  
year in which the taxpayer obtained the credential. 1120

The aggregate amount a taxpayer deducts under this section 1121  
and division (A) (33) of section 5747.01 of the Revised Code for 1122  
all taxable years shall not exceed the total amount of those 1123  
qualified higher education expenses. 1124

(C) An individual who is allowed a deduction under this 1125  
section and division (A) (33) of section 5747.01 of the Revised 1126

Code may elect to defer the deduction for each taxable year that 1127  
includes a date on which the individual is enrolled full-time in 1128  
an eligible educational institution to pursue a qualifying 1129  
credential. Evidence of such enrollment shall be retained for 1130  
inspection by the tax commissioner until the expiration of four 1131  
years after the end of the last taxable year the deduction is 1132  
made. 1133

(D) An individual who is allowed a deduction under this 1134  
section and division (A) (33) of section 5747.01 of the Revised 1135  
Code shall retain evidence of having obtained a qualifying 1136  
credential for inspection by the tax commissioner until the 1137  
expiration of four years after the end of the last taxable year 1138  
the deduction is made. 1139

An individual who is allowed a deduction under this 1140  
section and division (A) (33) of section 5747.01 of the Revised 1141  
Code on the basis of a qualifying credential obtained during a 1142  
taxable year ending before the effective date and whose 1143  
reduction under division (A) (3) (b) (ii) of this section is 1144  
limited because the individual is enrolled full-time in an 1145  
eligible educational institution to pursue a more advanced 1146  
qualifying credential shall retain evidence of such enrollment 1147  
for inspection by the tax commissioner until the expiration of 1148  
four years after the end of the last taxable year the deduction 1149  
is made. 1150

Any amount deducted pursuant to this section shall be 1151  
included in Ohio adjusted gross income for the purpose of 1152  
determining eligibility for the credit allowed under section 1153  
5747.056 of the Revised Code. 1154

**Section 2.** That existing section 5747.01 of the Revised 1155  
Code is hereby repealed. 1156