

As Introduced

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Senators Fedor, Manning

Cosponsors: Senators Thomas, Maharath, Antonio, Yuko, Williams, Craig



A BILL

To amend sections 5747.01 and 5747.10 of the 1
Revised Code to increase the personal income tax 2
deduction for qualified educator expenses. 3

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

Section 1. That sections 5747.01 and 5747.10 of the 4
Revised Code be amended to read as follows: 5

Sec. 5747.01. Except as otherwise expressly provided or 6
clearly appearing from the context, any term used in this 7
chapter that is not otherwise defined in this section has the 8
same meaning as when used in a comparable context in the laws of 9
the United States relating to federal income taxes or if not 10
used in a comparable context in those laws, has the same meaning 11
as in section 5733.40 of the Revised Code. Any reference in this 12
chapter to the Internal Revenue Code includes other laws of the 13
United States relating to federal income taxes. 14

As used in this chapter: 15

(A) "Adjusted gross income" or "Ohio adjusted gross 16
income" means federal adjusted gross income, as defined and used 17
in the Internal Revenue Code, adjusted as provided in this 18

section:	19
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	20 21 22 23
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	24 25 26 27 28
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	29 30 31 32 33 34
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	35 36
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	37 38 39 40
(6) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.	41 42 43 44 45 46
(7) Deduct any interest or interest equivalent on public	47

obligations and purchase obligations to the extent that the 48
interest or interest equivalent is included in federal adjusted 49
gross income. 50

(8) Add any loss or deduct any gain resulting from the 51
sale, exchange, or other disposition of public obligations to 52
the extent that the loss has been deducted or the gain has been 53
included in computing federal adjusted gross income. 54

(9) Deduct or add amounts, as provided under section 55
5747.70 of the Revised Code, related to contributions to 56
variable college savings program accounts made or tuition units 57
purchased pursuant to Chapter 3334. of the Revised Code. 58

(10) (a) Deduct, to the extent not otherwise allowable as a 59
deduction or exclusion in computing federal or Ohio adjusted 60
gross income for the taxable year, the amount the taxpayer paid 61
during the taxable year for medical care insurance and qualified 62
long-term care insurance for the taxpayer, the taxpayer's 63
spouse, and dependents. No deduction for medical care insurance 64
under division (A) (10) (a) of this section shall be allowed 65
either to any taxpayer who is eligible to participate in any 66
subsidized health plan maintained by any employer of the 67
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 68
entitled to, or on application would be entitled to, benefits 69
under part A of Title XVIII of the "Social Security Act," 49 70
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 71
division (A) (10) (a) of this section, "subsidized health plan" 72
means a health plan for which the employer pays any portion of 73
the plan's cost. The deduction allowed under division (A) (10) (a) 74
of this section shall be the net of any related premium refunds, 75
related premium reimbursements, or related insurance premium 76
dividends received during the taxable year. 77

(b) Deduct, to the extent not otherwise deducted or 78
excluded in computing federal or Ohio adjusted gross income 79
during the taxable year, the amount the taxpayer paid during the 80
taxable year, not compensated for by any insurance or otherwise, 81
for medical care of the taxpayer, the taxpayer's spouse, and 82
dependents, to the extent the expenses exceed seven and one-half 83
per cent of the taxpayer's federal adjusted gross income. 84

(c) For purposes of division (A)(10) of this section, 85
"medical care" has the meaning given in section 213 of the 86
Internal Revenue Code, subject to the special rules, 87
limitations, and exclusions set forth therein, and "qualified 88
long-term care" has the same meaning given in section 7702B(c) 89
of the Internal Revenue Code. Solely for purposes of division 90
(A)(10)(a) of this section, "dependent" includes a person who 91
otherwise would be a "qualifying relative" and thus a 92
"dependent" under section 152 of the Internal Revenue Code but 93
for the fact that the person fails to meet the income and 94
support limitations under section 152(d)(1)(B) and (C) of the 95
Internal Revenue Code. 96

(11)(a) Deduct any amount included in federal adjusted 97
gross income solely because the amount represents a 98
reimbursement or refund of expenses that in any year the 99
taxpayer had deducted as an itemized deduction pursuant to 100
section 63 of the Internal Revenue Code and applicable United 101
States department of the treasury regulations. The deduction 102
otherwise allowed under division (A)(11)(a) of this section 103
shall be reduced to the extent the reimbursement is attributable 104
to an amount the taxpayer deducted under this section in any 105
taxable year. 106

(b) Add any amount not otherwise included in Ohio adjusted 107

gross income for any taxable year to the extent that the amount 108
is attributable to the recovery during the taxable year of any 109
amount deducted or excluded in computing federal or Ohio 110
adjusted gross income in any taxable year. 111

(12) Deduct any portion of the deduction described in 112
section 1341(a)(2) of the Internal Revenue Code, for repaying 113
previously reported income received under a claim of right, that 114
meets both of the following requirements: 115

(a) It is allowable for repayment of an item that was 116
included in the taxpayer's adjusted gross income for a prior 117
taxable year and did not qualify for a credit under division (A) 118
or (B) of section 5747.05 of the Revised Code for that year; 119

(b) It does not otherwise reduce the taxpayer's adjusted 120
gross income for the current or any other taxable year. 121

(13) Deduct an amount equal to the deposits made to, and 122
net investment earnings of, a medical savings account during the 123
taxable year, in accordance with section 3924.66 of the Revised 124
Code. The deduction allowed by division (A)(13) of this section 125
does not apply to medical savings account deposits and earnings 126
otherwise deducted or excluded for the current or any other 127
taxable year from the taxpayer's federal adjusted gross income. 128

(14)(a) Add an amount equal to the funds withdrawn from a 129
medical savings account during the taxable year, and the net 130
investment earnings on those funds, when the funds withdrawn 131
were used for any purpose other than to reimburse an account 132
holder for, or to pay, eligible medical expenses, in accordance 133
with section 3924.66 of the Revised Code; 134

(b) Add the amounts distributed from a medical savings 135
account under division (A)(2) of section 3924.68 of the Revised 136

Code during the taxable year.	137
(15) Add any amount claimed as a credit under section	138
5747.059 of the Revised Code to the extent that such amount	139
satisfies either of the following:	140
(a) The amount was deducted or excluded from the	141
computation of the taxpayer's federal adjusted gross income as	142
required to be reported for the taxpayer's taxable year under	143
the Internal Revenue Code;	144
(b) The amount resulted in a reduction of the taxpayer's	145
federal adjusted gross income as required to be reported for any	146
of the taxpayer's taxable years under the Internal Revenue Code.	147
(16) Deduct the amount contributed by the taxpayer to an	148
individual development account program established by a county	149
department of job and family services pursuant to sections	150
329.11 to 329.14 of the Revised Code for the purpose of matching	151
funds deposited by program participants. On request of the tax	152
commissioner, the taxpayer shall provide any information that,	153
in the tax commissioner's opinion, is necessary to establish the	154
amount deducted under division (A) (16) of this section.	155
(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and	156
(v) of this section, add five-sixths of the amount of	157
depreciation expense allowed by subsection (k) of section 168 of	158
the Internal Revenue Code, including the taxpayer's	159
proportionate or distributive share of the amount of	160
depreciation expense allowed by that subsection to a pass-	161
through entity in which the taxpayer has a direct or indirect	162
ownership interest.	163
(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v)	164
of this section, add five-sixths of the amount of qualifying	165

section 179 depreciation expense, including the taxpayer's 166
proportionate or distributive share of the amount of qualifying 167
section 179 depreciation expense allowed to any pass-through 168
entity in which the taxpayer has a direct or indirect ownership 169
interest. 170

(iii) Subject to division (A) (17) (a) (v) of this section, 171
for taxable years beginning in 2012 or thereafter, if the 172
increase in income taxes withheld by the taxpayer is equal to or 173
greater than ten per cent of income taxes withheld by the 174
taxpayer during the taxpayer's immediately preceding taxable 175
year, "two-thirds" shall be substituted for "five-sixths" for 176
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 177

(iv) Subject to division (A) (17) (a) (v) of this section, 178
for taxable years beginning in 2012 or thereafter, a taxpayer is 179
not required to add an amount under division (A) (17) of this 180
section if the increase in income taxes withheld by the taxpayer 181
and by any pass-through entity in which the taxpayer has a 182
direct or indirect ownership interest is equal to or greater 183
than the sum of (I) the amount of qualifying section 179 184
depreciation expense and (II) the amount of depreciation expense 185
allowed to the taxpayer by subsection (k) of section 168 of the 186
Internal Revenue Code, and including the taxpayer's 187
proportionate or distributive shares of such amounts allowed to 188
any such pass-through entities. 189

(v) If a taxpayer directly or indirectly incurs a net 190
operating loss for the taxable year for federal income tax 191
purposes, to the extent such loss resulted from depreciation 192
expense allowed by subsection (k) of section 168 of the Internal 193
Revenue Code and by qualifying section 179 depreciation expense, 194
"the entire" shall be substituted for "five-sixths of the" for 195

the purpose of divisions (A) (17) (a) (i) and (ii) of this section.	196
The tax commissioner, under procedures established by the	197
commissioner, may waive the add-backs related to a pass-through	198
entity if the taxpayer owns, directly or indirectly, less than	199
five per cent of the pass-through entity.	200
(b) Nothing in division (A) (17) of this section shall be	201
construed to adjust or modify the adjusted basis of any asset.	202
(c) To the extent the add-back required under division (A)	203
(17) (a) of this section is attributable to property generating	204
nonbusiness income or loss allocated under section 5747.20 of	205
the Revised Code, the add-back shall be situated to the same	206
location as the nonbusiness income or loss generated by the	207
property for the purpose of determining the credit under	208
division (A) of section 5747.05 of the Revised Code. Otherwise,	209
the add-back shall be apportioned, subject to one or more of the	210
four alternative methods of apportionment enumerated in section	211
5747.21 of the Revised Code.	212
(d) For the purposes of division (A) (17) (a) (v) of this	213
section, net operating loss carryback and carryforward shall not	214
include the allowance of any net operating loss deduction	215
carryback or carryforward to the taxable year to the extent such	216
loss resulted from depreciation allowed by section 168(k) of the	217
Internal Revenue Code and by the qualifying section 179	218
depreciation expense amount.	219
(e) For the purposes of divisions (A) (17) and (18) of this	220
section:	221
(i) "Income taxes withheld" means the total amount	222
withheld and remitted under sections 5747.06 and 5747.07 of the	223
Revised Code by an employer during the employer's taxable year.	224

(ii) "Increase in income taxes withheld" means the amount 225
by which the amount of income taxes withheld by an employer 226
during the employer's current taxable year exceeds the amount of 227
income taxes withheld by that employer during the employer's 228
immediately preceding taxable year. 229

(iii) "Qualifying section 179 depreciation expense" means 230
the difference between (I) the amount of depreciation expense 231
directly or indirectly allowed to a taxpayer under section 179 232
of the Internal Revised Code, and (II) the amount of 233
depreciation expense directly or indirectly allowed to the 234
taxpayer under section 179 of the Internal Revenue Code as that 235
section existed on December 31, 2002. 236

(18) (a) If the taxpayer was required to add an amount 237
under division (A) (17) (a) of this section for a taxable year, 238
deduct one of the following: 239

(i) One-fifth of the amount so added for each of the five 240
succeeding taxable years if the amount so added was five-sixths 241
of qualifying section 179 depreciation expense or depreciation 242
expense allowed by subsection (k) of section 168 of the Internal 243
Revenue Code; 244

(ii) One-half of the amount so added for each of the two 245
succeeding taxable years if the amount so added was two-thirds 246
of such depreciation expense; 247

(iii) One-sixth of the amount so added for each of the six 248
succeeding taxable years if the entire amount of such 249
depreciation expense was so added. 250

(b) If the amount deducted under division (A) (18) (a) of 251
this section is attributable to an add-back allocated under 252
division (A) (17) (c) of this section, the amount deducted shall 253

be situated to the same location. Otherwise, the add-back shall 254
be apportioned using the apportionment factors for the taxable 255
year in which the deduction is taken, subject to one or more of 256
the four alternative methods of apportionment enumerated in 257
section 5747.21 of the Revised Code. 258

(c) No deduction is available under division (A) (18) (a) of 259
this section with regard to any depreciation allowed by section 260
168(k) of the Internal Revenue Code and by the qualifying 261
section 179 depreciation expense amount to the extent that such 262
depreciation results in or increases a federal net operating 263
loss carryback or carryforward. If no such deduction is 264
available for a taxable year, the taxpayer may carry forward the 265
amount not deducted in such taxable year to the next taxable 266
year and add that amount to any deduction otherwise available 267
under division (A) (18) (a) of this section for that next taxable 268
year. The carryforward of amounts not so deducted shall continue 269
until the entire addition required by division (A) (17) (a) of 270
this section has been deducted. 271

(19) Deduct, to the extent not otherwise deducted or 272
excluded in computing federal or Ohio adjusted gross income for 273
the taxable year, the amount the taxpayer received during the 274
taxable year as reimbursement for life insurance premiums under 275
section 5919.31 of the Revised Code. 276

(20) Deduct, to the extent not otherwise deducted or 277
excluded in computing federal or Ohio adjusted gross income for 278
the taxable year, the amount the taxpayer received during the 279
taxable year as a death benefit paid by the adjutant general 280
under section 5919.33 of the Revised Code. 281

(21) Deduct, to the extent included in federal adjusted 282
gross income and not otherwise allowable as a deduction or 283

exclusion in computing federal or Ohio adjusted gross income for 284
the taxable year, military pay and allowances received by the 285
taxpayer during the taxable year for active duty service in the 286
United States army, air force, navy, marine corps, or coast 287
guard or reserve components thereof or the national guard. The 288
deduction may not be claimed for military pay and allowances 289
received by the taxpayer while the taxpayer is stationed in this 290
state. 291

(22) Deduct, to the extent not otherwise allowable as a 292
deduction or exclusion in computing federal or Ohio adjusted 293
gross income for the taxable year and not otherwise compensated 294
for by any other source, the amount of qualified organ donation 295
expenses incurred by the taxpayer during the taxable year, not 296
to exceed ten thousand dollars. A taxpayer may deduct qualified 297
organ donation expenses only once for all taxable years 298
beginning with taxable years beginning in 2007. 299

For the purposes of division (A) (22) of this section: 300

(a) "Human organ" means all or any portion of a human 301
liver, pancreas, kidney, intestine, or lung, and any portion of 302
human bone marrow. 303

(b) "Qualified organ donation expenses" means travel 304
expenses, lodging expenses, and wages and salary forgone by a 305
taxpayer in connection with the taxpayer's donation, while 306
living, of one or more of the taxpayer's human organs to another 307
human being. 308

(23) Deduct, to the extent not otherwise deducted or 309
excluded in computing federal or Ohio adjusted gross income for 310
the taxable year, amounts received by the taxpayer as retired 311
personnel pay for service in the uniformed services or reserve 312

components thereof, or the national guard, or received by the 313
surviving spouse or former spouse of such a taxpayer under the 314
survivor benefit plan on account of such a taxpayer's death. If 315
the taxpayer receives income on account of retirement paid under 316
the federal civil service retirement system or federal employees 317
retirement system, or under any successor retirement program 318
enacted by the congress of the United States that is established 319
and maintained for retired employees of the United States 320
government, and such retirement income is based, in whole or in 321
part, on credit for the taxpayer's uniformed service, the 322
deduction allowed under this division shall include only that 323
portion of such retirement income that is attributable to the 324
taxpayer's uniformed service, to the extent that portion of such 325
retirement income is otherwise included in federal adjusted 326
gross income and is not otherwise deducted under this section. 327
Any amount deducted under division (A) (23) of this section is 328
not included in a taxpayer's adjusted gross income for the 329
purposes of section 5747.055 of the Revised Code. No amount may 330
be deducted under division (A) (23) of this section on the basis 331
of which a credit was claimed under section 5747.055 of the 332
Revised Code. 333

(24) 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 from the military injury relief fund created in 337
section 5902.05 of the Revised Code. 338

(25) 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 as a veterans 341
bonus during the taxable year from the Ohio department of 342
veterans services as authorized by Section 2r of Article VIII, 343

Ohio Constitution.	344
(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	345 346 347 348 349
(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.	350 351 352 353 354 355 356 357 358 359 360 361
(28) Deduct from the portion of an individual's federal adjusted gross income that is business income, to the extent not otherwise deducted or excluded in computing federal adjusted gross income for the taxable year, one hundred twenty-five thousand dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or two hundred fifty thousand dollars for all other individuals.	362 363 364 365 366 367 368
(29) 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.	369 370 371
(30) (a) Deduct, to the extent not otherwise deducted or	372

excluded in computing federal or Ohio adjusted gross income	373
during the taxable year, all of the following:	374
(i) Compensation paid to a qualifying employee described	375
in division (A) (14) (a) of section 5703.94 of the Revised Code to	376
the extent such compensation is for disaster work conducted in	377
this state during a disaster response period pursuant to a	378
qualifying solicitation received by the employee's employer;	379
(ii) Compensation paid to a qualifying employee described	380
in division (A) (14) (b) of section 5703.94 of the Revised Code to	381
the extent such compensation is for disaster work conducted in	382
this state by the employee during the disaster response period	383
on critical infrastructure owned or used by the employee's	384
employer;	385
(iii) Income received by an out-of-state disaster business	386
for disaster work conducted in this state during a disaster	387
response period, or, if the out-of-state disaster business is a	388
pass-through entity, a taxpayer's distributive share of the	389
pass-through entity's income from the business conducting	390
disaster work in this state during a disaster response period,	391
if, in either case, the disaster work is conducted pursuant to a	392
qualifying solicitation received by the business.	393
(b) All terms used in division (A) (30) of this section	394
have the same meanings as in section 5703.94 of the Revised	395
Code.	396
(31) For a taxpayer who is a qualifying Ohio educator,	397
deduct, to the extent not otherwise deducted or excluded in	398
computing federal or Ohio adjusted gross income for the taxable	399
year, the lesser of two hundred fifty <u>one thousand</u> dollars or	400
the amount of expenses described in subsections (a) (2) (D) (i) and	401

(ii) of section 62 of the Internal Revenue Code paid or incurred 402
by the taxpayer during the taxpayer's taxable year in excess of 403
the amount the taxpayer is authorized to deduct for that taxable 404
year under subsection (a) (2) (D) of that section. 405

~~(34)~~(32) Deduct, to the extent not otherwise deducted or 406
excluded in computing federal or Ohio adjusted gross income for 407
the taxable year, amounts received by the taxpayer as a 408
disability severance payment, computed under 10 U.S.C. 1212, 409
following discharge or release under honorable conditions from 410
the armed forces, as defined by 10 U.S.C. 101. 411

(B) "Business income" means income, including gain or 412
loss, arising from transactions, activities, and sources in the 413
regular course of a trade or business and includes income, gain, 414
or loss from real property, tangible property, and intangible 415
property if the acquisition, rental, management, and disposition 416
of the property constitute integral parts of the regular course 417
of a trade or business operation. "Business income" includes 418
income, including gain or loss, from a partial or complete 419
liquidation of a business, including, but not limited to, gain 420
or loss from the sale or other disposition of goodwill. 421

(C) "Nonbusiness income" means all income other than 422
business income and may include, but is not limited to, 423
compensation, rents and royalties from real or tangible personal 424
property, capital gains, interest, dividends and distributions, 425
patent or copyright royalties, or lottery winnings, prizes, and 426
awards. 427

(D) "Compensation" means any form of remuneration paid to 428
an employee for personal services. 429

(E) "Fiduciary" means a guardian, trustee, executor, 430

administrator, receiver, conservator, or any other person acting 431
in any fiduciary capacity for any individual, trust, or estate. 432

(F) "Fiscal year" means an accounting period of twelve 433
months ending on the last day of any month other than December. 434

(G) "Individual" means any natural person. 435

(H) "Internal Revenue Code" means the "Internal Revenue 436
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 437

(I) "Resident" means any of the following: 438

(1) An individual who is domiciled in this state, subject 439
to section 5747.24 of the Revised Code; 440

(2) The estate of a decedent who at the time of death was 441
domiciled in this state. The domicile tests of section 5747.24 442
of the Revised Code are not controlling for purposes of division 443
(I) (2) of this section. 444

(3) A trust that, in whole or part, resides in this state. 445
If only part of a trust resides in this state, the trust is a 446
resident only with respect to that part. 447

For the purposes of division (I) (3) of this section: 448

(a) A trust resides in this state for the trust's current 449
taxable year to the extent, as described in division (I) (3) (d) 450
of this section, that the trust consists directly or indirectly, 451
in whole or in part, of assets, net of any related liabilities, 452
that were transferred, or caused to be transferred, directly or 453
indirectly, to the trust by any of the following: 454

(i) A person, a court, or a governmental entity or 455
instrumentality on account of the death of a decedent, but only 456
if the trust is described in division (I) (3) (e) (i) or (ii) of 457

this section; 458

(ii) A person who was domiciled in this state for the 459
purposes of this chapter when the person directly or indirectly 460
transferred assets to an irrevocable trust, but only if at least 461
one of the trust's qualifying beneficiaries is domiciled in this 462
state for the purposes of this chapter during all or some 463
portion of the trust's current taxable year; 464

(iii) A person who was domiciled in this state for the 465
purposes of this chapter when the trust document or instrument 466
or part of the trust document or instrument became irrevocable, 467
but only if at least one of the trust's qualifying beneficiaries 468
is a resident domiciled in this state for the purposes of this 469
chapter during all or some portion of the trust's current 470
taxable year. If a trust document or instrument became 471
irrevocable upon the death of a person who at the time of death 472
was domiciled in this state for purposes of this chapter, that 473
person is a person described in division (I) (3) (a) (iii) of this 474
section. 475

(b) A trust is irrevocable to the extent that the 476
transferor is not considered to be the owner of the net assets 477
of the trust under sections 671 to 678 of the Internal Revenue 478
Code. 479

(c) With respect to a trust other than a charitable lead 480
trust, "qualifying beneficiary" has the same meaning as 481
"potential current beneficiary" as defined in section 1361(e) (2) 482
of the Internal Revenue Code, and with respect to a charitable 483
lead trust "qualifying beneficiary" is any current, future, or 484
contingent beneficiary, but with respect to any trust 485
"qualifying beneficiary" excludes a person or a governmental 486
entity or instrumentality to any of which a contribution would 487

qualify for the charitable deduction under section 170 of the Internal Revenue Code.

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

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

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

(iii) Whether a transfer to the trust is by or from any of

the sources enumerated in division (I) (3) (a) of this section 518
shall be ascertained without regard to the domicile of the 519
trust's beneficiaries. 520

(e) For the purposes of division (I) (3) (a) (i) of this 521
section: 522

(i) A trust is described in division (I) (3) (e) (i) of this 523
section if the trust is a testamentary trust and the testator of 524
that testamentary trust was domiciled in this state at the time 525
of the testator's death for purposes of the taxes levied under 526
Chapter 5731. of the Revised Code. 527

(ii) A trust is described in division (I) (3) (e) (ii) of 528
this section if the transfer is a qualifying transfer described 529
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 530
trust is an irrevocable inter vivos trust, and at least one of 531
the trust's qualifying beneficiaries is domiciled in this state 532
for purposes of this chapter during all or some portion of the 533
trust's current taxable year. 534

(f) For the purposes of division (I) (3) (e) (ii) of this 535
section, a "qualifying transfer" is a transfer of assets, net of 536
any related liabilities, directly or indirectly to a trust, if 537
the transfer is described in any of the following: 538

(i) The transfer is made to a trust, created by the 539
decedent before the decedent's death and while the decedent was 540
domiciled in this state for the purposes of this chapter, and, 541
prior to the death of the decedent, the trust became irrevocable 542
while the decedent was domiciled in this state for the purposes 543
of this chapter. 544

(ii) The transfer is made to a trust to which the 545
decedent, prior to the decedent's death, had directly or 546

indirectly transferred assets, net of any related liabilities, 547
while the decedent was domiciled in this state for the purposes 548
of this chapter, and prior to the death of the decedent the 549
trust became irrevocable while the decedent was domiciled in 550
this state for the purposes of this chapter. 551

(iii) The transfer is made on account of a contractual 552
relationship existing directly or indirectly between the 553
transferor and either the decedent or the estate of the decedent 554
at any time prior to the date of the decedent's death, and the 555
decedent was domiciled in this state at the time of death for 556
purposes of the taxes levied under Chapter 5731. of the Revised 557
Code. 558

(iv) The transfer is made to a trust on account of a 559
contractual relationship existing directly or indirectly between 560
the transferor and another person who at the time of the 561
decedent's death was domiciled in this state for purposes of 562
this chapter. 563

(v) The transfer is made to a trust on account of the will 564
of a testator who was domiciled in this state at the time of the 565
testator's death for purposes of the taxes levied under Chapter 566
5731. of the Revised Code. 567

(vi) The transfer is made to a trust created by or caused 568
to be created by a court, and the trust was directly or 569
indirectly created in connection with or as a result of the 570
death of an individual who, for purposes of the taxes levied 571
under Chapter 5731. of the Revised Code, was domiciled in this 572
state at the time of the individual's death. 573

(g) The tax commissioner may adopt rules to ascertain the 574
part of a trust residing in this state. 575

(J) "Nonresident" means an individual or estate that is 576
not a resident. An individual who is a resident for only part of 577
a taxable year is a nonresident for the remainder of that 578
taxable year. 579

(K) "Pass-through entity" has the same meaning as in 580
section 5733.04 of the Revised Code. 581

(L) "Return" means the notifications and reports required 582
to be filed pursuant to this chapter for the purpose of 583
reporting the tax due and includes declarations of estimated tax 584
when so required. 585

(M) "Taxable year" means the calendar year or the 586
taxpayer's fiscal year ending during the calendar year, or 587
fractional part thereof, upon which the adjusted gross income is 588
calculated pursuant to this chapter. 589

(N) "Taxpayer" means any person subject to the tax imposed 590
by section 5747.02 of the Revised Code or any pass-through 591
entity that makes the election under division (D) of section 592
5747.08 of the Revised Code. 593

(O) "Dependents" means one of the following: 594

(1) For taxable years beginning on or after January 1, 595
2018, and before January 1, 2026, dependents as defined in the 596
Internal Revenue Code; 597

(2) For all other taxable years, dependents as defined in 598
the Internal Revenue Code and as claimed in the taxpayer's 599
federal income tax return for the taxable year or which the 600
taxpayer would have been permitted to claim had the taxpayer 601
filed a federal income tax return. 602

(P) "Principal county of employment" means, in the case of 603

a nonresident, the county within the state in which a taxpayer 604
performs services for an employer or, if those services are 605
performed in more than one county, the county in which the major 606
portion of the services are performed. 607

(Q) As used in sections 5747.50 to 5747.55 of the Revised 608
Code: 609

(1) "Subdivision" means any county, municipal corporation, 610
park district, or township. 611

(2) "Essential local government purposes" includes all 612
functions that any subdivision is required by general law to 613
exercise, including like functions that are exercised under a 614
charter adopted pursuant to the Ohio Constitution. 615

(R) "Overpayment" means any amount already paid that 616
exceeds the figure determined to be the correct amount of the 617
tax. 618

(S) "Taxable income" or "Ohio taxable income" applies only 619
to estates and trusts, and means federal taxable income, as 620
defined and used in the Internal Revenue Code, adjusted as 621
follows: 622

(1) Add interest or dividends, net of ordinary, necessary, 623
and reasonable expenses not deducted in computing federal 624
taxable income, on obligations or securities of any state or of 625
any political subdivision or authority of any state, other than 626
this state and its subdivisions and authorities, but only to the 627
extent that such net amount is not otherwise includible in Ohio 628
taxable income and is described in either division (S) (1) (a) or 629
(b) of this section: 630

(a) The net amount is not attributable to the S portion of 631
an electing small business trust and has not been distributed to 632

beneficiaries for the taxable year;	633
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	634 635
(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;	636 637 638 639 640 641 642 643 644
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	645 646
(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;	647 648 649 650 651 652 653 654 655
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to	656 657 658 659 660 661

income included in federal taxable income for the taxable year 662
or to income of the S portion of an electing small business 663
trust for the taxable year; 664

(6) Deduct any interest or interest equivalent, net of 665
related expenses deducted in computing federal taxable income, 666
on public obligations and purchase obligations, but only to the 667
extent that such net amount relates either to income included in 668
federal taxable income for the taxable year or to income of the 669
S portion of an electing small business trust for the taxable 670
year; 671

(7) Add any loss or deduct any gain resulting from sale, 672
exchange, or other disposition of public obligations to the 673
extent that such loss has been deducted or such gain has been 674
included in computing either federal taxable income or income of 675
the S portion of an electing small business trust for the 676
taxable year; 677

(8) Except in the case of the final return of an estate, 678
add any amount deducted by the taxpayer on both its Ohio estate 679
tax return pursuant to section 5731.14 of the Revised Code, and 680
on its federal income tax return in determining federal taxable 681
income; 682

(9) (a) Deduct any amount included in federal taxable 683
income solely because the amount represents a reimbursement or 684
refund of expenses that in a previous year the decedent had 685
deducted as an itemized deduction pursuant to section 63 of the 686
Internal Revenue Code and applicable treasury regulations. The 687
deduction otherwise allowed under division (S) (9) (a) of this 688
section shall be reduced to the extent the reimbursement is 689
attributable to an amount the taxpayer or decedent deducted 690
under this section in any taxable year. 691

(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 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 721
report as farm income on its federal income tax return, but only 722
if the assets of the trust include at least ten acres of land 723
satisfying the definition of "land devoted exclusively to 724
agricultural use" under section 5713.30 of the Revised Code, 725
regardless of whether the land is valued for tax purposes as 726
such land under sections 5713.30 to 5713.38 of the Revised Code. 727
If the trust is a pass-through entity investor, section 5747.231 728
of the Revised Code applies in ascertaining if the trust is 729
eligible to claim the deduction provided by division (S) (12) of 730
this section in connection with the pass-through entity's farm 731
income. 732

Except for farm income attributable to the S portion of an 733
electing small business trust, the deduction provided by 734
division (S) (12) of this section is allowed only to the extent 735
that the trust has not distributed such farm income. 736

(13) Add the net amount of income described in section 737
641(c) of the Internal Revenue Code to the extent that amount is 738
not included in federal taxable income. 739

(14) Add or deduct the amount the taxpayer would be 740
required to add or deduct under division (A) (17) or (18) of this 741
section if the taxpayer's Ohio taxable income were computed in 742
the same manner as an individual's Ohio adjusted gross income is 743
computed under this section. 744

(T) "School district income" and "school district income 745
tax" have the same meanings as in section 5748.01 of the Revised 746
Code. 747

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 748
(7) of this section, "public obligations," "purchase 749

obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.	750 751
(V) "Limited liability company" means any limited liability company formed under Chapter 1705. or 1706. of the Revised Code or under the laws of any other state.	752 753 754
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	755 756 757 758
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	759 760
(Y) "Month" means a calendar month.	761
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	762 763 764
(AA) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	765 766 767 768
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	769 770 771 772 773 774
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately	775 776 777

prior to the date on which the trust recognizes the gain or 778
loss, is available to the trust. 779

(b) The requirements of section 5747.011 of the Revised 780
Code are satisfied for the trust's taxable year in which the 781
trust recognizes the gain or loss. 782

Any gain or loss that is not a qualifying trust amount is 783
modified business income, qualifying investment income, or 784
modified nonbusiness income, as the case may be. 785

(3) "Modified nonbusiness income" means a trust's Ohio 786
taxable income other than modified business income, other than 787
the qualifying trust amount, and other than qualifying 788
investment income, as defined in section 5747.012 of the Revised 789
Code, to the extent such qualifying investment income is not 790
otherwise part of modified business income. 791

(4) "Modified Ohio taxable income" applies only to trusts, 792
and means the sum of the amounts described in divisions (AA) (4) 793
(a) to (c) of this section: 794

(a) The fraction, calculated under section 5747.013, and 795
applying section 5747.231 of the Revised Code, multiplied by the 796
sum of the following amounts: 797

(i) The trust's modified business income; 798

(ii) The trust's qualifying investment income, as defined 799
in section 5747.012 of the Revised Code, but only to the extent 800
the qualifying investment income does not otherwise constitute 801
modified business income and does not otherwise constitute a 802
qualifying trust amount. 803

(b) The qualifying trust amount multiplied by a fraction, 804
the numerator of which is the sum of the book value of the 805

qualifying investee's physical assets in this state on the last 806
day of the qualifying investee's fiscal or calendar year ending 807
immediately prior to the day on which the trust recognizes the 808
qualifying trust amount, and the denominator of which is the sum 809
of the book value of the qualifying investee's total physical 810
assets everywhere on the last day of the qualifying investee's 811
fiscal or calendar year ending immediately prior to the day on 812
which the trust recognizes the qualifying trust amount. If, for 813
a taxable year, the trust recognizes a qualifying trust amount 814
with respect to more than one qualifying investee, the amount 815
described in division (AA) (4) (b) of this section shall equal the 816
sum of the products so computed for each such qualifying 817
investee. 818

(c) (i) With respect to a trust or portion of a trust that 819
is a resident as ascertained in accordance with division (I) (3) 820
(d) of this section, its modified nonbusiness income. 821

(ii) With respect to a trust or portion of a trust that is 822
not a resident as ascertained in accordance with division (I) (3) 823
(d) of this section, the amount of its modified nonbusiness 824
income satisfying the descriptions in divisions (B) (2) to (5) of 825
section 5747.20 of the Revised Code, except as otherwise 826
provided in division (AA) (4) (c) (ii) of this section. With 827
respect to a trust or portion of a trust that is not a resident 828
as ascertained in accordance with division (I) (3) (d) of this 829
section, the trust's portion of modified nonbusiness income 830
recognized from the sale, exchange, or other disposition of a 831
debt interest in or equity interest in a section 5747.212 832
entity, as defined in section 5747.212 of the Revised Code, 833
without regard to division (A) of that section, shall not be 834
allocated to this state in accordance with section 5747.20 of 835
the Revised Code but shall be apportioned to this state in 836

accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section. 837
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If the allocation and apportionment of a trust's income under divisions (AA) (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. 839
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(5) (a) Except as set forth in division (AA) (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 (AA) (2) (a) of this section and for the purpose of computing the fraction described in division (AA) (4) (b) of this section, all of the following apply: 845
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(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. 852
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(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 858
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of the equity of a pass-through entity, then the qualifying 867
investee and the other members are deemed to own the 868
proportionate share of the pass-through entity's physical assets 869
which the pass-through entity directly or indirectly owns on the 870
last day of the pass-through entity's calendar or fiscal year 871
ending within or with the last day of the qualifying investee's 872
fiscal or calendar year ending immediately prior to the date on 873
which the trust recognizes the qualifying trust amount. 874

(iii) For the purposes of division (AA) (5) (a) (iii) of this 875
section, "upper level pass-through entity" means a pass-through 876
entity directly or indirectly owning any equity of another pass- 877
through entity, and "lower level pass-through entity" means that 878
other pass-through entity. 879

An upper level pass-through entity, whether or not it is 880
also a qualifying investee, is deemed to own, on the last day of 881
the upper level pass-through entity's calendar or fiscal year, 882
the proportionate share of the lower level pass-through entity's 883
physical assets that the lower level pass-through entity 884
directly or indirectly owns on the last day of the lower level 885
pass-through entity's calendar or fiscal year ending within or 886
with the last day of the upper level pass-through entity's 887
fiscal or calendar year. If the upper level pass-through entity 888
directly and indirectly owns less than fifty per cent of the 889
equity of the lower level pass-through entity on each day of the 890
upper level pass-through entity's calendar or fiscal year in 891
which or with which ends the calendar or fiscal year of the 892
lower level pass-through entity and if, based upon clear and 893
convincing evidence, complete information about the location and 894
cost of the physical assets of the lower pass-through entity is 895
not available to the upper level pass-through entity, then 896
solely for purposes of ascertaining if a gain or loss 897

constitutes a qualifying trust amount, the upper level pass- 898
through entity shall be deemed as owning no equity of the lower 899
level pass-through entity for each day during the upper level 900
pass-through entity's calendar or fiscal year in which or with 901
which ends the lower level pass-through entity's calendar or 902
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 903
shall be construed to provide for any deduction or exclusion in 904
computing any trust's Ohio taxable income. 905

(b) With respect to a trust that is not a resident for the 906
taxable year and with respect to a part of a trust that is not a 907
resident for the taxable year, "qualifying investee" for that 908
taxable year does not include a C corporation if both of the 909
following apply: 910

(i) During the taxable year the trust or part of the trust 911
recognizes a gain or loss from the sale, exchange, or other 912
disposition of equity or ownership interests in, or debt 913
obligations of, the C corporation. 914

(ii) Such gain or loss constitutes nonbusiness income. 915

(6) "Available" means information is such that a person is 916
able to learn of the information by the due date plus 917
extensions, if any, for filing the return for the taxable year 918
in which the trust recognizes the gain or loss. 919

(BB) "Qualifying controlled group" has the same meaning as 920
in section 5733.04 of the Revised Code. 921

(CC) "Related member" has the same meaning as in section 922
5733.042 of the Revised Code. 923

(DD) (1) For the purposes of division (DD) of this section: 924

(a) "Qualifying person" means any person other than a 925

qualifying corporation.	926
(b) "Qualifying corporation" means any person classified	927
for federal income tax purposes as an association taxable as a	928
corporation, except either of the following:	929
(i) A corporation that has made an election under	930
subchapter S, chapter one, subtitle A, of the Internal Revenue	931
Code for its taxable year ending within, or on the last day of,	932
the investor's taxable year;	933
(ii) A subsidiary that is wholly owned by any corporation	934
that has made an election under subchapter S, chapter one,	935
subtitle A of the Internal Revenue Code for its taxable year	936
ending within, or on the last day of, the investor's taxable	937
year.	938
(2) For the purposes of this chapter, unless expressly	939
stated otherwise, no qualifying person indirectly owns any asset	940
directly or indirectly owned by any qualifying corporation.	941
(EE) For purposes of this chapter and Chapter 5751. of the	942
Revised Code:	943
(1) "Trust" does not include a qualified pre-income tax	944
trust.	945
(2) A "qualified pre-income tax trust" is any pre-income	946
tax trust that makes a qualifying pre-income tax trust election	947
as described in division (EE) (3) of this section.	948
(3) A "qualifying pre-income tax trust election" is an	949
election by a pre-income tax trust to subject to the tax imposed	950
by section 5751.02 of the Revised Code the pre-income tax trust	951
and all pass-through entities of which the trust owns or	952
controls, directly, indirectly, or constructively through	953

related interests, five per cent or more of the ownership or 954
equity interests. The trustee shall notify the tax commissioner 955
in writing of the election on or before April 15, 2006. The 956
election, if timely made, shall be effective on and after 957
January 1, 2006, and shall apply for all tax periods and tax 958
years until revoked by the trustee of the trust. 959

(4) A "pre-income tax trust" is a trust that satisfies all 960
of the following requirements: 961

(a) The document or instrument creating the trust was 962
executed by the grantor before January 1, 1972; 963

(b) The trust became irrevocable upon the creation of the 964
trust; and 965

(c) The grantor was domiciled in this state at the time 966
the trust was created. 967

(FF) "Uniformed services" has the same meaning as in 10 968
U.S.C. 101. 969

(GG) "Taxable business income" means the amount by which 970
an individual's business income that is included in federal 971
adjusted gross income exceeds the amount of business income the 972
individual is authorized to deduct under division (A) (31) of 973
this section for the taxable year. 974

(HH) "Employer" does not include a franchisor with respect 975
to the franchisor's relationship with a franchisee or an 976
employee of a franchisee, unless the franchisor agrees to assume 977
that role in writing or a court of competent jurisdiction 978
determines that the franchisor exercises a type or degree of 979
control over the franchisee or the franchisee's employees that 980
is not customarily exercised by a franchisor for the purpose of 981
protecting the franchisor's trademark, brand, or both. For 982

purposes of this division, "franchisor" and "franchisee" have	983
the same meanings as in 16 C.F.R. 436.1.	984
(II) "Modified adjusted gross income" means Ohio adjusted	985
gross income plus any amount deducted under division (A) (28) of	986
this section for the taxable year.	987
(JJ) "Qualifying Ohio educator" means an individual who,	988
for a taxable year, qualifies as an eligible educator, as that	989
term is defined in section 62 of the Internal Revenue Code, and	990
who holds a certificate, license, or permit described in Chapter	991
3319. or section 3301.071 of the Revised Code.	992
Sec. 5747.10. (A) As used in this section:	993
(1) "Audited partnership" means a partnership subject to	994
an examination by the internal revenue service pursuant to	995
subchapter C, chapter 63, subtitle F of the Internal Revenue	996
Code resulting in a federal adjustment.	997
(2) (a) "Direct investor" means a partner or other investor	998
that holds a direct interest in a pass-through entity.	999
(b) "Indirect investor" means a partner or other investor	1000
that holds an interest in a pass-through entity that itself	1001
holds an interest, directly or through another indirect partner	1002
or other investor, in a pass-through entity.	1003
(3) "Exempt partner" means a partner that is neither a	1004
pass-through entity nor a person subject to the tax imposed by	1005
section 5747.02 of the Revised Code.	1006
(4) "Federal adjustment" means a change to an item or	1007
amount required to be determined under the Internal Revenue Code	1008
that directly or indirectly affects a taxpayer's aggregate tax	1009
liability under section 5747.02 or Chapter 5748. of the Revised	1010

Code and that results from an action or examination by the 1011
internal revenue service, or from the filing of an amended 1012
federal tax return, a claim for a federal tax refund, or an 1013
administrative adjustment request filed by a partnership under 1014
section 6227 of the Internal Revenue Code. 1015

(5) "Federal adjustments return" means the form or other 1016
document prescribed by the tax commissioner for use by a 1017
taxpayer in reporting final federal adjustments. 1018

(6) "State partnership representative" means either of the 1019
following: 1020

(a) The person who served as the partnership's 1021
representative for federal income tax purposes, pursuant to 1022
section 6223(a) of the Internal Revenue Code, during the 1023
corresponding federal partnership audit; 1024

(b) The person designated, on a form prescribed by the tax 1025
commissioner, to serve as the partnership's representative 1026
during the state partnership audit. The commissioner may 1027
establish reasonable qualifications and procedures for a person 1028
to be designated as a state partnership representative under 1029
this division. 1030

(7) A federal adjustment is "final" or "agreed to or 1031
finally determined for federal income tax purposes" on any of 1032
the following: 1033

(a) The day after which the period for appeal of a federal 1034
assessment has expired; 1035

(b) The date on a refund check issued by the internal 1036
revenue service; or 1037

(c) For agreements required to be signed by the internal 1038

revenue service and the taxpayer or audited partnership, the 1039
date on which the last party signed the agreement. 1040

(B) (1) If any of the facts, figures, computations, or 1041
attachments required in a taxpayer's annual return to determine 1042
the tax charged by this chapter or Chapter 5748. of the Revised 1043
Code must be altered as the result of a final federal 1044
adjustment, and the federal adjustment is not required to be 1045
reported under division (C) of this section, the taxpayer shall 1046
file an amended return with the tax commissioner in such form as 1047
the commissioner requires. The amended return shall be filed not 1048
later than ninety days after the federal adjustment has been 1049
agreed to or finally determined for federal income tax purposes. 1050

(2) "One hundred eighty" shall be substituted for "ninety" 1051
in divisions (B) (1) and (E) (1) of this section if, for any 1052
taxable year, the final federal adjustment results from taxes 1053
paid by the taxpayer on an amount described in division ~~(A) (34)~~ 1054
(A) (32) of section 5747.01 of the Revised Code. 1055

(C) Except for adjustments required to be reported for 1056
federal purposes pursuant to section 6225(a) (2) of the Internal 1057
Revenue Code and adjustments that are taken into account on a 1058
federal amended return or similar report filed pursuant to 1059
section 6225(c) (2) of the Internal Revenue Code, partnerships 1060
and partners shall report final federal adjustments and make 1061
payments as required under division (C) of this section. 1062

(1) With respect to an action required or permitted to be 1063
taken by a partnership under this section, and any petition for 1064
reassessment or appeal to the board of tax appeals or any court 1065
with respect to such an action, the state partnership 1066
representative shall have the sole authority to act on behalf of 1067
the audited partnership, and the partnership's direct and 1068

indirect investors shall be bound by those actions. 1069

(2) Unless an audited partnership makes the election under 1070
division (C) (3) of this section: 1071

(a) The audited partnership, through its state partnership 1072
representative, shall do all of the following within ninety days 1073
after the federal adjustment is final: 1074

(i) File a federal adjustments return with the tax 1075
commissioner, including a copy of the notifications provided 1076
under division (C) (2) (a) (ii) of this section; 1077

(ii) Notify each of its direct investors, on a form 1078
prescribed by the commissioner, of the investor's distributive 1079
share of the final federal adjustments; 1080

(iii) File an amended tax return on behalf of its 1081
nonresident direct investors and pay any additional tax that 1082
would have been due under sections 5733.41 and 5747.41, or 1083
division (D) of section 5747.08, of the Revised Code with 1084
respect to those direct investors had the final federal 1085
adjustments been reported properly on the original filing. 1086

(b) Each direct investor that is subject to the tax 1087
imposed by section 5747.02 of the Revised Code shall file an 1088
original or amended tax return to include the investor's 1089
distributive share of the adjustments reported to the direct 1090
investor under division (C) (2) (a) of this section, and pay any 1091
additional tax due, within ninety days after the audited 1092
partnership files its federal adjustments return with the 1093
commissioner. 1094

(c) (i) Each direct and indirect investor of an audited 1095
partnership that is a pass-through entity and all investors in 1096
such a pass-through entity that are subject to the filing and 1097

payment requirements of Chapters 5733. and 5747. of the Revised 1098
Code are subject to the reporting and payment requirements of 1099
division (C) (2) or, upon a timely election, division (C) (3) of 1100
this section. 1101

(ii) Such direct and indirect investors shall make the 1102
required returns and payments within ninety days after the 1103
deadline for filing and furnishing statements under section 1104
6226(b) (4) of the Internal Revenue Code and applicable treasury 1105
regulations. 1106

(3) If an audited partnership makes the election under 1107
this division, the audited partnership, through its state 1108
partnership representative, shall do all of the following within 1109
ninety days after all federal adjustments are final: 1110

(a) File a federal adjustments return with the tax 1111
commissioner indicating the partnership has made the election 1112
under division (C) (3) of this section; 1113

(b) Pay the amount of combined additional tax due under 1114
division (D) (2) of this section, calculated by multiplying the 1115
highest rate of tax set forth in section 5747.02 of the Revised 1116
Code by the sum of the following: 1117

(i) The distributive shares of the final federal 1118
adjustments that are allocable or apportionable to this state of 1119
each investor who is a nonresident taxpayer or pass-through 1120
entity; 1121

(ii) The distributive share of the final federal 1122
adjustments for each investor who is a resident taxpayer. 1123

(c) Notify each of its direct investors, on a form 1124
prescribed by the commissioner, of the investor's distributive 1125
share of the final federal adjustments and the amount paid on 1126

their behalf pursuant to division (C) (3) (b) of this section. 1127

(4) (a) A direct investor of an audited partnership is not 1128
required to file an amended return or pay tax otherwise due 1129
under section 5747.02 of the Revised Code if the audited 1130
partnership properly reports and pays the tax under division (C) 1131
(3) of this section. 1132

(b) (i) Nothing in division (C) of this section precludes a 1133
direct or indirect investor in the audited partnership from 1134
filing a return to report the investor's share of the final 1135
federal adjustments. Such an investor who files a return and 1136
reports the income related to the final federal adjustments is 1137
entitled to a refundable credit for taxes paid by the audited 1138
partnership under division (C) (3) (b) of this section. The credit 1139
shall be computed and claimed in the same manner as the credit 1140
allowed under division (I) of section 5747.08 of the Revised 1141
Code. 1142

(ii) Notwithstanding division (C) (4) (b) (i) of this 1143
section, an exempt partner, whether a direct or indirect 1144
investor, may file an application for refund of its 1145
proportionate share of the amounts erroneously paid by the 1146
audited partnership pursuant to division (C) (3) (b) of this 1147
section on the exempt partner's behalf. 1148

(5) Upon request by an audited partnership, the tax 1149
commissioner may agree, in writing, to allow an alternative 1150
method of reporting and payment than required by divisions 1151
division (C) (2) or (3) of this section. The request must be 1152
submitted to the commissioner in writing before the applicable 1153
deadline for filing a return under division (C) (2) (a) or (3) of 1154
this section. The commissioner's decision on whether to enter 1155
into an agreement under this division is not subject to further 1156

administrative review or appeal. 1157

(6) Nothing in division (C) of this section precludes 1158
either of the following: 1159

(a) A resident taxpayer from filing a return to claim the 1160
credit under division (B) of section 5747.05 or division (D) (2) 1161
of section 5747.02 of the Revised Code based upon any amounts 1162
paid by the audited partnership on such investor's behalf to 1163
another state. 1164

(b) The tax commissioner from issuing an assessment under 1165
this chapter against any direct or indirect investor for taxes 1166
due from the investor if an audited partnership, or direct and 1167
indirect investor of an audited partnership that is a pass- 1168
through entity, fails to timely file any return or remit any 1169
payment required by this section or underreports income or 1170
underpays tax on behalf of an indirect investor who is a 1171
resident taxpayer. 1172

(D) In the case of an underpayment, and unless otherwise 1173
agreed to in writing by the tax commissioner: 1174

(1) The taxpayer's amended return shall be accompanied by 1175
payment of any combined additional tax due together with 1176
interest thereon. An amended return required by this section is 1177
a return subject to assessment under section 5747.13 of the 1178
Revised Code for the purpose of assessing any additional tax due 1179
under this section, together with any applicable penalty and 1180
interest. It shall not reopen those facts, figures, 1181
computations, or attachments from a previously filed return no 1182
longer subject to assessment that are not affected, either 1183
directly or indirectly, by the final federal adjustment to the 1184
taxpayer's federal income tax return. 1185

(2) The audited partnership's federal adjustments return 1186
shall be accompanied by payment of any combined additional tax 1187
due together with interest thereon. The federal adjustments 1188
return required by this section is a return subject to 1189
assessment under section 5747.13 of the Revised Code for the 1190
purpose of assessing any additional tax due under this section, 1191
together with any applicable penalty and interest. It shall not 1192
reopen those facts, figures, computations, or attachments from a 1193
previously filed return no longer subject to assessment that are 1194
not affected, either directly or indirectly, by the final 1195
federal adjustment. 1196

(3) The tax commissioner may accept estimated payments of 1197
the tax arising from pending federal adjustments before the date 1198
for filing a federal adjustments return. The commissioner may 1199
adopt rules for the payment of such estimated taxes. 1200

(E) In the case of an overpayment, and unless otherwise 1201
agreed to in writing by the tax commissioner: 1202

(1) A taxpayer may file an application for refund under 1203
this division within the ninety-day period prescribed for filing 1204
the amended return even if it is filed beyond the period 1205
prescribed in section 5747.11 of the Revised Code if it 1206
otherwise conforms to the requirements of such section. An 1207
application filed under this division shall claim refund of 1208
overpayments resulting from alterations to only those facts, 1209
figures, computations, or attachments required in the taxpayer's 1210
annual return that are affected, either directly or indirectly, 1211
by the final federal adjustment to the taxpayer's federal income 1212
tax return unless it is also filed within the time prescribed in 1213
section 5747.11 of the Revised Code. It shall not reopen those 1214
facts, figures, computations, or attachments that are not 1215

affected, either directly or indirectly, by the adjustment to 1216
the taxpayer's federal income tax return. 1217

(2) (a) Except as otherwise provided in division (E) (2) (b) 1218
of this section, an audited partnership may file an application 1219
for a refund under this division within the ninety-day period 1220
prescribed for filing the federal adjustments return, even if it 1221
is filed beyond the period prescribed by section 5747.11 of the 1222
Revised Code, if it otherwise conforms to the requirements of 1223
that section. An application filed under this division may claim 1224
a refund of overpayments resulting only from final federal 1225
adjustments unless it is also filed within the time prescribed 1226
by section 5747.11 of the Revised Code. It shall not reopen 1227
those facts, figures, computations, or attachments that are not 1228
affected, either directly or indirectly, by the federal 1229
adjustment. 1230

(b) An audited partnership may not file an application for 1231
refund under division (E) of this section based on final federal 1232
adjustments described in section 6225(a) (2) of the Internal 1233
Revenue Code. 1234

(3) Any refund granted to a pass-through entity filing an 1235
application for refund under division (E) of this section shall 1236
be reduced by amounts previously claimed as a credit under 1237
section 5747.059 or division (I) of section 5747.08 of the 1238
Revised Code by the pass-through entity's direct or indirect 1239
investors. 1240

(F) Excluding the deadline in division (C) (2) (c) (ii) of 1241
this section, an audited partnership, or a direct or indirect 1242
investor of an audited partnership that is a pass-through 1243
entity, may automatically extend the deadline for reporting, 1244
payments, and refunds under this section by sixty days if the 1245

entity has ten thousand or more direct investors and notifies 1246
the commissioner of such extension, in writing, before the 1247
unextended deadline. 1248

Section 2. That existing sections 5747.01 and 5747.10 of 1249
the Revised Code are hereby repealed. 1250

Section 3. The amendment by this act of sections 5747.01 1251
and 5747.10 of the Revised Code applies to taxable years ending 1252
on or after the effective date of this section. 1253

Section 4. Section 5747.01 of the Revised Code is 1254
presented in this act as a composite of the section as amended 1255
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 1256
General Assembly. The General Assembly, applying the principle 1257
stated in division (B) of section 1.52 of the Revised Code that 1258
amendments are to be harmonized if reasonably capable of 1259
simultaneous operation, finds that the composite is the 1260
resulting version of the section in effect prior to the 1261
effective date of the section as presented in this act. 1262