

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 232**

**Representatives Rogers, Rezabek**

**Cosponsors: Representatives Boggs, Celebrezze, Cera, Kent, Manning, Miller,  
O'Brien, Patterson, Sheehy, Stein, West**

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**A BILL**

To amend section 5747.01 and to enact section 1  
5747.014 of the Revised Code to authorize, for 2  
six years, a personal income tax deduction for 3  
attorneys and pass-through entity law firms 4  
based on the number of hours the attorney 5  
performed pro bono legal work for indigent 6  
clients through a legal aid society and the 7  
expenses associated with that work. 8

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

**Section 1.** That section 5747.01 be amended and section 9  
5747.014 of the Revised Code be enacted to read as follows: 10

**Sec. 5747.01.** Except as otherwise expressly provided or 11  
clearly appearing from the context, any term used in this 12  
chapter that is not otherwise defined in this section has the 13  
same meaning as when used in a comparable context in the laws of 14  
the United States relating to federal income taxes or if not 15  
used in a comparable context in those laws, has the same meaning 16  
as in section 5733.40 of the Revised Code. Any reference in this 17  
chapter to the Internal Revenue Code includes other laws of the 18

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| United States relating to federal income taxes.   | 19                               |
| As used in this chapter:  | 20                               |
| (A) "Adjusted gross income" or "Ohio adjusted gross<br>income" means federal adjusted gross income, as defined and used<br>in the Internal Revenue Code, adjusted as provided in this<br>section:   | 21<br>22<br>23<br>24             |
| (1) Add interest or dividends on obligations or securities<br>of any state or of any political subdivision or authority of any<br>state, other than this state and its subdivisions and<br>authorities.   | 25<br>26<br>27<br>28             |
| (2) Add interest or dividends on obligations of any<br>authority, commission, instrumentality, territory, or possession<br>of the United States to the extent that the interest or<br>dividends are exempt from federal income taxes but not from<br>state income taxes.  | 29<br>30<br>31<br>32<br>33       |
| (3) Deduct interest or dividends on obligations of the<br>United States and its territories and possessions or of any<br>authority, commission, or instrumentality of the United States<br>to the extent that the interest or dividends are included in<br>federal adjusted gross income but exempt from state income taxes<br>under the laws of the United States. | 34<br>35<br>36<br>37<br>38<br>39 |
| (4) Deduct disability and survivor's benefits to the<br>extent included in federal adjusted gross income.   | 40<br>41                         |
| (5) Deduct benefits under Title II of the Social Security<br>Act and tier 1 railroad retirement benefits to the extent<br>included in federal adjusted gross income under section 86 of<br>the Internal Revenue Code.   | 42<br>43<br>44<br>45             |
| (6) In the case of a taxpayer who is a beneficiary of a   | 46                               |

trust that makes an accumulation distribution as defined in 47  
section 665 of the Internal Revenue Code, add, for the 48  
beneficiary's taxable years beginning before 2002, the portion, 49  
if any, of such distribution that does not exceed the 50  
undistributed net income of the trust for the three taxable 51  
years preceding the taxable year in which the distribution is 52  
made to the extent that the portion was not included in the 53  
trust's taxable income for any of the trust's taxable years 54  
beginning in 2002 or thereafter. "Undistributed net income of a 55  
trust" means the taxable income of the trust increased by (a) (i) 56  
the additions to adjusted gross income required under division 57  
(A) of this section and (ii) the personal exemptions allowed to 58  
the trust pursuant to section 642(b) of the Internal Revenue 59  
Code, and decreased by (b) (i) the deductions to adjusted gross 60  
income required under division (A) of this section, (ii) the 61  
amount of federal income taxes attributable to such income, and 62  
(iii) the amount of taxable income that has been included in the 63  
adjusted gross income of a beneficiary by reason of a prior 64  
accumulation distribution. Any undistributed net income included 65  
in the adjusted gross income of a beneficiary shall reduce the 66  
undistributed net income of the trust commencing with the 67  
earliest years of the accumulation period. 68

(7) Deduct the amount of wages and salaries, if any, not 69  
otherwise allowable as a deduction but that would have been 70  
allowable as a deduction in computing federal adjusted gross 71  
income for the taxable year, had the targeted jobs credit 72  
allowed and determined under sections 38, 51, and 52 of the 73  
Internal Revenue Code not been in effect. 74

(8) Deduct any interest or interest equivalent on public 75  
obligations and purchase obligations to the extent that the 76  
interest or interest equivalent is included in federal adjusted 77

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| gross income.  | 78   |
| (9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.  | 79<br>80<br>81<br>82   |
| (10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.  | 83<br>84<br>85<br>86   |
| (11) (a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A) (11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A) (11) (a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A) (11) (a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year. | 87<br>88<br>89<br>90<br>91<br>92<br>93<br>94<br>95<br>96<br>97<br>98<br>99<br>100<br>101<br>102<br>103<br>104<br>105 |
| (b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income  | 106<br>107   |

during the taxable year, the amount the taxpayer paid during the 108  
taxable year, not compensated for by any insurance or otherwise, 109  
for medical care of the taxpayer, the taxpayer's spouse, and 110  
dependents, to the extent the expenses exceed seven and one-half 111  
per cent of the taxpayer's federal adjusted gross income. 112

(c) Deduct, to the extent not otherwise deducted or 113  
excluded in computing federal or Ohio adjusted gross income, any 114  
amount included in federal adjusted gross income under section 115  
105 or not excluded under section 106 of the Internal Revenue 116  
Code solely because it relates to an accident and health plan 117  
for a person who otherwise would be a "qualifying relative" and 118  
thus a "dependent" under section 152 of the Internal Revenue 119  
Code but for the fact that the person fails to meet the income 120  
and support limitations under section 152(d)(1)(B) and (C) of 121  
the Internal Revenue Code. 122

(d) For purposes of division (A)(11) of this section, 123  
"medical care" has the meaning given in section 213 of the 124  
Internal Revenue Code, subject to the special rules, 125  
limitations, and exclusions set forth therein, and "qualified 126  
long-term care" has the same meaning given in section 7702B(c) 127  
of the Internal Revenue Code. Solely for purposes of divisions 128  
(A)(11)(a) and (c) of this section, "dependent" includes a 129  
person who otherwise would be a "qualifying relative" and thus a 130  
"dependent" under section 152 of the Internal Revenue Code but 131  
for the fact that the person fails to meet the income and 132  
support limitations under section 152(d)(1)(B) and (C) of the 133  
Internal Revenue Code. 134

(12)(a) Deduct any amount included in federal adjusted 135  
gross income solely because the amount represents a 136  
reimbursement or refund of expenses that in any year the 137

taxpayer had deducted as an itemized deduction pursuant to 138  
section 63 of the Internal Revenue Code and applicable United 139  
States department of the treasury regulations. The deduction 140  
otherwise allowed under division (A) (12) (a) of this section 141  
shall be reduced to the extent the reimbursement is attributable 142  
to an amount the taxpayer deducted under this section in any 143  
taxable year. 144

(b) Add any amount not otherwise included in Ohio adjusted 145  
gross income for any taxable year to the extent that the amount 146  
is attributable to the recovery during the taxable year of any 147  
amount deducted or excluded in computing federal or Ohio 148  
adjusted gross income in any taxable year. 149

(13) Deduct any portion of the deduction described in 150  
section 1341(a) (2) of the Internal Revenue Code, for repaying 151  
previously reported income received under a claim of right, that 152  
meets both of the following requirements: 153

(a) It is allowable for repayment of an item that was 154  
included in the taxpayer's adjusted gross income for a prior 155  
taxable year and did not qualify for a credit under division (A) 156  
or (B) of section 5747.05 of the Revised Code for that year; 157

(b) It does not otherwise reduce the taxpayer's adjusted 158  
gross income for the current or any other taxable year. 159

(14) Deduct an amount equal to the deposits made to, and 160  
net investment earnings of, a medical savings account during the 161  
taxable year, in accordance with section 3924.66 of the Revised 162  
Code. The deduction allowed by division (A) (14) of this section 163  
does not apply to medical savings account deposits and earnings 164  
otherwise deducted or excluded for the current or any other 165  
taxable year from the taxpayer's federal adjusted gross income. 166

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| (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;   | 167<br>168<br>169<br>170<br>171<br>172               |
| (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.   | 173<br>174<br>175                                    |
| (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:   | 176<br>177<br>178                                    |
| (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;  | 179<br>180<br>181<br>182                             |
| (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.  | 183<br>184<br>185                                    |
| (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. | 186<br>187<br>188<br>189<br>190<br>191<br>192<br>193 |
| (18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer   | 194<br>195   |

is married and files a joint return and the combined federal 196  
adjusted gross income of the taxpayer and the taxpayer's spouse 197  
for the taxable year does not exceed one hundred thousand 198  
dollars, or if the taxpayer is single and has a federal adjusted 199  
gross income for the taxable year not exceeding fifty thousand 200  
dollars, deduct amounts paid during the taxable year for 201  
qualified tuition and fees paid to an eligible institution for 202  
the taxpayer, the taxpayer's spouse, or any dependent of the 203  
taxpayer, who is a resident of this state and is enrolled in or 204  
attending a program that culminates in a degree or diploma at an 205  
eligible institution. The deduction may be claimed only to the 206  
extent that qualified tuition and fees are not otherwise 207  
deducted or excluded for any taxable year from federal or Ohio 208  
adjusted gross income. The deduction may not be claimed for 209  
educational expenses for which the taxpayer claims a credit 210  
under section 5747.27 of the Revised Code. 211

(19) Add any reimbursement received during the taxable 212  
year of any amount the taxpayer deducted under division (A) (18) 213  
of this section in any previous taxable year to the extent the 214  
amount is not otherwise included in Ohio adjusted gross income. 215

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 216  
(v) of this section, add five-sixths of the amount of 217  
depreciation expense allowed by subsection (k) of section 168 of 218  
the Internal Revenue Code, including the taxpayer's 219  
proportionate or distributive share of the amount of 220  
depreciation expense allowed by that subsection to a pass- 221  
through entity in which the taxpayer has a direct or indirect 222  
ownership interest. 223

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 224  
of this section, add five-sixths of the amount of qualifying 225

section 179 depreciation expense, including the taxpayer's 226  
proportionate or distributive share of the amount of qualifying 227  
section 179 depreciation expense allowed to any pass-through 228  
entity in which the taxpayer has a direct or indirect ownership 229  
interest. 230

(iii) Subject to division (A) (20) (a) (v) of this section, 231  
for taxable years beginning in 2012 or thereafter, if the 232  
increase in income taxes withheld by the taxpayer is equal to or 233  
greater than ten per cent of income taxes withheld by the 234  
taxpayer during the taxpayer's immediately preceding taxable 235  
year, "two-thirds" shall be substituted for "five-sixths" for 236  
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 237

(iv) Subject to division (A) (20) (a) (v) of this section, 238  
for taxable years beginning in 2012 or thereafter, a taxpayer is 239  
not required to add an amount under division (A) (20) of this 240  
section if the increase in income taxes withheld by the taxpayer 241  
and by any pass-through entity in which the taxpayer has a 242  
direct or indirect ownership interest is equal to or greater 243  
than the sum of (I) the amount of qualifying section 179 244  
depreciation expense and (II) the amount of depreciation expense 245  
allowed to the taxpayer by subsection (k) of section 168 of the 246  
Internal Revenue Code, and including the taxpayer's 247  
proportionate or distributive shares of such amounts allowed to 248  
any such pass-through entities. 249

(v) If a taxpayer directly or indirectly incurs a net 250  
operating loss for the taxable year for federal income tax 251  
purposes, to the extent such loss resulted from depreciation 252  
expense allowed by subsection (k) of section 168 of the Internal 253  
Revenue Code and by qualifying section 179 depreciation expense, 254  
"the entire" shall be substituted for "five-sixths of the" for 255

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| the purpose of divisions (A) (20) (a) (i) and (ii) of this section. | 256 |
| The tax commissioner, under procedures established by the           | 257 |
| commissioner, may waive the add-backs related to a pass-through     | 258 |
| entity if the taxpayer owns, directly or indirectly, less than      | 259 |
| five per cent of the pass-through entity.                           | 260 |
| (b) Nothing in division (A) (20) of this section shall be           | 261 |
| construed to adjust or modify the adjusted basis of any asset.      | 262 |
| (c) To the extent the add-back required under division (A)          | 263 |
| (20) (a) of this section is attributable to property generating     | 264 |
| nonbusiness income or loss allocated under section 5747.20 of       | 265 |
| the Revised Code, the add-back shall be situated to the same        | 266 |
| location as the nonbusiness income or loss generated by the         | 267 |
| property for the purpose of determining the credit under            | 268 |
| division (A) of section 5747.05 of the Revised Code. Otherwise,     | 269 |
| the add-back shall be apportioned, subject to one or more of the    | 270 |
| four alternative methods of apportionment enumerated in section     | 271 |
| 5747.21 of the Revised Code.  | 272 |
| (d) For the purposes of division (A) (20) (a) (v) of this           | 273 |
| section, net operating loss carryback and carryforward shall not    | 274 |
| include the allowance of any net operating loss deduction           | 275 |
| carryback or carryforward to the taxable year to the extent such    | 276 |
| loss resulted from depreciation allowed by section 168(k) of the    | 277 |
| Internal Revenue Code and by the qualifying section 179             | 278 |
| depreciation expense amount.  | 279 |
| (e) For the purposes of divisions (A) (20) and (21) of this         | 280 |
| section:  | 281 |
| (i) "Income taxes withheld" means the total amount                  | 282 |
| withheld and remitted under sections 5747.06 and 5747.07 of the     | 283 |
| Revised Code by an employer during the employer's taxable year.     | 284 |

(ii) "Increase in income taxes withheld" means the amount 285  
by which the amount of income taxes withheld by an employer 286  
during the employer's current taxable year exceeds the amount of 287  
income taxes withheld by that employer during the employer's 288  
immediately preceding taxable year. 289

(iii) "Qualifying section 179 depreciation expense" means 290  
the difference between (I) the amount of depreciation expense 291  
directly or indirectly allowed to a taxpayer under section 179 292  
of the Internal Revised Code, and (II) the amount of 293  
depreciation expense directly or indirectly allowed to the 294  
taxpayer under section 179 of the Internal Revenue Code as that 295  
section existed on December 31, 2002. 296

(21) (a) If the taxpayer was required to add an amount 297  
under division (A) (20) (a) of this section for a taxable year, 298  
deduct one of the following: 299

(i) One-fifth of the amount so added for each of the five 300  
succeeding taxable years if the amount so added was five-sixths 301  
of qualifying section 179 depreciation expense or depreciation 302  
expense allowed by subsection (k) of section 168 of the Internal 303  
Revenue Code; 304

(ii) One-half of the amount so added for each of the two 305  
succeeding taxable years if the amount so added was two-thirds 306  
of such depreciation expense; 307

(iii) One-sixth of the amount so added for each of the six 308  
succeeding taxable years if the entire amount of such 309  
depreciation expense was so added. 310

(b) If the amount deducted under division (A) (21) (a) of 311  
this section is attributable to an add-back allocated under 312  
division (A) (20) (c) of this section, the amount deducted shall 313

be situated to the same location. Otherwise, the add-back shall 314  
be apportioned using the apportionment factors for the taxable 315  
year in which the deduction is taken, subject to one or more of 316  
the four alternative methods of apportionment enumerated in 317  
section 5747.21 of the Revised Code. 318

(c) No deduction is available under division (A) (21) (a) of 319  
this section with regard to any depreciation allowed by section 320  
168(k) of the Internal Revenue Code and by the qualifying 321  
section 179 depreciation expense amount to the extent that such 322  
depreciation results in or increases a federal net operating 323  
loss carryback or carryforward. If no such deduction is 324  
available for a taxable year, the taxpayer may carry forward the 325  
amount not deducted in such taxable year to the next taxable 326  
year and add that amount to any deduction otherwise available 327  
under division (A) (21) (a) of this section for that next taxable 328  
year. The carryforward of amounts not so deducted shall continue 329  
until the entire addition required by division (A) (20) (a) of 330  
this section has been deducted. 331

(d) No refund shall be allowed as a result of adjustments 332  
made by division (A) (21) of this section. 333

(22) Deduct, to the extent not otherwise deducted or 334  
excluded in computing federal or Ohio adjusted gross income for 335  
the taxable year, the amount the taxpayer received during the 336  
taxable year as reimbursement for life insurance premiums under 337  
section 5919.31 of the Revised Code. 338

(23) Deduct, to the extent not otherwise deducted or 339  
excluded in computing federal or Ohio adjusted gross income for 340  
the taxable year, the amount the taxpayer received during the 341  
taxable year as a death benefit paid by the adjutant general 342  
under section 5919.33 of the Revised Code. 343

(24) Deduct, to the extent included in federal adjusted 344  
gross income and not otherwise allowable as a deduction or 345  
exclusion in computing federal or Ohio adjusted gross income for 346  
the taxable year, military pay and allowances received by the 347  
taxpayer during the taxable year for active duty service in the 348  
United States army, air force, navy, marine corps, or coast 349  
guard or reserve components thereof or the national guard. The 350  
deduction may not be claimed for military pay and allowances 351  
received by the taxpayer while the taxpayer is stationed in this 352  
state. 353

(25) Deduct, to the extent not otherwise allowable as a 354  
deduction or exclusion in computing federal or Ohio adjusted 355  
gross income for the taxable year and not otherwise compensated 356  
for by any other source, the amount of qualified organ donation 357  
expenses incurred by the taxpayer during the taxable year, not 358  
to exceed ten thousand dollars. A taxpayer may deduct qualified 359  
organ donation expenses only once for all taxable years 360  
beginning with taxable years beginning in 2007. 361

For the purposes of division (A) (25) of this section: 362

(a) "Human organ" means all or any portion of a human 363  
liver, pancreas, kidney, intestine, or lung, and any portion of 364  
human bone marrow. 365

(b) "Qualified organ donation expenses" means travel 366  
expenses, lodging expenses, and wages and salary forgone by a 367  
taxpayer in connection with the taxpayer's donation, while 368  
living, of one or more of the taxpayer's human organs to another 369  
human being. 370

(26) Deduct, to the extent not otherwise deducted or 371  
excluded in computing federal or Ohio adjusted gross income for 372

the taxable year, amounts received by the taxpayer as retired 373  
personnel pay for service in the uniformed services or reserve 374  
components thereof, or the national guard, or received by the 375  
surviving spouse or former spouse of such a taxpayer under the 376  
survivor benefit plan on account of such a taxpayer's death. If 377  
the taxpayer receives income on account of retirement paid under 378  
the federal civil service retirement system or federal employees 379  
retirement system, or under any successor retirement program 380  
enacted by the congress of the United States that is established 381  
and maintained for retired employees of the United States 382  
government, and such retirement income is based, in whole or in 383  
part, on credit for the taxpayer's uniformed service, the 384  
deduction allowed under this division shall include only that 385  
portion of such retirement income that is attributable to the 386  
taxpayer's uniformed service, to the extent that portion of such 387  
retirement income is otherwise included in federal adjusted 388  
gross income and is not otherwise deducted under this section. 389  
Any amount deducted under division (A) (26) of this section is 390  
not included in a taxpayer's adjusted gross income for the 391  
purposes of section 5747.055 of the Revised Code. No amount may 392  
be deducted under division (A) (26) of this section on the basis 393  
of which a credit was claimed under section 5747.055 of the 394  
Revised Code. 395

(27) Deduct, to the extent not otherwise deducted or 396  
excluded in computing federal or Ohio adjusted gross income for 397  
the taxable year, the amount the taxpayer received during the 398  
taxable year from the military injury relief fund created in 399  
section 5902.05 of the Revised Code. 400

(28) Deduct, to the extent not otherwise deducted or 401  
excluded in computing federal or Ohio adjusted gross income for 402  
the taxable year, the amount the taxpayer received as a veterans 403

bonus during the taxable year from the Ohio department of 404  
veterans services as authorized by Section 2r of Article VIII, 405  
Ohio Constitution. 406

(29) Deduct, to the extent not otherwise deducted or 407  
excluded in computing federal or Ohio adjusted gross income for 408  
the taxable year, any income derived from a transfer agreement 409  
or from the enterprise transferred under that agreement under 410  
section 4313.02 of the Revised Code. 411

(30) Deduct, to the extent not otherwise deducted or 412  
excluded in computing federal or Ohio adjusted gross income for 413  
the taxable year, Ohio college opportunity or federal Pell grant 414  
amounts received by the taxpayer or the taxpayer's spouse or 415  
dependent pursuant to section 3333.122 of the Revised Code or 20 416  
U.S.C. 1070a, et seq., and used to pay room or board furnished 417  
by the educational institution for which the grant was awarded 418  
at the institution's facilities, including meal plans 419  
administered by the institution. For the purposes of this 420  
division, receipt of a grant includes the distribution of a 421  
grant directly to an educational institution and the crediting 422  
of the grant to the enrollee's account with the institution. 423

(31) (a) For taxable years beginning in 2015, deduct from 424  
the portion of an individual's adjusted gross income that is 425  
business income, to the extent not otherwise deducted or 426  
excluded in computing federal or Ohio adjusted gross income for 427  
the taxable year, the lesser of the following amounts: 428

(i) Seventy-five per cent of the individual's business 429  
income; 430

(ii) Ninety-three thousand seven hundred fifty dollars for 431  
each spouse if spouses file separate returns under section 432

5747.08 of the Revised Code or one hundred eighty-seven thousand 433  
five hundred dollars for all other individuals. 434

(b) For taxable years beginning in 2016 or thereafter, 435  
deduct from the portion of an individual's adjusted gross income 436  
that is business income, to the extent not otherwise deducted or 437  
excluded in computing federal adjusted gross income for the 438  
taxable year, one hundred twenty-five thousand dollars for each 439  
spouse if spouses file separate returns under section 5747.08 of 440  
the Revised Code or two hundred fifty thousand dollars for all 441  
other individuals. 442

(32) Deduct, as provided under section 5747.78 of the 443  
Revised Code, contributions to ABLE savings accounts made in 444  
accordance with sections 113.50 to 113.56 of the Revised Code. 445

(33) For taxable years beginning after December 31, 2016, 446  
and before January 1, 2023, deduct, to the extent not otherwise 447  
deducted or excluded in computing federal or Ohio adjusted gross 448  
income for the taxable year, amounts related to legal service 449  
provided by attorneys to indigent clients as computed under 450  
divisions (B) and (C) of section 5747.014 of the Revised Code. 451

(B) "Business income" means income, including gain or 452  
loss, arising from transactions, activities, and sources in the 453  
regular course of a trade or business and includes income, gain, 454  
or loss from real property, tangible property, and intangible 455  
property if the acquisition, rental, management, and disposition 456  
of the property constitute integral parts of the regular course 457  
of a trade or business operation. "Business income" includes 458  
income, including gain or loss, from a partial or complete 459  
liquidation of a business, including, but not limited to, gain 460  
or loss from the sale or other disposition of goodwill. 461

(C) "Nonbusiness income" means all income other than 462  
business income and may include, but is not limited to, 463  
compensation, rents and royalties from real or tangible personal 464  
property, capital gains, interest, dividends and distributions, 465  
patent or copyright royalties, or lottery winnings, prizes, and 466  
awards. 467

(D) "Compensation" means any form of remuneration paid to 468  
an employee for personal services. 469

(E) "Fiduciary" means a guardian, trustee, executor, 470  
administrator, receiver, conservator, or any other person acting 471  
in any fiduciary capacity for any individual, trust, or estate. 472

(F) "Fiscal year" means an accounting period of twelve 473  
months ending on the last day of any month other than December. 474

(G) "Individual" means any natural person. 475

(H) "Internal Revenue Code" means the "Internal Revenue 476  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 477

(I) "Resident" means any of the following, provided that 478  
division (I) (3) of this section applies only to taxable years of 479  
a trust beginning in 2002 or thereafter: 480

(1) An individual who is domiciled in this state, subject 481  
to section 5747.24 of the Revised Code; 482

(2) The estate of a decedent who at the time of death was 483  
domiciled in this state. The domicile tests of section 5747.24 484  
of the Revised Code are not controlling for purposes of division 485  
(I) (2) of this section. 486

(3) A trust that, in whole or part, resides in this state. 487  
If only part of a trust resides in this state, the trust is a 488  
resident only with respect to that part. 489

|   |   |
|---|---|
| For the purposes of division (I) (3) of this section:   | 490   |
| (a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:   | 491<br>492<br>493<br>494<br>495<br>496                                    |
| (i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section;   | 497<br>498<br>499<br>500  |
| (ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;  | 501<br>502<br>503<br>504<br>505<br>506                                    |
| (iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I) (3) (a) (iii) of this section. | 507<br>508<br>509<br>510<br>511<br>512<br>513<br>514<br>515<br>516<br>517 |
| (b) A trust is irrevocable to the extent that the   | 518   |

transferor is not considered to be the owner of the net assets 519  
of the trust under sections 671 to 678 of the Internal Revenue 520  
Code. 521

(c) With respect to a trust other than a charitable lead 522  
trust, "qualifying beneficiary" has the same meaning as 523  
"potential current beneficiary" as defined in section 1361(e)(2) 524  
of the Internal Revenue Code, and with respect to a charitable 525  
lead trust "qualifying beneficiary" is any current, future, or 526  
contingent beneficiary, but with respect to any trust 527  
"qualifying beneficiary" excludes a person or a governmental 528  
entity or instrumentality to any of which a contribution would 529  
qualify for the charitable deduction under section 170 of the 530  
Internal Revenue Code. 531

(d) For the purposes of division (I)(3)(a) of this 532  
section, the extent to which a trust consists directly or 533  
indirectly, in whole or in part, of assets, net of any related 534  
liabilities, that were transferred directly or indirectly, in 535  
whole or part, to the trust by any of the sources enumerated in 536  
that division shall be ascertained by multiplying the fair 537  
market value of the trust's assets, net of related liabilities, 538  
by the qualifying ratio, which shall be computed as follows: 539

(i) The first time the trust receives assets, the 540  
numerator of the qualifying ratio is the fair market value of 541  
those assets at that time, net of any related liabilities, from 542  
sources enumerated in division (I)(3)(a) of this section. The 543  
denominator of the qualifying ratio is the fair market value of 544  
all the trust's assets at that time, net of any related 545  
liabilities. 546

(ii) Each subsequent time the trust receives assets, a 547  
revised qualifying ratio shall be computed. The numerator of the 548

revised qualifying ratio is the sum of (1) the fair market value 549  
of the trust's assets immediately prior to the subsequent 550  
transfer, net of any related liabilities, multiplied by the 551  
qualifying ratio last computed without regard to the subsequent 552  
transfer, and (2) the fair market value of the subsequently 553  
transferred assets at the time transferred, net of any related 554  
liabilities, from sources enumerated in division (I) (3) (a) of 555  
this section. The denominator of the revised qualifying ratio is 556  
the fair market value of all the trust's assets immediately 557  
after the subsequent transfer, net of any related liabilities. 558

(iii) Whether a transfer to the trust is by or from any of 559  
the sources enumerated in division (I) (3) (a) of this section 560  
shall be ascertained without regard to the domicile of the 561  
trust's beneficiaries. 562

(e) For the purposes of division (I) (3) (a) (i) of this 563  
section: 564

(i) A trust is described in division (I) (3) (e) (i) of this 565  
section if the trust is a testamentary trust and the testator of 566  
that testamentary trust was domiciled in this state at the time 567  
of the testator's death for purposes of the taxes levied under 568  
Chapter 5731. of the Revised Code. 569

(ii) A trust is described in division (I) (3) (e) (ii) of 570  
this section if the transfer is a qualifying transfer described 571  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 572  
trust is an irrevocable inter vivos trust, and at least one of 573  
the trust's qualifying beneficiaries is domiciled in this state 574  
for purposes of this chapter during all or some portion of the 575  
trust's current taxable year. 576

(f) For the purposes of division (I) (3) (e) (ii) of this 577

section, a "qualifying transfer" is a transfer of assets, net of 578  
any related liabilities, directly or indirectly to a trust, if 579  
the transfer is described in any of the following: 580

(i) The transfer is made to a trust, created by the 581  
decedent before the decedent's death and while the decedent was 582  
domiciled in this state for the purposes of this chapter, and, 583  
prior to the death of the decedent, the trust became irrevocable 584  
while the decedent was domiciled in this state for the purposes 585  
of this chapter. 586

(ii) The transfer is made to a trust to which the 587  
decedent, prior to the decedent's death, had directly or 588  
indirectly transferred assets, net of any related liabilities, 589  
while the decedent was domiciled in this state for the purposes 590  
of this chapter, and prior to the death of the decedent the 591  
trust became irrevocable while the decedent was domiciled in 592  
this state for the purposes of this chapter. 593

(iii) The transfer is made on account of a contractual 594  
relationship existing directly or indirectly between the 595  
transferor and either the decedent or the estate of the decedent 596  
at any time prior to the date of the decedent's death, and the 597  
decedent was domiciled in this state at the time of death for 598  
purposes of the taxes levied under Chapter 5731. of the Revised 599  
Code. 600

(iv) The transfer is made to a trust on account of a 601  
contractual relationship existing directly or indirectly between 602  
the transferor and another person who at the time of the 603  
decedent's death was domiciled in this state for purposes of 604  
this chapter. 605

(v) The transfer is made to a trust on account of the will 606

of a testator who was domiciled in this state at the time of the 607  
testator's death for purposes of the taxes levied under Chapter 608  
5731. of the Revised Code. 609

(vi) The transfer is made to a trust created by or caused 610  
to be created by a court, and the trust was directly or 611  
indirectly created in connection with or as a result of the 612  
death of an individual who, for purposes of the taxes levied 613  
under Chapter 5731. of the Revised Code, was domiciled in this 614  
state at the time of the individual's death. 615

(g) The tax commissioner may adopt rules to ascertain the 616  
part of a trust residing in this state. 617

(J) "Nonresident" means an individual or estate that is 618  
not a resident. An individual who is a resident for only part of 619  
a taxable year is a nonresident for the remainder of that 620  
taxable year. 621

(K) "Pass-through entity" has the same meaning as in 622  
section 5733.04 of the Revised Code. 623

(L) "Return" means the notifications and reports required 624  
to be filed pursuant to this chapter for the purpose of 625  
reporting the tax due and includes declarations of estimated tax 626  
when so required. 627

(M) "Taxable year" means the calendar year or the 628  
taxpayer's fiscal year ending during the calendar year, or 629  
fractional part thereof, upon which the adjusted gross income is 630  
calculated pursuant to this chapter. 631

(N) "Taxpayer" means any person subject to the tax imposed 632  
by section 5747.02 of the Revised Code or any pass-through 633  
entity that makes the election under division (D) of section 634  
5747.08 of the Revised Code. 635

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

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

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

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

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

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

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

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section:

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

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

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section;

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

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, 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 exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S) (1) (a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not 694  
otherwise allowable as a deduction but that would have been 695  
allowable as a deduction in computing federal taxable income for 696  
the taxable year, had the targeted jobs credit allowed under 697  
sections 38, 51, and 52 of the Internal Revenue Code not been in 698  
effect, but only to the extent such amount relates either to 699  
income included in federal taxable income for the taxable year 700  
or to income of the S portion of an electing small business 701  
trust for the taxable year; 702

(6) Deduct any interest or interest equivalent, net of 703  
related expenses deducted in computing federal taxable income, 704  
on public obligations and purchase obligations, but only to the 705  
extent that such net amount relates either to income included in 706  
federal taxable income for the taxable year or to income of the 707  
S portion of an electing small business trust for the taxable 708  
year; 709

(7) Add any loss or deduct any gain resulting from sale, 710  
exchange, or other disposition of public obligations to the 711  
extent that such loss has been deducted or such gain has been 712  
included in computing either federal taxable income or income of 713  
the S portion of an electing small business trust for the 714  
taxable year; 715

(8) Except in the case of the final return of an estate, 716  
add any amount deducted by the taxpayer on both its Ohio estate 717  
tax return pursuant to section 5731.14 of the Revised Code, and 718  
on its federal income tax return in determining federal taxable 719  
income; 720

(9) (a) Deduct any amount included in federal taxable 721  
income solely because the amount represents a reimbursement or 722  
refund of expenses that in a previous year the decedent had 723

deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable 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 taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) 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:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent'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.

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

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

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required

to be reported for the taxpayer's taxable year under the 753  
Internal Revenue Code; 754

(b) The amount resulted in a reduction in the taxpayer's 755  
federal taxable income as required to be reported for any of the 756  
taxpayer's taxable years under the Internal Revenue Code. 757

(12) Deduct any amount, net of related expenses deducted 758  
in computing federal taxable income, that a trust is required to 759  
report as farm income on its federal income tax return, but only 760  
if the assets of the trust include at least ten acres of land 761  
satisfying the definition of "land devoted exclusively to 762  
agricultural use" under section 5713.30 of the Revised Code, 763  
regardless of whether the land is valued for tax purposes as 764  
such land under sections 5713.30 to 5713.38 of the Revised Code. 765  
If the trust is a pass-through entity investor, section 5747.231 766  
of the Revised Code applies in ascertaining if the trust is 767  
eligible to claim the deduction provided by division (S)(12) of 768  
this section in connection with the pass-through entity's farm 769  
income. 770

Except for farm income attributable to the S portion of an 771  
electing small business trust, the deduction provided by 772  
division (S)(12) of this section is allowed only to the extent 773  
that the trust has not distributed such farm income. Division 774  
(S)(12) of this section applies only to taxable years of a trust 775  
beginning in 2002 or thereafter. 776

(13) Add the net amount of income described in section 777  
641(c) of the Internal Revenue Code to the extent that amount is 778  
not included in federal taxable income. 779

(14) Add or deduct the amount the taxpayer would be 780  
required to add or deduct under division (A)(20) or (21) of this 781

section if the taxpayer's Ohio taxable income were computed in 782  
the same manner as an individual's Ohio adjusted gross income is 783  
computed under this section. In the case of a trust, division 784  
(S) (14) of this section applies only to any of the trust's 785  
taxable years beginning in 2002 or thereafter. 786

(T) "School district income" and "school district income 787  
tax" have the same meanings as in section 5748.01 of the Revised 788  
Code. 789

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 790  
(7) of this section, "public obligations," "purchase 791  
obligations," and "interest or interest equivalent" have the 792  
same meanings as in section 5709.76 of the Revised Code. 793

(V) "Limited liability company" means any limited 794  
liability company formed under Chapter 1705. of the Revised Code 795  
or under the laws of any other state. 796

(W) "Pass-through entity investor" means any person who, 797  
during any portion of a taxable year of a pass-through entity, 798  
is a partner, member, shareholder, or equity investor in that 799  
pass-through entity. 800

(X) "Banking day" has the same meaning as in section 801  
1304.01 of the Revised Code. 802

(Y) "Month" means a calendar month. 803

(Z) "Quarter" means the first three months, the second 804  
three months, the third three months, or the last three months 805  
of the taxpayer's taxable year. 806

(AA) (1) "Eligible institution" means a state university or 807  
state institution of higher education as defined in section 808  
3345.011 of the Revised Code, or a private, nonprofit college, 809

university, or other post-secondary institution located in this 810  
state that possesses a certificate of authorization issued by 811  
the chancellor of higher education pursuant to Chapter 1713. of 812  
the Revised Code or a certificate of registration issued by the 813  
state board of career colleges and schools under Chapter 3332. 814  
of the Revised Code. 815

(2) "Qualified tuition and fees" means tuition and fees 816  
imposed by an eligible institution as a condition of enrollment 817  
or attendance, not exceeding two thousand five hundred dollars 818  
in each of the individual's first two years of post-secondary 819  
education. If the individual is a part-time student, "qualified 820  
tuition and fees" includes tuition and fees paid for the 821  
academic equivalent of the first two years of post-secondary 822  
education during a maximum of five taxable years, not exceeding 823  
a total of five thousand dollars. "Qualified tuition and fees" 824  
does not include: 825

(a) Expenses for any course or activity involving sports, 826  
games, or hobbies unless the course or activity is part of the 827  
individual's degree or diploma program; 828

(b) The cost of books, room and board, student activity 829  
fees, athletic fees, insurance expenses, or other expenses 830  
unrelated to the individual's academic course of instruction; 831

(c) Tuition, fees, or other expenses paid or reimbursed 832  
through an employer, scholarship, grant in aid, or other 833  
educational benefit program. 834

(BB) (1) "Modified business income" means the business 835  
income included in a trust's Ohio taxable income after such 836  
taxable income is first reduced by the qualifying trust amount, 837  
if any. 838

(2) "Qualifying trust amount" of a trust means capital 839  
gains and losses from the sale, exchange, or other disposition 840  
of equity or ownership interests in, or debt obligations of, a 841  
qualifying investee to the extent included in the trust's Ohio 842  
taxable income, but only if the following requirements are 843  
satisfied: 844

(a) The book value of the qualifying investee's physical 845  
assets in this state and everywhere, as of the last day of the 846  
qualifying investee's fiscal or calendar year ending immediately 847  
prior to the date on which the trust recognizes the gain or 848  
loss, is available to the trust. 849

(b) The requirements of section 5747.011 of the Revised 850  
Code are satisfied for the trust's taxable year in which the 851  
trust recognizes the gain or loss. 852

Any gain or loss that is not a qualifying trust amount is 853  
modified business income, qualifying investment income, or 854  
modified nonbusiness income, as the case may be. 855

(3) "Modified nonbusiness income" means a trust's Ohio 856  
taxable income other than modified business income, other than 857  
the qualifying trust amount, and other than qualifying 858  
investment income, as defined in section 5747.012 of the Revised 859  
Code, to the extent such qualifying investment income is not 860  
otherwise part of modified business income. 861

(4) "Modified Ohio taxable income" applies only to trusts, 862  
and means the sum of the amounts described in divisions (BB) (4) 863  
(a) to (c) of this section: 864

(a) The fraction, calculated under section 5747.013, and 865  
applying section 5747.231 of the Revised Code, multiplied by the 866  
sum of the following amounts: 867

(i) The trust's modified business income; 868

(ii) The trust's qualifying investment income, as defined 869  
in section 5747.012 of the Revised Code, but only to the extent 870  
the qualifying investment income does not otherwise constitute 871  
modified business income and does not otherwise constitute a 872  
qualifying trust amount. 873

(b) The qualifying trust amount multiplied by a fraction, 874  
the numerator of which is the sum of the book value of the 875  
qualifying investee's physical assets in this state on the last 876  
day of the qualifying investee's fiscal or calendar year ending 877  
immediately prior to the day on which the trust recognizes the 878  
qualifying trust amount, and the denominator of which is the sum 879  
of the book value of the qualifying investee's total physical 880  
assets everywhere on the last day of the qualifying investee's 881  
fiscal or calendar year ending immediately prior to the day on 882  
which the trust recognizes the qualifying trust amount. If, for 883  
a taxable year, the trust recognizes a qualifying trust amount 884  
with respect to more than one qualifying investee, the amount 885  
described in division (BB) (4) (b) of this section shall equal the 886  
sum of the products so computed for each such qualifying 887  
investee. 888

(c) (i) With respect to a trust or portion of a trust that 889  
is a resident as ascertained in accordance with division (I) (3) 890  
(d) of this section, its modified nonbusiness income. 891

(ii) With respect to a trust or portion of a trust that is 892  
not a resident as ascertained in accordance with division (I) (3) 893  
(d) of this section, the amount of its modified nonbusiness 894  
income satisfying the descriptions in divisions (B) (2) to (5) of 895  
section 5747.20 of the Revised Code, except as otherwise 896  
provided in division (BB) (4) (c) (ii) of this section. With 897

respect to a trust or portion of a trust that is not a resident 898  
as ascertained in accordance with division (I) (3) (d) of this 899  
section, the trust's portion of modified nonbusiness income 900  
recognized from the sale, exchange, or other disposition of a 901  
debt interest in or equity interest in a section 5747.212 902  
entity, as defined in section 5747.212 of the Revised Code, 903  
without regard to division (A) of that section, shall not be 904  
allocated to this state in accordance with section 5747.20 of 905  
the Revised Code but shall be apportioned to this state in 906  
accordance with division (B) of section 5747.212 of the Revised 907  
Code without regard to division (A) of that section. 908

If the allocation and apportionment of a trust's income 909  
under divisions (BB) (4) (a) and (c) of this section do not fairly 910  
represent the modified Ohio taxable income of the trust in this 911  
state, the alternative methods described in division (C) of 912  
section 5747.21 of the Revised Code may be applied in the manner 913  
and to the same extent provided in that section. 914

(5) (a) Except as set forth in division (BB) (5) (b) of this 915  
section, "qualifying investee" means a person in which a trust 916  
has an equity or ownership interest, or a person or unit of 917  
government the debt obligations of either of which are owned by 918  
a trust. For the purposes of division (BB) (2) (a) of this section 919  
and for the purpose of computing the fraction described in 920  
division (BB) (4) (b) of this section, all of the following apply: 921

(i) If the qualifying investee is a member of a qualifying 922  
controlled group on the last day of the qualifying investee's 923  
fiscal or calendar year ending immediately prior to the date on 924  
which the trust recognizes the gain or loss, then "qualifying 925  
investee" includes all persons in the qualifying controlled 926  
group on such last day. 927

(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.  | 989                                  |
| (CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.   | 990<br>991                           |
| (DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.   | 992<br>993                           |
| (EE) (1) For the purposes of division (EE) of this section:  | 994                                  |
| (a) "Qualifying person" means any person other than a qualifying corporation.  | 995<br>996                           |
| (b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:   | 997<br>998<br>999                    |
| (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;  | 1000<br>1001<br>1002<br>1003         |
| (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. | 1004<br>1005<br>1006<br>1007<br>1008 |
| (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.  | 1009<br>1010<br>1011                 |
| (FF) For purposes of this chapter and Chapter 5751. of the Revised Code:   | 1012<br>1013                         |
| (1) "Trust" does not include a qualified pre-income tax trust.   | 1014<br>1015                         |

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section. 1016  
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(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust. 1019  
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 1030  
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 1032  
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(b) The trust became irrevocable upon the creation of the trust; and 1034  
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(c) The grantor was domiciled in this state at the time the trust was created. 1036  
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(GG) "Uniformed services" has the same meaning as in 10 U.S.C. 101. 1038  
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(HH) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A)(31) of this section for the taxable year. 1040  
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Sec. 5747.014. (A) As used in this section and division 1045  
(A) (33) of section 5747.01 of the Revised Code: 1046

(1) "Legal aid society" and "indigent" have the same 1047  
meanings as in section 120.51 of the Revised Code. 1048

(2) "Attorney" means a person who has been admitted to the 1049  
bar by order of the Ohio supreme court. 1050

(3) "Law firm" means an association of attorneys who 1051  
practice law together in a partnership, a professional 1052  
corporation that has made an election under subchapter S of 1053  
Chapter 1 of Subtitle A of the Internal Revenue Code for its 1054  
taxable year under that code, a limited liability company, or 1055  
any other association that is not classified for federal income 1056  
tax purposes as an association taxed as a corporation under the 1057  
Internal Revenue Code, or a sole proprietorship that employs 1058  
attorneys. 1059

(4) "Qualified expenses" means reasonable expenses 1060  
incurred by an attorney in performing pro bono legal services 1061  
for indigent persons through or on behalf of a legal aid society 1062  
in this state. Such expenses may include court costs, filing 1063  
fees, costs associated with discovery, compensation of expert 1064  
witnesses, lodging, meals, transportation, and any other expense 1065  
directly attributable to the provision of such legal services. 1066

(B) Except as provided in division (C) of this section, an 1067  
individual who is an attorney may deduct the following amounts 1068  
in computing Ohio adjusted gross income for a taxable year 1069  
beginning after December 31, 2016, and before January 1, 2023, 1070  
to the extent such amounts are not compensated or reimbursed by 1071  
another: 1072

(1) The product obtained by multiplying one hundred 1073

twenty-five dollars by the number of hours the attorney 1074  
performed pro bono legal services for indigent persons through 1075  
or on behalf of a legal aid society in this state during the 1076  
taxable year, not to exceed ten thousand dollars; 1077

(2) The qualified expenses incurred by the attorney during 1078  
the taxable year. 1079

(C) The equity owners of a law firm may claim the 1080  
deductions described in divisions (B) (1) and (2) of this section 1081  
for any amount by which the law firm compensated the attorney 1082  
for the legal services or qualified expenses if the attorney who 1083  
performed such services or incurred such expenses is an employee 1084  
or equity owner of the law firm. The deductions may be allocated 1085  
among the law firm's equity owners in proportion to their 1086  
ownership interests or in such proportions or amounts as the 1087  
equity owners mutually agree. An attorney may not claim a 1088  
deduction under division (B) of this section for legal services 1089  
or qualified expenses deducted by the equity owners of a law 1090  
firm under this division. 1091

(D) An attorney or equity owner of a law firm that claims 1092  
a deduction based on legal services performed for indigent 1093  
clients under division (B) (1) or (C) of this section shall 1094  
submit, along with the return required under section 5747.08 of 1095  
the Revised Code, a written statement from the legal aid society 1096  
confirming the number of hours the attorney performed such legal 1097  
services. An attorney or equity owner of a law firm may not 1098  
claim the deduction without first obtaining such a statement of 1099  
confirmation. 1100

(E) The tax commissioner may adopt rules for the 1101  
administration of this section including rules governing 1102  
documents, records, or other information attorneys and equity 1103

owners of law firms claiming the deduction shall provide to the 1104  
commissioner and rules further describing costs that may be 1105  
deducted as qualifying expenses. 1106

**Section 2.** That existing section 5747.01 of the Revised 1107  
Code is hereby repealed. 1108