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**Sub. H. B. No. 18**

**Representatives Vitale, Crawley**

**Cosponsors: Representatives Antani, Becker, Boggs, DeVitis, Hambley, Hicks-Hudson, Hood, Jones, Jordan, Keller, Lang, Manning, G., Miller, A., Miller, J., Perales, Riedel, Russo, Upchurch, Weinstein, Zeltwanger, Schaffer, Rogers, Sobecki, Arndt, Baldrige, Blessing, Boyd, Brent, Brown, Butler, Callender, Carfagna, Carruthers, Cera, Clites, Cross, Crossman, Cupp, Dean, Denson, Edwards, Galonski, Ghanbari, Ginter, Green, Greenspan, Hillyer, Holmes, A., Holmes, G., Hoops, Howse, Ingram, Kelly, Kent, Kick, Koehler, Lanese, Leland, Lepore-Hagan, Lightbody, Lipps, Liston, Manning, D., McClain, Merrin, Miranda, O'Brien, Oelslager, Patterson, Plummer, Powell, Reineke, Richardson, Robinson, Roemer, Romanchuk, Ryan, Scherer, Seitz, Sheehy, Skindell, Smith, K., Smith, R., Smith, T., Stein, Stoltzfus, Strahorn, Sweeney, Sykes, West, Wiggam, Wilkin**

**Senators Roegner, Blessing, Hackett, Manning, Schaffer, Schuring**

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**A BILL**

To amend sections 5747.01 and 5747.10 of the 1  
Revised Code to exempt from the income tax 2  
disability severance payments received by 3  
honorably discharged veterans. 4

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

**Section 1.** That sections 5747.01 and 5747.10 of the 5  
Revised Code be amended to read as follows: 6

**Sec. 5747.01.** Except as otherwise expressly provided or 7  
clearly appearing from the context, any term used in this 8  
chapter that is not otherwise defined in this section has the 9  
same meaning as when used in a comparable context in the laws of 10

the United States relating to federal income taxes or if not 11  
used in a comparable context in those laws, has the same meaning 12  
as in section 5733.40 of the Revised Code. Any reference in this 13  
chapter to the Internal Revenue Code includes other laws of the 14  
United States relating to federal income taxes. 15

As used in this chapter: 16

(A) "Adjusted gross income" or "Ohio adjusted gross 17  
income" means federal adjusted gross income, as defined and used 18  
in the Internal Revenue Code, adjusted as provided in this 19  
section: 20

(1) Add interest or dividends on obligations or securities 21  
of any state or of any political subdivision or authority of any 22  
state, other than this state and its subdivisions and 23  
authorities. 24

(2) Add interest or dividends on obligations of any 25  
authority, commission, instrumentality, territory, or possession 26  
of the United States to the extent that the interest or 27  
dividends are exempt from federal income taxes but not from 28  
state income taxes. 29

(3) Deduct interest or dividends on obligations of the 30  
United States and its territories and possessions or of any 31  
authority, commission, or instrumentality of the United States 32  
to the extent that the interest or dividends are included in 33  
federal adjusted gross income but exempt from state income taxes 34  
under the laws of the United States. 35

(4) Deduct disability and survivor's benefits to the 36  
extent included in federal adjusted gross income. 37

(5) Deduct benefits under Title II of the Social Security 38  
Act and tier 1 railroad retirement benefits to the extent 39

included in federal adjusted gross income under section 86 of 40  
the Internal Revenue Code. 41

(6) In the case of a taxpayer who is a beneficiary of a 42  
trust that makes an accumulation distribution as defined in 43  
section 665 of the Internal Revenue Code, add, for the 44  
beneficiary's taxable years beginning before 2002, the portion, 45  
if any, of such distribution that does not exceed the 46  
undistributed net income of the trust for the three taxable 47  
years preceding the taxable year in which the distribution is 48  
made to the extent that the portion was not included in the 49  
trust's taxable income for any of the trust's taxable years 50  
beginning in 2002 or thereafter. "Undistributed net income of a 51  
trust" means the taxable income of the trust increased by (a) (i) 52  
the additions to adjusted gross income required under division 53  
(A) of this section and (ii) the personal exemptions allowed to 54  
the trust pursuant to section 642(b) of the Internal Revenue 55  
Code, and decreased by (b) (i) the deductions to adjusted gross 56  
income required under division (A) of this section, (ii) the 57  
amount of federal income taxes attributable to such income, and 58  
(iii) the amount of taxable income that has been included in the 59  
adjusted gross income of a beneficiary by reason of a prior 60  
accumulation distribution. Any undistributed net income included 61  
in the adjusted gross income of a beneficiary shall reduce the 62  
undistributed net income of the trust commencing with the 63  
earliest years of the accumulation period. 64

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

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.	71 72 73 74
(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.	75 76 77 78
(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.	79 80 81 82
(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) (a) 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	83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

dividends received during the taxable year.	101
(b) Deduct, to the extent not otherwise deducted or	102
excluded in computing federal or Ohio adjusted gross income	103
during the taxable year, the amount the taxpayer paid during the	104
taxable year, not compensated for by any insurance or otherwise,	105
for medical care of the taxpayer, the taxpayer's spouse, and	106
dependents, to the extent the expenses exceed seven and one-half	107
per cent of the taxpayer's federal adjusted gross income.	108
(c) Deduct, to the extent not otherwise deducted or	109
excluded in computing federal or Ohio adjusted gross income, any	110
amount included in federal adjusted gross income under section	111
105 or not excluded under section 106 of the Internal Revenue	112
Code solely because it relates to an accident and health plan	113
for a person who otherwise would be a "qualifying relative" and	114
thus a "dependent" under section 152 of the Internal Revenue	115
Code but for the fact that the person fails to meet the income	116
and support limitations under section 152(d)(1)(B) and (C) of	117
the Internal Revenue Code.	118
(d) For purposes of division (A)(11) of this section,	119
"medical care" has the meaning given in section 213 of the	120
Internal Revenue Code, subject to the special rules,	121
limitations, and exclusions set forth therein, and "qualified	122
long-term care" has the same meaning given in section 7702B(c)	123
of the Internal Revenue Code. Solely for purposes of divisions	124
(A)(11)(a) and (c) of this section, "dependent" includes a	125
person who otherwise would be a "qualifying relative" and thus a	126
"dependent" under section 152 of the Internal Revenue Code but	127
for the fact that the person fails to meet the income and	128
support limitations under section 152(d)(1)(B) and (C) of the	129
Internal Revenue Code.	130

(12) (a) Deduct any amount included in federal adjusted 131  
gross income solely because the amount represents a 132  
reimbursement or refund of expenses that in any year the 133  
taxpayer had deducted as an itemized deduction pursuant to 134  
section 63 of the Internal Revenue Code and applicable United 135  
States department of the treasury regulations. The deduction 136  
otherwise allowed under division (A) (12) (a) of this section 137  
shall be reduced to the extent the reimbursement is attributable 138  
to an amount the taxpayer deducted under this section in any 139  
taxable year. 140

(b) Add any amount not otherwise included in Ohio adjusted 141  
gross income for any taxable year to the extent that the amount 142  
is attributable to the recovery during the taxable year of any 143  
amount deducted or excluded in computing federal or Ohio 144  
adjusted gross income in any taxable year. 145

(13) Deduct any portion of the deduction described in 146  
section 1341(a) (2) of the Internal Revenue Code, for repaying 147  
previously reported income received under a claim of right, that 148  
meets both of the following requirements: 149

(a) It is allowable for repayment of an item that was 150  
included in the taxpayer's adjusted gross income for a prior 151  
taxable year and did not qualify for a credit under division (A) 152  
or (B) of section 5747.05 of the Revised Code for that year; 153

(b) It does not otherwise reduce the taxpayer's adjusted 154  
gross income for the current or any other taxable year. 155

(14) Deduct an amount equal to the deposits made to, and 156  
net investment earnings of, a medical savings account during the 157  
taxable year, in accordance with section 3924.66 of the Revised 158  
Code. The deduction allowed by division (A) (14) of this section 159

does not apply to medical savings account deposits and earnings 160  
otherwise deducted or excluded for the current or any other 161  
taxable year from the taxpayer's federal adjusted gross income. 162

(15) (a) Add an amount equal to the funds withdrawn from a 163  
medical savings account during the taxable year, and the net 164  
investment earnings on those funds, when the funds withdrawn 165  
were used for any purpose other than to reimburse an account 166  
holder for, or to pay, eligible medical expenses, in accordance 167  
with section 3924.66 of the Revised Code; 168

(b) Add the amounts distributed from a medical savings 169  
account under division (A) (2) of section 3924.68 of the Revised 170  
Code during the taxable year. 171

(16) Add any amount claimed as a credit under section 172  
5747.059 of the Revised Code to the extent that such amount 173  
satisfies either of the following: 174

(a) The amount was deducted or excluded from the 175  
computation of the taxpayer's federal adjusted gross income as 176  
required to be reported for the taxpayer's taxable year under 177  
the Internal Revenue Code; 178

(b) The amount resulted in a reduction of the taxpayer's 179  
federal adjusted gross income as required to be reported for any 180  
of the taxpayer's taxable years under the Internal Revenue Code. 181

(17) Deduct the amount contributed by the taxpayer to an 182  
individual development account program established by a county 183  
department of job and family services pursuant to sections 184  
329.11 to 329.14 of the Revised Code for the purpose of matching 185  
funds deposited by program participants. On request of the tax 186  
commissioner, the taxpayer shall provide any information that, 187  
in the tax commissioner's opinion, is necessary to establish the 188

amount deducted under division (A) (17) of this section.	189
(18) Beginning in taxable year 2001 but not for any	190
taxable year beginning after December 31, 2005, if the taxpayer	191
is married and files a joint return and the combined federal	192
adjusted gross income of the taxpayer and the taxpayer's spouse	193
for the taxable year does not exceed one hundred thousand	194
dollars, or if the taxpayer is single and has a federal adjusted	195
gross income for the taxable year not exceeding fifty thousand	196
dollars, deduct amounts paid during the taxable year for	197
qualified tuition and fees paid to an eligible institution for	198
the taxpayer, the taxpayer's spouse, or any dependent of the	199
taxpayer, who is a resident of this state and is enrolled in or	200
attending a program that culminates in a degree or diploma at an	201
eligible institution. The deduction may be claimed only to the	202
extent that qualified tuition and fees are not otherwise	203
deducted or excluded for any taxable year from federal or Ohio	204
adjusted gross income. The deduction may not be claimed for	205
educational expenses for which the taxpayer claims a credit	206
under section 5747.27 of the Revised Code.	207
(19) Add any reimbursement received during the taxable	208
year of any amount the taxpayer deducted under division (A) (18)	209
of this section in any previous taxable year to the extent the	210
amount is not otherwise included in Ohio adjusted gross income.	211
(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and	212
(v) of this section, add five-sixths of the amount of	213
depreciation expense allowed by subsection (k) of section 168 of	214
the Internal Revenue Code, including the taxpayer's	215
proportionate or distributive share of the amount of	216
depreciation expense allowed by that subsection to a pass-	217
through entity in which the taxpayer has a direct or indirect	218



ownership interest.	219
(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v)	220
of this section, add five-sixths of the amount of qualifying	221
section 179 depreciation expense, including the taxpayer's	222
proportionate or distributive share of the amount of qualifying	223
section 179 depreciation expense allowed to any pass-through	224
entity in which the taxpayer has a direct or indirect ownership	225
interest.	226
(iii) Subject to division (A) (20) (a) (v) of this section,	227
for taxable years beginning in 2012 or thereafter, if the	228
increase in income taxes withheld by the taxpayer is equal to or	229
greater than ten per cent of income taxes withheld by the	230
taxpayer during the taxpayer's immediately preceding taxable	231
year, "two-thirds" shall be substituted for "five-sixths" for	232
the purpose of divisions (A) (20) (a) (i) and (ii) of this section.	233
(iv) Subject to division (A) (20) (a) (v) of this section,	234
for taxable years beginning in 2012 or thereafter, a taxpayer is	235
not required to add an amount under division (A) (20) of this	236
section if the increase in income taxes withheld by the taxpayer	237
and by any pass-through entity in which the taxpayer has a	238
direct or indirect ownership interest is equal to or greater	239
than the sum of (I) the amount of qualifying section 179	240
depreciation expense and (II) the amount of depreciation expense	241
allowed to the taxpayer by subsection (k) of section 168 of the	242
Internal Revenue Code, and including the taxpayer's	243
proportionate or distributive shares of such amounts allowed to	244
any such pass-through entities.	245
(v) If a taxpayer directly or indirectly incurs a net	246
operating loss for the taxable year for federal income tax	247
purposes, to the extent such loss resulted from depreciation	248

expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

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

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

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

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

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

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.	278 279 280
(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.	281 282 283 284 285
(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.	286 287 288 289 290 291 292
(21) (a) If the taxpayer was required to add an amount under division (A) (20) (a) of this section for a taxable year, deduct one of the following:	293 294 295
(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;	296 297 298 299 300
(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;	301 302 303
(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.	304 305 306

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

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

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

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

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

the taxable year, the amount the taxpayer received during the 337  
taxable year as a death benefit paid by the adjutant general 338  
under section 5919.33 of the Revised Code. 339

(24) Deduct, to the extent included in federal adjusted 340  
gross income and not otherwise allowable as a deduction or 341  
exclusion in computing federal or Ohio adjusted gross income for 342  
the taxable year, military pay and allowances received by the 343  
taxpayer during the taxable year for active duty service in the 344  
United States army, air force, navy, marine corps, or coast 345  
guard or reserve components thereof or the national guard. The 346  
deduction may not be claimed for military pay and allowances 347  
received by the taxpayer while the taxpayer is stationed in this 348  
state. 349

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

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

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

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

human being. 366

(26) Deduct, to the extent not otherwise deducted or 367  
excluded in computing federal or Ohio adjusted gross income for 368  
the taxable year, amounts received by the taxpayer as retired 369  
personnel pay for service in the uniformed services or reserve 370  
components thereof, or the national guard, or received by the 371  
surviving spouse or former spouse of such a taxpayer under the 372  
survivor benefit plan on account of such a taxpayer's death. If 373  
the taxpayer receives income on account of retirement paid under 374  
the federal civil service retirement system or federal employees 375  
retirement system, or under any successor retirement program 376  
enacted by the congress of the United States that is established 377  
and maintained for retired employees of the United States 378  
government, and such retirement income is based, in whole or in 379  
part, on credit for the taxpayer's uniformed service, the 380  
deduction allowed under this division shall include only that 381  
portion of such retirement income that is attributable to the 382  
taxpayer's uniformed service, to the extent that portion of such 383  
retirement income is otherwise included in federal adjusted 384  
gross income and is not otherwise deducted under this section. 385  
Any amount deducted under division (A) (26) of this section is 386  
not included in a taxpayer's adjusted gross income for the 387  
purposes of section 5747.055 of the Revised Code. No amount may 388  
be deducted under division (A) (26) of this section on the basis 389  
of which a credit was claimed under section 5747.055 of the 390  
Revised Code. 391

(27) Deduct, to the extent not otherwise deducted or 392  
excluded in computing federal or Ohio adjusted gross income for 393  
the taxable year, the amount the taxpayer received during the 394  
taxable year from the military injury relief fund created in 395  
section 5902.05 of the Revised Code. 396

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

(29) Deduct, to the extent not otherwise deducted or 403  
excluded in computing federal or Ohio adjusted gross income for 404  
the taxable year, any income derived from a transfer agreement 405  
or from the enterprise transferred under that agreement under 406  
section 4313.02 of the Revised Code. 407

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

(31) Deduct from the portion of an individual's federal 420  
adjusted gross income that is eligible business income, to the 421  
extent not otherwise deducted or excluded in computing federal 422  
adjusted gross income for the taxable year, one hundred twenty- 423  
five thousand dollars for each spouse if spouses file separate 424  
returns under section 5747.08 of the Revised Code or two hundred 425  
fifty thousand dollars for all other individuals. 426

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

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

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

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

(iii) Income received by an out-of-state disaster business for disaster work conducted in this state during a disaster response period, or, if the out-of-state disaster business is a pass-through entity, a taxpayer's distributive share of the pass-through entity's income from the business conducting disaster work in this state during a disaster response period, if, in either case, the disaster work is conducted pursuant to a qualifying solicitation received by the business.

(b) All terms used in division (A) (33) of this section have the same meanings as in section 5703.94 of the Revised Code.

(34) Deduct, to the extent not otherwise deducted or



excluded in computing federal or Ohio adjusted gross income for 456  
the taxable year, amounts received by the taxpayer as a 457  
disability severance payment, computed under 10 U.S.C. 1212, 458  
following discharge or release under honorable conditions from 459  
the armed forces, as defined by 10 U.S.C. 101. 460

(B) (1) "Business income" means income, including gain or 461  
loss, arising from transactions, activities, and sources in the 462  
regular course of a trade or business and includes income, gain, 463  
or loss from real property, tangible property, and intangible 464  
property if the acquisition, rental, management, and disposition 465  
of the property constitute integral parts of the regular course 466  
of a trade or business operation. "Business income" includes 467  
income, including gain or loss, from a partial or complete 468  
liquidation of a business, including, but not limited to, gain 469  
or loss from the sale or other disposition of goodwill. 470

(2) "Eligible business income" means business income 471  
excluding income from a trade or business that performs either 472  
or both of the following: 473

(a) Legal services provided by an active attorney admitted 474  
to the practice of law in this state or by an attorney 475  
registered for corporate counsel status under section 6 of rule 476  
VI of the Ohio supreme court rules for the government of the bar 477  
of Ohio; 478

(b) Executive agency lobbying activity, retirement system 479  
lobbying activity, or actively advocating by a person required 480  
to register with the joint legislative ethics committee under 481  
section 101.78, 101.92, or 121.62 of the Revised Code. Terms 482  
used in division (B) (2) of this section have the same meaning as 483  
in section 101.70, 101.92, or 121.60 of the Revised Code. 484

(C) "Nonbusiness income" means all income other than 485  
business income and may include, but is not limited to, 486  
compensation, rents and royalties from real or tangible personal 487  
property, capital gains, interest, dividends and distributions, 488  
patent or copyright royalties, or lottery winnings, prizes, and 489  
awards. 490

(D) "Compensation" means any form of remuneration paid to 491  
an employee for personal services. 492

(E) "Fiduciary" means a guardian, trustee, executor, 493  
administrator, receiver, conservator, or any other person acting 494  
in any fiduciary capacity for any individual, trust, or estate. 495

(F) "Fiscal year" means an accounting period of twelve 496  
months ending on the last day of any month other than December. 497

(G) "Individual" means any natural person. 498

(H) "Internal Revenue Code" means the "Internal Revenue 499  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 500

(I) "Resident" means any of the following, provided that 501  
division (I) (3) of this section applies only to taxable years of 502  
a trust beginning in 2002 or thereafter: 503

(1) An individual who is domiciled in this state, subject 504  
to section 5747.24 of the Revised Code; 505

(2) The estate of a decedent who at the time of death was 506  
domiciled in this state. The domicile tests of section 5747.24 507  
of the Revised Code are not controlling for purposes of division 508  
(I) (2) of this section. 509

(3) A trust that, in whole or part, resides in this state. 510  
If only part of a trust resides in this state, the trust is a 511  
resident only with respect to that part. 512

For the purposes of division (I) (3) of this section:	513
(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:	514 515 516 517 518 519
(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;	520 521 522 523
(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;	524 525 526 527 528 529
(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.	530 531 532 533 534 535 536 537 538 539 540
(b) A trust is irrevocable to the extent that the	541

transferor is not considered to be the owner of the net assets 542  
of the trust under sections 671 to 678 of the Internal Revenue 543  
Code. 544

(c) With respect to a trust other than a charitable lead 545  
trust, "qualifying beneficiary" has the same meaning as 546  
"potential current beneficiary" as defined in section 1361(e)(2) 547  
of the Internal Revenue Code, and with respect to a charitable 548  
lead trust "qualifying beneficiary" is any current, future, or 549  
contingent beneficiary, but with respect to any trust 550  
"qualifying beneficiary" excludes a person or a governmental 551  
entity or instrumentality to any of which a contribution would 552  
qualify for the charitable deduction under section 170 of the 553  
Internal Revenue Code. 554

(d) For the purposes of division (I)(3)(a) of this 555  
section, the extent to which a trust consists directly or 556  
indirectly, in whole or in part, of assets, net of any related 557  
liabilities, that were transferred directly or indirectly, in 558  
whole or part, to the trust by any of the sources enumerated in 559  
that division shall be ascertained by multiplying the fair 560  
market value of the trust's assets, net of related liabilities, 561  
by the qualifying ratio, which shall be computed as follows: 562

(i) The first time the trust receives assets, the 563  
numerator of the qualifying ratio is the fair market value of 564  
those assets at that time, net of any related liabilities, from 565  
sources enumerated in division (I)(3)(a) of this section. The 566  
denominator of the qualifying ratio is the fair market value of 567  
all the trust's assets at that time, net of any related 568  
liabilities. 569

(ii) Each subsequent time the trust receives assets, a 570  
revised qualifying ratio shall be computed. The numerator of the 571

revised qualifying ratio is the sum of (1) the fair market value 572  
of the trust's assets immediately prior to the subsequent 573  
transfer, net of any related liabilities, multiplied by the 574  
qualifying ratio last computed without regard to the subsequent 575  
transfer, and (2) the fair market value of the subsequently 576  
transferred assets at the time transferred, net of any related 577  
liabilities, from sources enumerated in division (I) (3) (a) of 578  
this section. The denominator of the revised qualifying ratio is 579  
the fair market value of all the trust's assets immediately 580  
after the subsequent transfer, net of any related liabilities. 581

(iii) Whether a transfer to the trust is by or from any of 582  
the sources enumerated in division (I) (3) (a) of this section 583  
shall be ascertained without regard to the domicile of the 584  
trust's beneficiaries. 585

(e) For the purposes of division (I) (3) (a) (i) of this 586  
section: 587

(i) A trust is described in division (I) (3) (e) (i) of this 588  
section if the trust is a testamentary trust and the testator of 589  
that testamentary trust was domiciled in this state at the time 590  
of the testator's death for purposes of the taxes levied under 591  
Chapter 5731. of the Revised Code. 592

(ii) A trust is described in division (I) (3) (e) (ii) of 593  
this section if the transfer is a qualifying transfer described 594  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 595  
trust is an irrevocable inter vivos trust, and at least one of 596  
the trust's qualifying beneficiaries is domiciled in this state 597  
for purposes of this chapter during all or some portion of the 598  
trust's current taxable year. 599

(f) For the purposes of division (I) (3) (e) (ii) of this 600

section, a "qualifying transfer" is a transfer of assets, net of 601  
any related liabilities, directly or indirectly to a trust, if 602  
the transfer is described in any of the following: 603

(i) The transfer is made to a trust, created by the 604  
decedent before the decedent's death and while the decedent was 605  
domiciled in this state for the purposes of this chapter, and, 606  
prior to the death of the decedent, the trust became irrevocable 607  
while the decedent was domiciled in this state for the purposes 608  
of this chapter. 609

(ii) The transfer is made to a trust to which the 610  
decedent, prior to the decedent's death, had directly or 611  
indirectly transferred assets, net of any related liabilities, 612  
while the decedent was domiciled in this state for the purposes 613  
of this chapter, and prior to the death of the decedent the 614  
trust became irrevocable while the decedent was domiciled in 615  
this state for the purposes of this chapter. 616

(iii) The transfer is made on account of a contractual 617  
relationship existing directly or indirectly between the 618  
transferor and either the decedent or the estate of the decedent 619  
at any time prior to the date of the decedent's death, and the 620  
decedent was domiciled in this state at the time of death for 621  
purposes of the taxes levied under Chapter 5731. of the Revised 622  
Code. 623

(iv) The transfer is made to a trust on account of a 624  
contractual relationship existing directly or indirectly between 625  
the transferor and another person who at the time of the 626  
decedent's death was domiciled in this state for purposes of 627  
this chapter. 628

(v) The transfer is made to a trust on account of the will 629

of a testator who was domiciled in this state at the time of the 630  
testator's death for purposes of the taxes levied under Chapter 631  
5731. of the Revised Code. 632

(vi) The transfer is made to a trust created by or caused 633  
to be created by a court, and the trust was directly or 634  
indirectly created in connection with or as a result of the 635  
death of an individual who, for purposes of the taxes levied 636  
under Chapter 5731. of the Revised Code, was domiciled in this 637  
state at the time of the individual's death. 638

(g) The tax commissioner may adopt rules to ascertain the 639  
part of a trust residing in this state. 640

(J) "Nonresident" means an individual or estate that is 641  
not a resident. An individual who is a resident for only part of 642  
a taxable year is a nonresident for the remainder of that 643  
taxable year. 644

(K) "Pass-through entity" has the same meaning as in 645  
section 5733.04 of the Revised Code. 646

(L) "Return" means the notifications and reports required 647  
to be filed pursuant to this chapter for the purpose of 648  
reporting the tax due and includes declarations of estimated tax 649  
when so required. 650

(M) "Taxable year" means the calendar year or the 651  
taxpayer's fiscal year ending during the calendar year, or 652  
fractional part thereof, upon which the adjusted gross income is 653  
calculated pursuant to this chapter. 654

(N) "Taxpayer" means any person subject to the tax imposed 655  
by section 5747.02 of the Revised Code or any pass-through 656  
entity that makes the election under division (D) of section 657  
5747.08 of the Revised Code. 658

(O) "Dependents" means one of the following:	659
(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;	660 661 662
(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	663 664 665 666 667
(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.	668 669 670 671 672
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	673 674
(1) "Subdivision" means any county, municipal corporation, park district, or township.	675 676
(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.	677 678 679 680
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	681 682 683
(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	684 685 686



follows: 687

(1) Add interest or dividends, net of ordinary, necessary, 688  
and reasonable expenses not deducted in computing federal 689  
taxable income, on obligations or securities of any state or of 690  
any political subdivision or authority of any state, other than 691  
this state and its subdivisions and authorities, but only to the 692  
extent that such net amount is not otherwise includible in Ohio 693  
taxable income and is described in either division (S) (1) (a) or 694  
(b) of this section: 695

(a) The net amount is not attributable to the S portion of 696  
an electing small business trust and has not been distributed to 697  
beneficiaries for the taxable year; 698

(b) The net amount is attributable to the S portion of an 699  
electing small business trust for the taxable year. 700

(2) Add interest or dividends, net of ordinary, necessary, 701  
and reasonable expenses not deducted in computing federal 702  
taxable income, on obligations of any authority, commission, 703  
instrumentality, territory, or possession of the United States 704  
to the extent that the interest or dividends are exempt from 705  
federal income taxes but not from state income taxes, but only 706  
to the extent that such net amount is not otherwise includible 707  
in Ohio taxable income and is described in either division (S) 708  
(1) (a) or (b) of this section; 709

(3) Add the amount of personal exemption allowed to the 710  
estate pursuant to section 642(b) of the Internal Revenue Code; 711

(4) Deduct interest or dividends, net of related expenses 712  
deducted in computing federal taxable income, on obligations of 713  
the United States and its territories and possessions or of any 714  
authority, commission, or instrumentality of the United States 715

to the extent that the interest or dividends are exempt from 716  
state taxes under the laws of the United States, but only to the 717  
extent that such amount is included in federal taxable income 718  
and is described in either division (S) (1) (a) or (b) of this 719  
section; 720

(5) Deduct the amount of wages and salaries, if any, not 721  
otherwise allowable as a deduction but that would have been 722  
allowable as a deduction in computing federal taxable income for 723  
the taxable year, had the targeted jobs credit allowed under 724  
sections 38, 51, and 52 of the Internal Revenue Code not been in 725  
effect, but only to the extent such amount relates either to 726  
income included in federal taxable income for the taxable year 727  
or to income of the S portion of an electing small business 728  
trust for the taxable year; 729

(6) Deduct any interest or interest equivalent, net of 730  
related expenses deducted in computing federal taxable income, 731  
on public obligations and purchase obligations, but only to the 732  
extent that such net amount relates either to income included in 733  
federal taxable income for the taxable year or to income of the 734  
S portion of an electing small business trust for the taxable 735  
year; 736

(7) Add any loss or deduct any gain resulting from sale, 737  
exchange, or other disposition of public obligations to the 738  
extent that such loss has been deducted or such gain has been 739  
included in computing either federal taxable income or income of 740  
the S portion of an electing small business trust for the 741  
taxable year; 742

(8) Except in the case of the final return of an estate, 743  
add any amount deducted by the taxpayer on both its Ohio estate 744  
tax return pursuant to section 5731.14 of the Revised Code, and 745

on its federal income tax return in determining federal taxable 746  
income; 747

(9) (a) Deduct any amount included in federal taxable 748  
income solely because the amount represents a reimbursement or 749  
refund of expenses that in a previous year the decedent had 750  
deducted as an itemized deduction pursuant to section 63 of the 751  
Internal Revenue Code and applicable treasury regulations. The 752  
deduction otherwise allowed under division (S) (9) (a) of this 753  
section shall be reduced to the extent the reimbursement is 754  
attributable to an amount the taxpayer or decedent deducted 755  
under this section in any taxable year. 756

(b) Add any amount not otherwise included in Ohio taxable 757  
income for any taxable year to the extent that the amount is 758  
attributable to the recovery during the taxable year of any 759  
amount deducted or excluded in computing federal or Ohio taxable 760  
income in any taxable year, but only to the extent such amount 761  
has not been distributed to beneficiaries for the taxable year. 762

(10) Deduct any portion of the deduction described in 763  
section 1341(a) (2) of the Internal Revenue Code, for repaying 764  
previously reported income received under a claim of right, that 765  
meets both of the following requirements: 766

(a) It is allowable for repayment of an item that was 767  
included in the taxpayer's taxable income or the decedent's 768  
adjusted gross income for a prior taxable year and did not 769  
qualify for a credit under division (A) or (B) of section 770  
5747.05 of the Revised Code for that year. 771

(b) It does not otherwise reduce the taxpayer's taxable 772  
income or the decedent's adjusted gross income for the current 773  
or any other taxable year. 774

(11) Add any amount claimed as a credit under section 5747.059 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 Internal Revenue Code;

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

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

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

(13) Add the net amount of income described in section	804
641(c) of the Internal Revenue Code to the extent that amount is	805
not included in federal taxable income.	806
(14) Add or deduct the amount the taxpayer would be	807
required to add or deduct under division (A) (20) or (21) of this	808
section if the taxpayer's Ohio taxable income were computed in	809
the same manner as an individual's Ohio adjusted gross income is	810
computed under this section. In the case of a trust, division	811
(S) (14) of this section applies only to any of the trust's	812
taxable years beginning in 2002 or thereafter.	813
(T) "School district income" and "school district income	814
tax" have the same meanings as in section 5748.01 of the Revised	815
Code.	816
(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S)	817
(7) of this section, "public obligations," "purchase	818
obligations," and "interest or interest equivalent" have the	819
same meanings as in section 5709.76 of the Revised Code.	820
(V) "Limited liability company" means any limited	821
liability company formed under Chapter 1705. of the Revised Code	822
or under the laws of any other state.	823
(W) "Pass-through entity investor" means any person who,	824
during any portion of a taxable year of a pass-through entity,	825
is a partner, member, shareholder, or equity investor in that	826
pass-through entity.	827
(X) "Banking day" has the same meaning as in section	828
1304.01 of the Revised Code.	829
(Y) "Month" means a calendar month.	830
(Z) "Quarter" means the first three months, the second	831

three months, the third three months, or the last three months 832  
of the taxpayer's taxable year. 833

(AA) (1) "Eligible institution" means a state university or 834  
state institution of higher education as defined in section 835  
3345.011 of the Revised Code, or a private, nonprofit college, 836  
university, or other post-secondary institution located in this 837  
state that possesses a certificate of authorization issued by 838  
the chancellor of higher education pursuant to Chapter 1713. of 839  
the Revised Code or a certificate of registration issued by the 840  
state board of career colleges and schools under Chapter 3332. 841  
of the Revised Code. 842

(2) "Qualified tuition and fees" means tuition and fees 843  
imposed by an eligible institution as a condition of enrollment 844  
or attendance, not exceeding two thousand five hundred dollars 845  
in each of the individual's first two years of post-secondary 846  
education. If the individual is a part-time student, "qualified 847  
tuition and fees" includes tuition and fees paid for the 848  
academic equivalent of the first two years of post-secondary 849  
education during a maximum of five taxable years, not exceeding 850  
a total of five thousand dollars. "Qualified tuition and fees" 851  
does not include: 852

(a) Expenses for any course or activity involving sports, 853  
games, or hobbies unless the course or activity is part of the 854  
individual's degree or diploma program; 855

(b) The cost of books, room and board, student activity 856  
fees, athletic fees, insurance expenses, or other expenses 857  
unrelated to the individual's academic course of instruction; 858

(c) Tuition, fees, or other expenses paid or reimbursed 859  
through an employer, scholarship, grant in aid, or other 860

educational benefit program. 861

(BB) (1) "Modified business income" means the business 862  
income included in a trust's Ohio taxable income after such 863  
taxable income is first reduced by the qualifying trust amount, 864  
if any. 865

(2) "Qualifying trust amount" of a trust means capital 866  
gains and losses from the sale, exchange, or other disposition 867  
of equity or ownership interests in, or debt obligations of, a 868  
qualifying investee to the extent included in the trust's Ohio 869  
taxable income, but only if the following requirements are 870  
satisfied: 871

(a) The book value of the qualifying investee's physical 872  
assets in this state and everywhere, as of the last day of the 873  
qualifying investee's fiscal or calendar year ending immediately 874  
prior to the date on which the trust recognizes the gain or 875  
loss, is available to the trust. 876

(b) The requirements of section 5747.011 of the Revised 877  
Code are satisfied for the trust's taxable year in which the 878  
trust recognizes the gain or loss. 879

Any gain or loss that is not a qualifying trust amount is 880  
modified business income, qualifying investment income, or 881  
modified nonbusiness income, as the case may be. 882

(3) "Modified nonbusiness income" means a trust's Ohio 883  
taxable income other than modified business income, other than 884  
the qualifying trust amount, and other than qualifying 885  
investment income, as defined in section 5747.012 of the Revised 886  
Code, to the extent such qualifying investment income is not 887  
otherwise part of modified business income. 888

(4) "Modified Ohio taxable income" applies only to trusts, 889

and means the sum of the amounts described in divisions (BB) (4) 890  
(a) to (c) of this section: 891

(a) The fraction, calculated under section 5747.013, and 892  
applying section 5747.231 of the Revised Code, multiplied by the 893  
sum of the following amounts: 894

(i) The trust's modified business income; 895

(ii) The trust's qualifying investment income, as defined 896  
in section 5747.012 of the Revised Code, but only to the extent 897  
the qualifying investment income does not otherwise constitute 898  
modified business income and does not otherwise constitute a 899  
qualifying trust amount. 900

(b) The qualifying trust amount multiplied by a fraction, 901  
the numerator of which is the sum of the book value of the 902  
qualifying investee's physical assets in this state on the last 903  
day of the qualifying investee's fiscal or calendar year ending 904  
immediately prior to the day on which the trust recognizes the 905  
qualifying trust amount, and the denominator of which is the sum 906  
of the book value of the qualifying investee's total physical 907  
assets everywhere on the last day of the qualifying investee's 908  
fiscal or calendar year ending immediately prior to the day on 909  
which the trust recognizes the qualifying trust amount. If, for 910  
a taxable year, the trust recognizes a qualifying trust amount 911  
with respect to more than one qualifying investee, the amount 912  
described in division (BB) (4) (b) of this section shall equal the 913  
sum of the products so computed for each such qualifying 914  
investee. 915

(c) (i) With respect to a trust or portion of a trust that 916  
is a resident as ascertained in accordance with division (I) (3) 917  
(d) of this section, its modified nonbusiness income. 918



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

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

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

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

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

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of

the upper level pass-through entity's calendar or fiscal year, 979  
the proportionate share of the lower level pass-through entity's 980  
physical assets that the lower level pass-through entity 981  
directly or indirectly owns on the last day of the lower level 982  
pass-through entity's calendar or fiscal year ending within or 983  
with the last day of the upper level pass-through entity's 984  
fiscal or calendar year. If the upper level pass-through entity 985  
directly and indirectly owns less than fifty per cent of the 986  
equity of the lower level pass-through entity on each day of the 987  
upper level pass-through entity's calendar or fiscal year in 988  
which or with which ends the calendar or fiscal year of the 989  
lower level pass-through entity and if, based upon clear and 990  
convincing evidence, complete information about the location and 991  
cost of the physical assets of the lower pass-through entity is 992  
not available to the upper level pass-through entity, then 993  
solely for purposes of ascertaining if a gain or loss 994  
constitutes a qualifying trust amount, the upper level pass- 995  
through entity shall be deemed as owning no equity of the lower 996  
level pass-through entity for each day during the upper level 997  
pass-through entity's calendar or fiscal year in which or with 998  
which ends the lower level pass-through entity's calendar or 999  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1000  
shall be construed to provide for any deduction or exclusion in 1001  
computing any trust's Ohio taxable income. 1002

(b) With respect to a trust that is not a resident for the 1003  
taxable year and with respect to a part of a trust that is not a 1004  
resident for the taxable year, "qualifying investee" for that 1005  
taxable year does not include a C corporation if both of the 1006  
following apply: 1007

(i) During the taxable year the trust or part of the trust 1008  
recognizes a gain or loss from the sale, exchange, or other 1009

disposition of equity or ownership interests in, or debt obligations of, the C corporation.	1010 1011
(ii) Such gain or loss constitutes nonbusiness income.	1012
(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.	1013 1014 1015 1016
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	1017 1018
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	1019 1020
(EE) (1) For the purposes of division (EE) of this section:	1021
(a) "Qualifying person" means any person other than a qualifying corporation.	1022 1023
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1024 1025 1026
(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;	1027 1028 1029 1030
(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.	1031 1032 1033 1034 1035
(2) For the purposes of this chapter, unless expressly	1036

stated otherwise, no qualifying person indirectly owns any asset 1037  
directly or indirectly owned by any qualifying corporation. 1038

(FF) For purposes of this chapter and Chapter 5751. of the 1039  
Revised Code: 1040

(1) "Trust" does not include a qualified pre-income tax 1041  
trust. 1042

(2) A "qualified pre-income tax trust" is any pre-income 1043  
tax trust that makes a qualifying pre-income tax trust election 1044  
as described in division (FF)(3) of this section. 1045

(3) A "qualifying pre-income tax trust election" is an 1046  
election by a pre-income tax trust to subject to the tax imposed 1047  
by section 5751.02 of the Revised Code the pre-income tax trust 1048  
and all pass-through entities of which the trust owns or 1049  
controls, directly, indirectly, or constructively through 1050  
related interests, five per cent or more of the ownership or 1051  
equity interests. The trustee shall notify the tax commissioner 1052  
in writing of the election on or before April 15, 2006. The 1053  
election, if timely made, shall be effective on and after 1054  
January 1, 2006, and shall apply for all tax periods and tax 1055  
years until revoked by the trustee of the trust. 1056

(4) A "pre-income tax trust" is a trust that satisfies all 1057  
of the following requirements: 1058

(a) The document or instrument creating the trust was 1059  
executed by the grantor before January 1, 1972; 1060

(b) The trust became irrevocable upon the creation of the 1061  
trust; and 1062

(c) The grantor was domiciled in this state at the time 1063  
the trust was created. 1064

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

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

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

(JJ) "Modified adjusted gross income" means Ohio adjusted gross income plus any amount deducted under division (A) (31) of this section for the taxable year.

**Sec. 5747.10.** (A) As used in this section:

(1) "Audited partnership" means a partnership subject to an examination by the internal revenue service pursuant to subchapter C, chapter 63, subtitle F of the Internal Revenue Code resulting in a federal adjustment.

(2) (a) "Direct investor" means a partner or other investor that holds a direct interest in a pass-through entity.

(b) "Indirect investor" means a partner or other investor that holds an interest in a pass-through entity that itself

holds an interest, directly or through another indirect partner 1094  
or other investor, in a pass-through entity. 1095

(3) "Exempt partner" means a partner that is neither a 1096  
pass-through entity nor a person subject to the tax imposed by 1097  
section 5747.02 of the Revised Code. 1098

(4) "Federal adjustment" means a change to an item or 1099  
amount required to be determined under the Internal Revenue Code 1100  
that directly or indirectly affects a taxpayer's aggregate tax 1101  
liability under section 5747.02 or Chapter 5748. of the Revised 1102  
Code and that results from an action or examination by the 1103  
internal revenue service, or from the filing of an amended 1104  
federal tax return, a claim for a federal tax refund, or an 1105  
administrative adjustment request filed by a partnership under 1106  
section 6227 of the Internal Revenue Code. 1107

(5) "Federal adjustments return" means the form or other 1108  
document prescribed by the tax commissioner for use by a 1109  
taxpayer in reporting final federal adjustments. 1110

(6) "State partnership representative" means either of the 1111  
following: 1112

(a) The person who served as the partnership's 1113  
representative for federal income tax purposes, pursuant to 1114  
section 6223(a) of the Internal Revenue Code, during the 1115  
corresponding federal partnership audit; 1116

(b) The person designated, on a form prescribed by the tax 1117  
commissioner, to serve as the partnership's representative 1118  
during the state partnership audit. The commissioner may 1119  
establish reasonable qualifications and procedures for a person 1120  
to be designated as a state partnership representative under 1121  
this division. 1122

(7) A federal adjustment is "final" or "agreed to or  
finally determined for federal income tax purposes" on any of  
the following:

(a) The day after which the period for appeal of a federal  
assessment has expired;

(b) The date on a refund check issued by the internal  
revenue service; or

(c) For agreements required to be signed by the internal  
revenue service and the taxpayer or audited partnership, the  
date on which the last party signed the agreement.

(B) (1) If any of the facts, figures, computations, or  
attachments required in a taxpayer's annual return to determine  
the tax charged by this chapter or Chapter 5748. of the Revised  
Code must be altered as the result of a final federal  
adjustment, and the federal adjustment is not required to be  
reported under division (C) of this section, the taxpayer shall  
file an amended return with the tax commissioner in such form as  
the commissioner requires. The amended return shall be filed not  
later than ninety days after the federal adjustment has been  
agreed to or finally determined for federal income tax purposes.

(2) "One hundred eighty" shall be substituted for "ninety"  
in divisions (B) (1) and (E) (1) of this section if, for any  
taxable year, the final federal adjustment results from taxes  
paid by the taxpayer on an amount described in division (A) (34)  
of section 5747.01 of the Revised Code.

(C) Except for adjustments required to be reported for  
federal purposes pursuant to section 6225(a) (2) of the Internal  
Revenue Code and adjustments that are taken into account on a  
federal amended return or similar report filed pursuant to



section 6225(c)(2) of the Internal Revenue Code, partnerships 1152  
and partners shall report final federal adjustments and make 1153  
payments as required under division (C) of this section. 1154

(1) With respect to an action required or permitted to be 1155  
taken by a partnership under this section, and any petition for 1156  
reassessment or appeal to the board of tax appeals or any court 1157  
with respect to such an action, the state partnership 1158  
representative shall have the sole authority to act on behalf of 1159  
the audited partnership, and the partnership's direct and 1160  
indirect investors shall be bound by those actions. 1161

(2) Unless an audited partnership makes the election under 1162  
division (C)(3) of this section: 1163

(a) The audited partnership, through its state partnership 1164  
representative, shall do all of the following within ninety days 1165  
after the federal adjustment is final: 1166

(i) File a federal adjustments return with the tax 1167  
commissioner, including a copy of the notifications provided 1168  
under division (C)(2)(a)(ii) of this section; 1169

(ii) Notify each of its direct investors, on a form 1170  
prescribed by the commissioner, of the investor's distributive 1171  
share of the final federal adjustments; 1172

(iii) File an amended tax return on behalf of its 1173  
nonresident direct investors and pay any additional tax that 1174  
would have been due under sections 5733.41 and 5747.41, or 1175  
division (D) of section 5747.08, of the Revised Code with 1176  
respect to those direct investors had the final federal 1177  
adjustments been reported properly on the original filing. 1178

(b) Each direct investor that is subject to the tax 1179  
imposed by section 5747.02 of the Revised Code shall file an 1180

original or amended tax return to include the investor's 1181  
distributive share of the adjustments reported to the direct 1182  
investor under division (C) (2) (a) of this section, and pay any 1183  
additional tax due, within ninety days after the audited 1184  
partnership files its federal adjustments return with the 1185  
commissioner. 1186

(c) (i) Each direct and indirect investor of an audited 1187  
partnership that is a pass-through entity and all investors in 1188  
such a pass-through entity that are subject to the filing and 1189  
payment requirements of Chapters 5733. and 5747. of the Revised 1190  
Code are subject to the reporting and payment requirements of 1191  
division (C) (2) or, upon a timely election, division (C) (3) of 1192  
this section. 1193

(ii) Such direct and indirect investors shall make the 1194  
required returns and payments within ninety days after the 1195  
deadline for filing and furnishing statements under section 1196  
6226(b) (4) of the Internal Revenue Code and applicable treasury 1197  
regulations. 1198

(3) If an audited partnership makes the election under 1199  
this division, the audited partnership, through its state 1200  
partnership representative, shall do all of the following within 1201  
ninety days after all federal adjustments are final: 1202

(a) File a federal adjustments return with the tax 1203  
commissioner indicating the partnership has made the election 1204  
under division (C) (3) of this section; 1205

(b) Pay the amount of combined additional tax due under 1206  
division (D) (2) of this section, calculated by multiplying the 1207  
highest rate of tax set forth in section 5747.02 of the Revised 1208  
Code by the sum of the following: 1209

(i) The distributive shares of the final federal 1210  
adjustments that are allocable or apportionable to this state of 1211  
each investor who is a nonresident taxpayer or pass-through 1212  
entity; 1213

(ii) The distributive share of the final federal 1214  
adjustments for each investor who is a resident taxpayer. 1215

(c) Notify each of its direct investors, on a form 1216  
prescribed by the commissioner, of the investor's distributive 1217  
share of the final federal adjustments and the amount paid on 1218  
their behalf pursuant to division (C) (3) (b) of this section. 1219

(4) (a) A direct investor of an audited partnership is not 1220  
required to file an amended return or pay tax otherwise due 1221  
under section 5747.02 of the Revised Code if the audited 1222  
partnership properly reports and pays the tax under division (C) 1223  
(3) of this section. 1224

(b) (i) Nothing in division (C) of this section precludes a 1225  
direct or indirect investor in the audited partnership from 1226  
filing a return to report the investor's share of the final 1227  
federal adjustments. Such an investor who files a return and 1228  
reports the income related to the final federal adjustments is 1229  
entitled to a refundable credit for taxes paid by the audited 1230  
partnership under division (C) (3) (b) of this section. The credit 1231  
shall be computed and claimed in the same manner as the credit 1232  
allowed under division (I) of section 5747.08 of the Revised 1233  
Code. 1234

(ii) Notwithstanding division (C) (4) (b) (i) of this 1235  
section, an exempt partner, whether a direct or indirect 1236  
investor, may file an application for refund of its 1237  
proportionate share of the amounts erroneously paid by the 1238

audited partnership pursuant to division (C) (3) (b) of this 1239  
section on the exempt partner's behalf. 1240

(5) Upon request by an audited partnership, the tax 1241  
commissioner may agree, in writing, to allow an alternative 1242  
method of reporting and payment than required by divisions 1243  
division (C) (2) or (3) of this section. The request must be 1244  
submitted to the commissioner in writing before the applicable 1245  
deadline for filing a return under ~~divisions~~ division (C) (2) (a) 1246  
or (3) of this section. The commissioner's decision on whether 1247  
to enter into an agreement under this division is not subject to 1248  
further administrative review or appeal. 1249

(6) Nothing in division (C) of this section precludes 1250  
either of the following: 1251

(a) A resident taxpayer from filing a return to claim the 1252  
credit under division (B) of section 5747.05 or division (D) (2) 1253  
of section 5747.02 of the Revised Code based upon any amounts 1254  
paid by the audited partnership on such investor's behalf to 1255  
another state. 1256

(b) The tax commissioner from issuing an assessment under 1257  
this chapter against any direct or indirect investor for taxes 1258  
due from the investor if an audited partnership, or direct and 1259  
indirect investor of an audited partnership that is a pass- 1260  
through entity, fails to timely file any return or remit any 1261  
payment required by this section or underreports income or 1262  
underpays tax on behalf of an indirect investor who is a 1263  
resident taxpayer. 1264

(D) In the case of an underpayment, and unless otherwise 1265  
agreed to in writing by the tax commissioner: 1266

(1) The taxpayer's amended return shall be accompanied by 1267

payment of any combined additional tax due together with 1268  
interest thereon. An amended return required by this section is 1269  
a return subject to assessment under section 5747.13 of the 1270  
Revised Code for the purpose of assessing any additional tax due 1271  
under this section, together with any applicable penalty and 1272  
interest. It shall not reopen those facts, figures, 1273  
computations, or attachments from a previously filed return no 1274  
longer subject to assessment that are not affected, either 1275  
directly or indirectly, by the final federal adjustment to the 1276  
taxpayer's federal income tax return. 1277

(2) The audited partnership's federal adjustments return 1278  
shall be accompanied by payment of any combined additional tax 1279  
due together with interest thereon. The federal adjustments 1280  
return required by this section is a return subject to 1281  
assessment under section 5747.13 of the Revised Code for the 1282  
purpose of assessing any additional tax due under this section, 1283  
together with any applicable penalty and interest. It shall not 1284  
reopen those facts, figures, computations, or attachments from a 1285  
previously filed return no longer subject to assessment that are 1286  
not affected, either directly or indirectly, by the final 1287  
federal adjustment. 1288

(3) The tax commissioner may accept estimated payments of 1289  
the tax arising from pending federal adjustments before the date 1290  
for filing a federal adjustments return. The commissioner may 1291  
adopt rules for the payment of such estimated taxes. 1292

(E) In the case of an overpayment, and unless otherwise 1293  
agreed to in writing by the tax commissioner: 1294

(1) A taxpayer may file an application for refund under 1295  
this division within the ninety-day period prescribed for filing 1296  
the amended return even if it is filed beyond the period 1297

prescribed in section 5747.11 of the Revised Code if it 1298  
otherwise conforms to the requirements of such section. An 1299  
application filed under this division shall claim refund of 1300  
overpayments resulting from alterations to only those facts, 1301  
figures, computations, or attachments required in the taxpayer's 1302  
annual return that are affected, either directly or indirectly, 1303  
by the final federal adjustment to the taxpayer's federal income 1304  
tax return unless it is also filed within the time prescribed in 1305  
section 5747.11 of the Revised Code. It shall not reopen those 1306  
facts, figures, computations, or attachments that are not 1307  
affected, either directly or indirectly, by the adjustment to 1308  
the taxpayer's federal income tax return. 1309

(2) (a) Except as otherwise provided in division (E) (2) (b) 1310  
of this section, an audited partnership may file an application 1311  
for a refund under this division within the ninety-day period 1312  
prescribed for filing the federal adjustments return, even if it 1313  
is filed beyond the period prescribed by section 5747.11 of the 1314  
Revised Code, if it otherwise conforms to the requirements of 1315  
that section. An application filed under this division may claim 1316  
a refund of overpayments resulting only from final federal 1317  
adjustments unless it is also filed within the time prescribed 1318  
by section 5747.11 of the Revised Code. It shall not reopen 1319  
those facts, figures, computations, or attachments that are not 1320  
affected, either directly or indirectly, by the federal 1321  
adjustment. 1322

(b) An audited partnership may not file an application for 1323  
refund under division (E) of this section based on final federal 1324  
adjustments described in section 6225(a) (2) of the Internal 1325  
Revenue Code. 1326

(3) Any refund granted to a pass-through entity filing an 1327

application for refund under division (E) of this section shall 1328  
be reduced by amounts previously claimed as a credit under 1329  
section 5747.059 or division (I) of section 5747.08 of the 1330  
Revised Code by the pass-through entity's direct or indirect 1331  
investors. 1332

(F) Excluding the deadline in division (C) (2) (c) (ii) of 1333  
this section, an audited partnership, or a direct or indirect 1334  
investor of an audited partnership that is a pass-through 1335  
entity, may automatically extend the deadline for reporting, 1336  
payments, and refunds under this section by sixty days if the 1337  
entity has ten thousand or more direct investors and notifies 1338  
the commissioner of such extension, in writing, before the 1339  
unextended deadline. 1340

**Section 2.** That existing sections 5747.01 and 5747.10 of 1341  
the Revised Code are hereby repealed. 1342

**Section 3.** The amendment by this act of sections 5747.01 1343  
and 5747.10 of the Revised Code applies to taxable years 1344  
beginning on or after January 1, 2019. 1345

Notwithstanding the time limit prescribed in section 1346  
5747.11 of the Revised Code, any taxpayer whose federal income 1347  
tax return or liability was altered for a taxable year beginning 1348  
before January 1, 2019, because the taxpayer paid federal income 1349  
tax on an amount described in division (A) (34) of section 1350  
5747.01 of the Revised Code may file a refund application with 1351  
the Tax Commissioner, pursuant to section 5747.11 of the Revised 1352  
Code, on or before December 31, 2020. The application for refund 1353  
shall not reopen those facts, figures, computations, or 1354  
attachments that are not affected, either directly or 1355  
indirectly, by the adjustment to the taxpayer's federal income 1356  
tax return or liability. 1357

**Section 4.** Section 5747.01 of the Revised Code is 1358  
presented in this act as a composite of the section as amended 1359  
by H.B. 166 of the 133rd General Assembly and H.B. 24 and S.B. 1360  
22 both of the 132nd General Assembly. The General Assembly, 1361  
applying the principle stated in division (B) of section 1.52 of 1362  
the Revised Code that amendments are to be harmonized if 1363  
reasonably capable of simultaneous operation, finds that the 1364  
composite is the resulting version of the section in effect 1365  
prior to the effective date of the section as presented in this 1366  
act. 1367