

As Reported by the Senate Ways and Means Committee

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S. B. No. 246

Senators Rulli, Lang

Cosponsors: Senators Schaffer, Roegner, Antani

A BILL

To amend sections 5733.04, 5733.41, 5747.01, 1
5747.03, 5747.08, 5747.11, 5747.13, 5747.132, 2
5747.14, 5747.15, 5747.41, 5747.42, 5747.43, 3
5747.44, 5747.45, 5747.451, 5747.453, and 4
5747.98 and to enact sections 5747.38 and 5
5747.39 of the Revised Code to levy a tax on a 6
pass-through entity's income apportioned to Ohio 7
and to authorize a refundable income tax credit 8
for an owner for such tax paid. 9

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

Section 1. That sections 5733.04, 5733.41, 5747.01, 10
5747.03, 5747.08, 5747.11, 5747.13, 5747.132, 5747.14, 5747.15, 11
5747.41, 5747.42, 5747.43, 5747.44, 5747.45, 5747.451, 5747.453, 12
and 5747.98 be amended and sections 5747.38 and 5747.39 of the 13
Revised Code be enacted to read as follows: 14

Sec. 5733.04. As used in this chapter: 15

(A) "Issued and outstanding shares of stock" applies to 16
nonprofit corporations, as provided in section 5733.01 of the 17
Revised Code, and includes, but is not limited to, membership 18

certificates and other instruments evidencing ownership of an 19
interest in such nonprofit corporations, and with respect to a 20
financial institution that does not have capital stock, "issued 21
and outstanding shares of stock" includes, but is not limited 22
to, ownership interests of depositors in the capital employed in 23
such an institution. 24

(B) "Taxpayer" means a corporation subject to the tax 25
imposed by section 5733.06 of the Revised Code. 26

(C) "Resident" means a corporation organized under the 27
laws of this state. 28

(D) "Commercial domicile" means the principal place from 29
which the trade or business of the taxpayer is directed or 30
managed. 31

(E) "Taxable year" means the period prescribed by division 32
(A) of section 5733.031 of the Revised Code upon the net income 33
of which the value of the taxpayer's issued and outstanding 34
shares of stock is determined under division (B) of section 35
5733.05 of the Revised Code or the period prescribed by division 36
(A) of section 5733.031 of the Revised Code that immediately 37
precedes the date as of which the total value of the corporation 38
is determined under division (A) or (C) of section 5733.05 of 39
the Revised Code. 40

(F) "Tax year" means the calendar year in and for which 41
the tax imposed by section 5733.06 of the Revised Code is 42
required to be paid. 43

(G) "Internal Revenue Code" means the "Internal Revenue 44
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 45

(H) "Federal income tax" means the income tax imposed by 46
the Internal Revenue Code. 47

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1) (a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I) (1) (b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I) (1) (b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning

before August 6, 1997, the designated carryover period shall be 79
the fifteen consecutive taxable years after the taxable year in 80
which the net operating loss occurs. For losses incurred in 81
taxable years beginning on or after August 6, 1997, the 82
designated carryover period shall be the twenty consecutive 83
taxable years after the taxable year in which the net operating 84
loss occurs. 85

(c) The tax commissioner may require a taxpayer to furnish 86
any information necessary to support a claim for deduction under 87
division (I) (1) (a) of this section and no deduction shall be 88
allowed unless the information is furnished. 89

(2) Deduct any amount included in net income by 90
application of section 78 or 951 of the Internal Revenue Code, 91
amounts received for royalties, technical or other services 92
derived from sources outside the United States, and dividends 93
received from a subsidiary, associate, or affiliated corporation 94
that neither transacts any substantial portion of its business 95
nor regularly maintains any substantial portion of its assets 96
within the United States. For purposes of determining net 97
foreign source income deductible under division (I) (2) of this 98
section, the amount of gross income from all such sources other 99
than dividend income and income derived by application of 100
section 78 or 951 of the Internal Revenue Code shall be reduced 101
by: 102

(a) The amount of any reimbursed expenses for personal 103
services performed by employees of the taxpayer for the 104
subsidiary, associate, or affiliated corporation; 105

(b) Ten per cent of the amount of royalty income and 106
technical assistance fees; 107

(c) Fifteen per cent of the amount of all other income.	108
The amounts described in divisions (I) (2) (a) to (c) of	109
this section are deemed to be the expenses attributable to the	110
production of deductible foreign source income unless the	111
taxpayer shows, by clear and convincing evidence, less actual	112
expenses, or the tax commissioner shows, by clear and convincing	113
evidence, more actual expenses.	114
(3) Add any loss or deduct any gain resulting from the	115
sale, exchange, or other disposition of a capital asset, or an	116
asset described in section 1231 of the Internal Revenue Code, to	117
the extent that such loss or gain occurred prior to the first	118
taxable year on which the tax provided for in section 5733.06 of	119
the Revised Code is computed on the corporation's net income.	120
For purposes of division (I) (3) of this section, the amount of	121
the prior loss or gain shall be measured by the difference	122
between the original cost or other basis of the asset and the	123
fair market value as of the beginning of the first taxable year	124
on which the tax provided for in section 5733.06 of the Revised	125
Code is computed on the corporation's net income. At the option	126
of the taxpayer, the amount of the prior loss or gain may be a	127
percentage of the gain or loss, which percentage shall be	128
determined by multiplying the gain or loss by a fraction, the	129
numerator of which is the number of months from the acquisition	130
of the asset to the beginning of the first taxable year on which	131
the fee provided in section 5733.06 of the Revised Code is	132
computed on the corporation's net income, and the denominator of	133
which is the number of months from the acquisition of the asset	134
to the sale, exchange, or other disposition of the asset. The	135
adjustments described in this division do not apply to any gain	136
or loss where the gain or loss is recognized by a qualifying	137
taxpayer, as defined in section 5733.0510 of the Revised Code,	138

with respect to a qualifying taxable event, as defined in that	139
section.	140
(4) Deduct the dividend received deduction provided by	141
section 243 of the Internal Revenue Code.	142
(5) Deduct any interest or interest equivalent on public	143
obligations and purchase obligations to the extent included in	144
federal taxable income. As used in divisions (I)(5) and (6) of	145
this section, "public obligations," "purchase obligations," and	146
"interest or interest equivalent" have the same meanings as in	147
section 5709.76 of the Revised Code.	148
(6) Add any loss or deduct any gain resulting from the	149
sale, exchange, or other disposition of public obligations to	150
the extent included in federal taxable income.	151
(7) To the extent not otherwise allowed, deduct any	152
dividends or distributions received by a taxpayer from a public	153
utility, excluding an electric company and a combined company,	154
and, for tax years 2005 and thereafter, a telephone company, if	155
the taxpayer owns at least eighty per cent of the issued and	156
outstanding common stock of the public utility. As used in	157
division (I)(7) of this section, "public utility" means a public	158
utility as defined in Chapter 5727. of the Revised Code, whether	159
or not the public utility is doing business in the state.	160
(8) To the extent not otherwise allowed, deduct any	161
dividends received by a taxpayer from an insurance company, if	162
the taxpayer owns at least eighty per cent of the issued and	163
outstanding common stock of the insurance company. As used in	164
division (I)(8) of this section, "insurance company" means an	165
insurance company that is taxable under Chapter 5725. or 5729.	166
of the Revised Code.	167

(9) Deduct expenditures for modifying existing buildings 168
or structures to meet American national standards institute 169
standard A-117.1-1961 (R-1971), as amended; provided, that no 170
deduction shall be allowed to the extent that such deduction is 171
not permitted under federal law or under rules of the tax 172
commissioner. Those deductions as are allowed may be taken over 173
a period of five years. The tax commissioner shall adopt rules 174
under Chapter 119. of the Revised Code establishing reasonable 175
limitations on the extent that expenditures for modifying 176
existing buildings or structures are attributable to the purpose 177
of making the buildings or structures accessible to and usable 178
by physically handicapped persons. 179

(10) Deduct the amount of wages and salaries, if any, not 180
otherwise allowable as a deduction but that would have been 181
allowable as a deduction in computing federal taxable income 182
before operating loss deduction and special deductions for the 183
taxable year, had the targeted jobs credit allowed and 184
determined under sections 38, 51, and 52 of the Internal Revenue 185
Code not been in effect. 186

(11) Deduct net interest income on obligations of the 187
United States and its territories and possessions or of any 188
authority, commission, or instrumentality of the United States 189
to the extent the laws of the United States prohibit inclusion 190
of the net interest for purposes of determining the value of the 191
taxpayer's issued and outstanding shares of stock under division 192
(B) of section 5733.05 of the Revised Code. As used in division 193
(I) (11) of this section, "net interest" means interest net of 194
any expenses taken on the federal income tax return that would 195
not have been allowed under section 265 of the Internal Revenue 196
Code if the interest were exempt from federal income tax. 197

(12) (a) Except as set forth in division (I) (12) (d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I) (12) (e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely

related ownership or use of such intangible property. The amount 229
of gain added or loss deducted shall not exceed the product 230
obtained by multiplying such gain or loss by the taxpayer's 231
proportionate share, directly, indirectly, beneficially, or 232
constructively, of the outstanding stock of the related entity 233
immediately prior to the direct or indirect sale, exchange, or 234
other disposition. 235

(c) As used in division (I) (12) of this section, "related 236
entity" means those entities described in divisions (I) (12) (c) 237
(i) to (iii) of this section: 238

(i) An individual stockholder, or a member of the 239
stockholder's family enumerated in section 318 of the Internal 240
Revenue Code, if the stockholder and the members of the 241
stockholder's family own, directly, indirectly, beneficially, or 242
constructively, in the aggregate, at least fifty per cent of the 243
value of the taxpayer's outstanding stock; 244

(ii) A stockholder, or a stockholder's partnership, 245
estate, trust, or corporation, if the stockholder and the 246
stockholder's partnerships, estates, trusts, and corporations 247
own directly, indirectly, beneficially, or constructively, in 248
the aggregate, at least fifty per cent of the value of the 249
taxpayer's outstanding stock; 250

(iii) A corporation, or a party related to the corporation 251
in a manner that would require an attribution of stock from the 252
corporation to the party or from the party to the corporation 253
under division (I) (12) (c) (iv) of this section, if the taxpayer 254
owns, directly, indirectly, beneficially, or constructively, at 255
least fifty per cent of the value of the corporation's 256
outstanding stock. 257

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I) (12) (c) (i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I) (12) (a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I) (12) (b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I) (12) (e) (i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of

divisions (C) (1) to (5) of section 5733.042 of the Revised Code.	287
(f) Nothing in division (I) (12) of this section shall	288
require or permit a taxpayer to add any gains or deduct any	289
losses described in divisions (I) (12) (f) (i) and (ii) of this	290
section:	291
(i) Gains or losses recognized for federal income tax	292
purposes by an individual, estate, or trust without regard to	293
the attribution rules described in division (I) (12) (c) of this	294
section;	295
(ii) A related entity's gains or losses described in	296
division (I) (12) (b) of this section if the taxpayer's ownership	297
of or use of such intangible property was limited to a period	298
not exceeding nine months and was attributable to a transaction	299
or a series of transactions executed in accordance with the	300
election or elections made by the taxpayer or a related entity	301
pursuant to section 338 of the Internal Revenue Code.	302
(13) Any adjustment required by section 5733.042 of the	303
Revised Code.	304
(14) Add any amount claimed as a credit under section	305
5733.0611 of the Revised Code to the extent that such amount	306
satisfies either of the following:	307
(a) It was deducted or excluded from the computation of	308
the corporation's taxable income before operating loss deduction	309
and special deductions as required to be reported for the	310
corporation's taxable year under the Internal Revenue Code;	311
(b) It resulted in a reduction of the corporation's	312
taxable income before operating loss deduction and special	313
deductions as required to be reported for any of the	314
corporation's taxable years under the Internal Revenue Code.	315

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17) (a) (i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue 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.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through

entity if the person owns, directly or indirectly, less than 346
five per cent of the pass-through entity. 347

(b) Nothing in division (I) (17) of this section shall be 348
construed to adjust or modify the adjusted basis of any asset. 349

(c) To the extent the add-back is attributable to property 350
generating income or loss allocable under section 5733.051 of 351
the Revised Code, the add-back shall be allocated to the same 352
location as the income or loss generated by that property. 353
Otherwise, the add-back shall be apportioned, subject to 354
division (B) (2) (d) of section 5733.05 of the Revised Code. 355

(18) (a) If a person is required to make the add-back under 356
division (I) (17) (a) of this section for a tax year, the person 357
shall deduct one-fifth of the amount added back for each of the 358
succeeding five tax years. 359

(b) If the amount deducted under division (I) (18) (a) of 360
this section is attributable to an add-back allocated under 361
division (I) (17) (c) of this section, the amount deducted shall 362
be allocated to the same location. Otherwise, the amount shall 363
be apportioned using the apportionment factors for the taxable 364
year in which the deduction is taken, subject to division (B) (2) 365
(d) of section 5733.05 of the Revised Code. 366

(J) Except as otherwise expressly provided or clearly 367
appearing from the context, any term used in this chapter has 368
the same meaning as when used in a comparable context in the 369
laws of the United States relating to federal income taxes. Any 370
reference in this chapter to the Internal Revenue Code includes 371
other laws of the United States relating to federal income 372
taxes. 373

(K) "Financial institution" has the meaning given by 374

section 5725.01 of the Revised Code but does not include a 375
production credit association as described in 85 Stat. 597, 12 376
U.S.C.A. 2091. 377

(L) (1) A "qualifying holding company" is any corporation 378
satisfying all of the following requirements: 379

(a) Subject to divisions (L) (2) and (3) of this section, 380
the net book value of the corporation's intangible assets is 381
greater than or equal to ninety per cent of the net book value 382
of all of its assets and at least fifty per cent of the net book 383
value of all of its assets represents direct or indirect 384
investments in the equity of, loans and advances to, and 385
accounts receivable due from related members; 386

(b) At least ninety per cent of the corporation's gross 387
income for the taxable year is attributable to the following: 388

(i) The maintenance, management, ownership, acquisition, 389
use, and disposition of its intangible property, its aircraft 390
the use of which is not subject to regulation under 14 C.F.R. 391
part 121 or part 135, and any real property described in 392
division (L) (2) (c) of this section; 393

(ii) The collection and distribution of income from such 394
property. 395

(c) The corporation is not a financial institution on the 396
last day of the taxable year ending prior to the first day of 397
the tax year; 398

(d) The corporation's related members make a good faith 399
and reasonable effort to make timely and fully the adjustments 400
required by division (D) of section 5733.05 of the Revised Code 401
and to pay timely and fully all uncontested taxes, interest, 402
penalties, and other fees and charges imposed under this 403

chapter; 404

(e) Subject to division (L)(4) of this section, the 405
corporation elects to be treated as a qualifying holding company 406
for the tax year. 407

A corporation otherwise satisfying divisions (L)(1)(a) to 408
(e) of this section that does not elect to be a qualifying 409
holding company is not a qualifying holding company for the 410
purposes of this chapter. 411

(2)(a)(i) For purposes of making the ninety per cent 412
computation under division (L)(1)(a) of this section, the net 413
book value of the corporation's assets shall not include the net 414
book value of aircraft or real property described in division 415
(L)(1)(b)(i) of this section. 416

(ii) For purposes of making the fifty per cent computation 417
under division (L)(1)(a) of this section, the net book value of 418
assets shall include the net book value of aircraft or real 419
property described in division (L)(1)(b)(i) of this section. 420

(b)(i) As used in division (L) of this section, 421
"intangible asset" includes, but is not limited to, the 422
corporation's direct interest in each pass-through entity only 423
if at all times during the corporation's taxable year ending 424
prior to the first day of the tax year the corporation's and the 425
corporation's related members' combined direct and indirect 426
interests in the capital or profits of such pass-through entity 427
do not exceed fifty per cent. If the corporation's interest in 428
the pass-through entity is an intangible asset for that taxable 429
year, then the distributive share of any income from the pass- 430
through entity shall be income from an intangible asset for that 431
taxable year. 432

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L) (2) (b) (ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L) (2) (b) (ii) of this section.

(c) For the purposes of divisions (L) (1) (b) (i), (1) (b) (ii), (2) (a) (i), and (2) (a) (ii) of this section, real property is described in division (L) (2) (c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real

property and not more than ten per cent of the square footage of 463
the building or buildings that are part of the real property is 464
used, made available, or occupied for the purpose of providing, 465
acquiring, transferring, selling, or disposing of tangible 466
property or services in the normal course of business to persons 467
other than related members, the corporation's employees and 468
their families, and such related members' employees and their 469
families. 470

(d) As used in division (L) of this section, "related 471
member" has the same meaning as in division (A) (6) of section 472
5733.042 of the Revised Code without regard to division (B) of 473
that section. 474

(3) The percentages described in division (L) (1) (a) of 475
this section shall be equal to the quarterly average of those 476
percentages as calculated during the corporation's taxable year 477
ending prior to the first day of the tax year. 478

(4) With respect to the election described in division (L) 479
(1) (e) of this section: 480

(a) The election need not accompany a timely filed report; 481

(b) The election need not accompany the report; rather, 482
the election may accompany a subsequently filed but timely 483
application for refund and timely amended report, or a 484
subsequently filed but timely petition for reassessment; 485

(c) The election is not irrevocable; 486

(d) The election applies only to the tax year specified by 487
the corporation; 488

(e) The corporation's related members comply with division 489
(L) (1) (d) of this section. 490

Nothing in division (L) (4) of this section shall be 491
construed to extend any statute of limitations set forth in this 492
chapter. 493

(M) "Qualifying controlled group" means two or more 494
corporations that satisfy the ownership and control requirements 495
of division (A) of section 5733.052 of the Revised Code. 496

(N) "Limited liability company" means any limited 497
liability company formed under Chapter 1705. or 1706. of the 498
Revised Code or under the laws of any other state. 499

(O) "Pass-through entity" means ~~a corporation~~ any entity 500
that is eligible to make and that has made an election under 501
subchapter S of Chapter 1 of Subtitle A of the Internal Revenue 502
Code for its taxable year under that code, or a partnership, 503
limited liability company, or any other person, other than an 504
individual, trust, or estate, if the partnership, limited 505
liability company, or other person is not classified for federal 506
income tax purposes as an association taxed as a corporation. 507

(P) "Electric company," "combined company," and "telephone 508
company" have the same meanings as in section 5727.01 of the 509
Revised Code. 510

(Q) "Business income" means income arising from 511
transactions, activities, and sources in the regular course of a 512
trade or business and includes income from real property, 513
tangible personal property, and intangible personal property if 514
the acquisition, rental, management, and disposition of the 515
property constitute integral parts of the regular course of a 516
trade or business operation. "Business income" includes income, 517
including gain or loss, from a partial or complete liquidation 518
of a business, including, but not limited to, gain or loss from 519

the sale or other disposition of goodwill. 520

(R) "Nonbusiness income" means all income other than 521
business income. 522

Sec. 5733.41. The purpose of the tax imposed by this 523
section is to complement and to reinforce the tax imposed under 524
section 5733.06 of the Revised Code. 525

For the same purposes for which the tax is levied under 526
section 5733.06 of the Revised Code, there is hereby levied a 527
tax on every qualifying pass-through entity having at least one 528
qualifying investor that is not an individual. The tax imposed 529
by this section is imposed on the sum of the adjusted qualifying 530
amounts of the qualifying pass-through entity's qualifying 531
investors, that are neither individuals nor subject to division 532
(G) (2) of section 5733.01 of the Revised Code, at a rate equal 533
to the tax rate imposed on taxable business income under 534
division (A) (4) (a) of section 5747.02 of the Revised Code. 535

The tax imposed by this section applies only if the 536
qualifying entity has nexus with this state under the 537
Constitution of the United States for any portion of the 538
qualifying entity's qualifying taxable year, and the sum of the 539
qualifying entity's adjusted qualifying amounts exceeds one 540
thousand dollars for the qualifying entity's qualifying taxable 541
year. This section does not apply to a pass-through entity if 542
all of the partners, shareholders, members, or investors of the 543
pass-through entity are taxpayers for the purposes of section 544
5733.04 of the Revised Code without regard to section 5733.09 of 545
the Revised Code for the entire qualifying taxable year of the 546
pass-through entity. 547

If, prior to the due date of the return, a qualifying 548

pass-through entity receives from an investor a written 549
representation, under penalties of perjury, that the investor is 550
described in division (I) (1), (2), (6), (7), (8), or (9) of 551
section 5733.40 of the Revised Code for the qualifying pass- 552
through entity's entire qualifying taxable year, the qualifying 553
pass-through entity is not required to withhold or pay the taxes 554
or estimated taxes imposed under this section or sections 555
5747.41 to 5747.453 of the Revised Code with respect to that 556
investor for that qualifying taxable year, and is not subject to 557
any interest or interest penalties for failure to withhold or 558
pay those taxes or estimated taxes with respect to that investor 559
for that qualifying taxable year. 560

If, prior to the due date of the return, a qualifying 561
trust receives from a beneficiary of that trust a written 562
representation, under penalties of perjury, that the beneficiary 563
is a resident taxpayer for the purposes of Chapter 5747. of the 564
Revised Code for the qualifying trust's entire qualifying 565
taxable year, the qualifying trust is not required to withhold 566
or pay the taxes or estimated taxes imposed under this section 567
or sections 5747.41 to 5747.453 of the Revised Code with respect 568
to that beneficiary for that qualifying taxable year, and is not 569
subject to any interest or interest penalties for failure to 570
withhold or pay those taxes or estimated taxes with respect to 571
that beneficiary for that qualifying taxable year. 572

The tax commissioner may adopt rules for the purpose of 573
the tax levied by this section or section 5747.41 of the Revised 574
Code, including a rule defining "qualifying investor" or 575
"qualifying beneficiary," and a rule requiring or permitting a 576
qualifying entity to combine its income with related members and 577
to pay the tax and estimated tax on a combined basis. 578

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the Revised Code apply to a qualifying entity subject to the tax imposed under this section.

The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Revised Code from levying a tax on income.

The tax imposed under this section does not apply to a qualifying pass-through entity that makes an election under division (C) of section 5747.38 of the Revised Code to be subject to the tax levied under that section for the entity's qualifying taxable year.

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

As used in this chapter:

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

(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.	608
(2) Add interest or dividends on obligations of any	609
authority, commission, instrumentality, territory, or possession	610
of the United States to the extent that the interest or	611
dividends are exempt from federal income taxes but not from	612
state income taxes.	613
(3) Deduct interest or dividends on obligations of the	614
United States and its territories and possessions or of any	615
authority, commission, or instrumentality of the United States	616
to the extent that the interest or dividends are included in	617
federal adjusted gross income but exempt from state income taxes	618
under the laws of the United States.	619
(4) Deduct disability and survivor's benefits to the	620
extent included in federal adjusted gross income.	621
(5) Deduct the following, to the extent not otherwise	622
deducted or excluded in computing federal or Ohio adjusted gross	623
income:	624
(a) Benefits under Title II of the Social Security Act and	625
tier 1 railroad retirement;	626
(b) Railroad retirement benefits, other than tier 1	627
railroad retirement benefits, to the extent such amounts are	628
exempt from state taxation under federal law.	629
(6) Deduct the amount of wages and salaries, if any, not	630
otherwise allowable as a deduction but that would have been	631
allowable as a deduction in computing federal adjusted gross	632
income for the taxable year, had the work opportunity tax credit	633
allowed and determined under sections 38, 51, and 52 of the	634
Internal Revenue Code not been in effect.	635

(7) 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.

(8) 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.

(9) 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.

(10) (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) (10) (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) (10) (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) (10) (a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium

dividends received during the taxable year. 666

(b) Deduct, to the extent not otherwise deducted or 667
excluded in computing federal or Ohio adjusted gross income 668
during the taxable year, the amount the taxpayer paid during the 669
taxable year, not compensated for by any insurance or otherwise, 670
for medical care of the taxpayer, the taxpayer's spouse, and 671
dependents, to the extent the expenses exceed seven and one-half 672
per cent of the taxpayer's federal adjusted gross income. 673

(c) For purposes of division (A)(10) of this section, 674
"medical care" has the meaning given in section 213 of the 675
Internal Revenue Code, subject to the special rules, 676
limitations, and exclusions set forth therein, and "qualified 677
long-term care" has the same meaning given in section 7702B(c) 678
of the Internal Revenue Code. Solely for purposes of division 679
(A)(10)(a) of this section, "dependent" includes a person who 680
otherwise would be a "qualifying relative" and thus a 681
"dependent" under section 152 of the Internal Revenue Code but 682
for the fact that the person fails to meet the income and 683
support limitations under section 152(d)(1)(B) and (C) of the 684
Internal Revenue Code. 685

(11)(a) Deduct any amount included in federal adjusted 686
gross income solely because the amount represents a 687
reimbursement or refund of expenses that in any year the 688
taxpayer had deducted as an itemized deduction pursuant to 689
section 63 of the Internal Revenue Code and applicable United 690
States department of the treasury regulations. The deduction 691
otherwise allowed under division (A)(11)(a) of this section 692
shall be reduced to the extent the reimbursement is attributable 693
to an amount the taxpayer deducted under this section in any 694
taxable year. 695

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

(12) 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 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 adjusted gross income for the current or any other taxable year.

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

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

(b) Add the amounts distributed from a medical savings

account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year.	725 726
(15) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:	727 728 729
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	730 731 732 733
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	734 735 736
(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) (16) of this section.	737 738 739 740 741 742 743 744
(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.	745 746 747 748 749 750 751 752
(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v)	753

of this section, add five-sixths of the amount of qualifying 754
section 179 depreciation expense, including the taxpayer's 755
proportionate or distributive share of the amount of qualifying 756
section 179 depreciation expense allowed to any pass-through 757
entity in which the taxpayer has a direct or indirect ownership 758
interest. 759

(iii) Subject to division (A) (17) (a) (v) of this section, 760
for taxable years beginning in 2012 or thereafter, if the 761
increase in income taxes withheld by the taxpayer is equal to or 762
greater than ten per cent of income taxes withheld by the 763
taxpayer during the taxpayer's immediately preceding taxable 764
year, "two-thirds" shall be substituted for "five-sixths" for 765
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 766

(iv) Subject to division (A) (17) (a) (v) of this section, 767
for taxable years beginning in 2012 or thereafter, a taxpayer is 768
not required to add an amount under division (A) (17) of this 769
section if the increase in income taxes withheld by the taxpayer 770
and by any pass-through entity in which the taxpayer has a 771
direct or indirect ownership interest is equal to or greater 772
than the sum of (I) the amount of qualifying section 179 773
depreciation expense and (II) the amount of depreciation expense 774
allowed to the taxpayer by subsection (k) of section 168 of the 775
Internal Revenue Code, and including the taxpayer's 776
proportionate or distributive shares of such amounts allowed to 777
any such pass-through entities. 778

(v) If a taxpayer directly or indirectly incurs a net 779
operating loss for the taxable year for federal income tax 780
purposes, to the extent such loss resulted from depreciation 781
expense allowed by subsection (k) of section 168 of the Internal 782
Revenue Code and by qualifying section 179 depreciation expense, 783

"the entire" shall be substituted for "five-sixths of the" for 784
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 785

The tax commissioner, under procedures established by the 786
commissioner, may waive the add-backs related to a pass-through 787
entity if the taxpayer owns, directly or indirectly, less than 788
five per cent of the pass-through entity. 789

(b) Nothing in division (A) (17) of this section shall be 790
construed to adjust or modify the adjusted basis of any asset. 791

(c) To the extent the add-back required under division (A) 792
(17) (a) of this section is attributable to property generating 793
nonbusiness income or loss allocated under section 5747.20 of 794
the Revised Code, the add-back shall be situated to the same 795
location as the nonbusiness income or loss generated by the 796
property for the purpose of determining the credit under 797
division (A) of section 5747.05 of the Revised Code. Otherwise, 798
the add-back shall be apportioned, subject to one or more of the 799
four alternative methods of apportionment enumerated in section 800
5747.21 of the Revised Code. 801

(d) For the purposes of division (A) (17) (a) (v) of this 802
section, net operating loss carryback and carryforward shall not 803
include the allowance of any net operating loss deduction 804
carryback or carryforward to the taxable year to the extent such 805
loss resulted from depreciation allowed by section 168(k) of the 806
Internal Revenue Code and by the qualifying section 179 807
depreciation expense amount. 808

(e) For the purposes of divisions (A) (17) and (18) of this 809
section: 810

(i) "Income taxes withheld" means the total amount 811
withheld and remitted under sections 5747.06 and 5747.07 of the 812

Revised Code by an employer during the employer's taxable year.	813
(ii) "Increase in income taxes withheld" means the amount	814
by which the amount of income taxes withheld by an employer	815
during the employer's current taxable year exceeds the amount of	816
income taxes withheld by that employer during the employer's	817
immediately preceding taxable year.	818
(iii) "Qualifying section 179 depreciation expense" means	819
the difference between (I) the amount of depreciation expense	820
directly or indirectly allowed to a taxpayer under section 179	821
of the Internal Revised Code, and (II) the amount of	822
depreciation expense directly or indirectly allowed to the	823
taxpayer under section 179 of the Internal Revenue Code as that	824
section existed on December 31, 2002.	825
(18) (a) If the taxpayer was required to add an amount	826
under division (A) (17) (a) of this section for a taxable year,	827
deduct one of the following:	828
(i) One-fifth of the amount so added for each of the five	829
succeeding taxable years if the amount so added was five-sixths	830
of qualifying section 179 depreciation expense or depreciation	831
expense allowed by subsection (k) of section 168 of the Internal	832
Revenue Code;	833
(ii) One-half of the amount so added for each of the two	834
succeeding taxable years if the amount so added was two-thirds	835
of such depreciation expense;	836
(iii) One-sixth of the amount so added for each of the six	837
succeeding taxable years if the entire amount of such	838
depreciation expense was so added.	839
(b) If the amount deducted under division (A) (18) (a) of	840
this section is attributable to an add-back allocated under	841

division (A) (17) (c) of this section, the amount deducted shall 842
be sitused to the same location. Otherwise, the add-back shall 843
be apportioned using the apportionment factors for the taxable 844
year in which the deduction is taken, subject to one or more of 845
the four alternative methods of apportionment enumerated in 846
section 5747.21 of the Revised Code. 847

(c) No deduction is available under division (A) (18) (a) of 848
this section with regard to any depreciation allowed by section 849
168(k) of the Internal Revenue Code and by the qualifying 850
section 179 depreciation expense amount to the extent that such 851
depreciation results in or increases a federal net operating 852
loss carryback or carryforward. If no such deduction is 853
available for a taxable year, the taxpayer may carry forward the 854
amount not deducted in such taxable year to the next taxable 855
year and add that amount to any deduction otherwise available 856
under division (A) (18) (a) of this section for that next taxable 857
year. The carryforward of amounts not so deducted shall continue 858
until the entire addition required by division (A) (17) (a) of 859
this section has been deducted. 860

(19) Deduct, to the extent not otherwise deducted or 861
excluded in computing federal or Ohio adjusted gross income for 862
the taxable year, the amount the taxpayer received during the 863
taxable year as reimbursement for life insurance premiums under 864
section 5919.31 of the Revised Code. 865

(20) Deduct, to the extent not otherwise deducted or 866
excluded in computing federal or Ohio adjusted gross income for 867
the taxable year, the amount the taxpayer received during the 868
taxable year as a death benefit paid by the adjutant general 869
under section 5919.33 of the Revised Code. 870

(21) Deduct, to the extent included in federal adjusted 871

gross income and not otherwise allowable as a deduction or 872
exclusion in computing federal or Ohio adjusted gross income for 873
the taxable year, military pay and allowances received by the 874
taxpayer during the taxable year for active duty service in the 875
United States army, air force, navy, marine corps, or coast 876
guard or reserve components thereof or the national guard. The 877
deduction may not be claimed for military pay and allowances 878
received by the taxpayer while the taxpayer is stationed in this 879
state. 880

(22) Deduct, to the extent not otherwise allowable as a 881
deduction or exclusion in computing federal or Ohio adjusted 882
gross income for the taxable year and not otherwise compensated 883
for by any other source, the amount of qualified organ donation 884
expenses incurred by the taxpayer during the taxable year, not 885
to exceed ten thousand dollars. A taxpayer may deduct qualified 886
organ donation expenses only once for all taxable years 887
beginning with taxable years beginning in 2007. 888

For the purposes of division (A) (22) of this section: 889

(a) "Human organ" means all or any portion of a human 890
liver, pancreas, kidney, intestine, or lung, and any portion of 891
human bone marrow. 892

(b) "Qualified organ donation expenses" means travel 893
expenses, lodging expenses, and wages and salary forgone by a 894
taxpayer in connection with the taxpayer's donation, while 895
living, of one or more of the taxpayer's human organs to another 896
human being. 897

(23) Deduct, to the extent not otherwise deducted or 898
excluded in computing federal or Ohio adjusted gross income for 899
the taxable year, amounts received by the taxpayer as retired 900

personnel pay for service in the uniformed services or reserve 901
components thereof, or the national guard, or received by the 902
surviving spouse or former spouse of such a taxpayer under the 903
survivor benefit plan on account of such a taxpayer's death. If 904
the taxpayer receives income on account of retirement paid under 905
the federal civil service retirement system or federal employees 906
retirement system, or under any successor retirement program 907
enacted by the congress of the United States that is established 908
and maintained for retired employees of the United States 909
government, and such retirement income is based, in whole or in 910
part, on credit for the taxpayer's uniformed service, the 911
deduction allowed under this division shall include only that 912
portion of such retirement income that is attributable to the 913
taxpayer's uniformed service, to the extent that portion of such 914
retirement income is otherwise included in federal adjusted 915
gross income and is not otherwise deducted under this section. 916
Any amount deducted under division (A) (23) of this section is 917
not included in a taxpayer's adjusted gross income for the 918
purposes of section 5747.055 of the Revised Code. No amount may 919
be deducted under division (A) (23) of this section on the basis 920
of which a credit was claimed under section 5747.055 of the 921
Revised Code. 922

(24) Deduct, to the extent not otherwise deducted or 923
excluded in computing federal or Ohio adjusted gross income for 924
the taxable year, the amount the taxpayer received during the 925
taxable year from the military injury relief fund created in 926
section 5902.05 of the Revised Code. 927

(25) Deduct, to the extent not otherwise deducted or 928
excluded in computing federal or Ohio adjusted gross income for 929
the taxable year, the amount the taxpayer received as a veterans 930
bonus during the taxable year from the Ohio department of 931

veterans services as authorized by Section 2r of Article VIII, 932
Ohio Constitution. 933

(26) Deduct, to the extent not otherwise deducted or 934
excluded in computing federal or Ohio adjusted gross income for 935
the taxable year, any income derived from a transfer agreement 936
or from the enterprise transferred under that agreement under 937
section 4313.02 of the Revised Code. 938

(27) Deduct, to the extent not otherwise deducted or 939
excluded in computing federal or Ohio adjusted gross income for 940
the taxable year, Ohio college opportunity or federal Pell grant 941
amounts received by the taxpayer or the taxpayer's spouse or 942
dependent pursuant to section 3333.122 of the Revised Code or 20 943
U.S.C. 1070a, et seq., and used to pay room or board furnished 944
by the educational institution for which the grant was awarded 945
at the institution's facilities, including meal plans 946
administered by the institution. For the purposes of this 947
division, receipt of a grant includes the distribution of a 948
grant directly to an educational institution and the crediting 949
of the grant to the enrollee's account with the institution. 950

(28) Deduct from the portion of an individual's federal 951
adjusted gross income that is business income, to the extent not 952
otherwise deducted or excluded in computing federal adjusted 953
gross income for the taxable year, one hundred twenty-five 954
thousand dollars for each spouse if spouses file separate 955
returns under section 5747.08 of the Revised Code or two hundred 956
fifty thousand dollars for all other individuals. 957

(29) Deduct, as provided under section 5747.78 of the 958
Revised Code, contributions to ABLE savings accounts made in 959
accordance with sections 113.50 to 113.56 of the Revised Code. 960

(30) (a) Deduct, to the extent not otherwise deducted or 961
excluded in computing federal or Ohio adjusted gross income 962
during the taxable year, all of the following: 963

(i) Compensation paid to a qualifying employee described 964
in division (A) (14) (a) of section 5703.94 of the Revised Code to 965
the extent such compensation is for disaster work conducted in 966
this state during a disaster response period pursuant to a 967
qualifying solicitation received by the employee's employer; 968

(ii) Compensation paid to a qualifying employee described 969
in division (A) (14) (b) of section 5703.94 of the Revised Code to 970
the extent such compensation is for disaster work conducted in 971
this state by the employee during the disaster response period 972
on critical infrastructure owned or used by the employee's 973
employer; 974

(iii) Income received by an out-of-state disaster business 975
for disaster work conducted in this state during a disaster 976
response period, or, if the out-of-state disaster business is a 977
pass-through entity, a taxpayer's distributive share of the 978
pass-through entity's income from the business conducting 979
disaster work in this state during a disaster response period, 980
if, in either case, the disaster work is conducted pursuant to a 981
qualifying solicitation received by the business. 982

(b) All terms used in division (A) (30) of this section 983
have the same meanings as in section 5703.94 of the Revised 984
Code. 985

(31) For a taxpayer who is a qualifying Ohio educator, 986
deduct, to the extent not otherwise deducted or excluded in 987
computing federal or Ohio adjusted gross income for the taxable 988
year, the lesser of two hundred fifty dollars or the amount of 989

expenses described in subsections (a)(2)(D)(i) and (ii) of 990
section 62 of the Internal Revenue Code paid or incurred by the 991
taxpayer during the taxpayer's taxable year in excess of the 992
amount the taxpayer is authorized to deduct for that taxable 993
year under subsection (a)(2)(D) of that section. 994

(32) Deduct, to the extent not otherwise deducted or 995
excluded in computing federal or Ohio adjusted gross income for 996
the taxable year, amounts received by the taxpayer as a 997
disability severance payment, computed under 10 U.S.C. 1212, 998
following discharge or release under honorable conditions from 999
the armed forces, as defined by 10 U.S.C. 101. 1000

(33) Deduct, to the extent not otherwise deducted or 1001
excluded in computing federal adjusted gross income or Ohio 1002
adjusted gross income, amounts not subject to tax due to an 1003
agreement entered into under division (A)(2) of section 5747.05 1004
of the Revised Code. 1005

(34) Deduct amounts as provided under section 5747.79 of 1006
the Revised Code related to the taxpayer's qualifying capital 1007
gains and deductible payroll. 1008

To the extent a qualifying capital gain described under 1009
division (A)(34) of this section is business income, the 1010
taxpayer shall deduct those gains under this division before 1011
deducting any such gains under division (A)(28) of this section. 1012

(35)(a) For taxable years beginning in or after 2026, 1013
deduct, to the extent not otherwise deducted or excluded in 1014
computing federal or Ohio adjusted gross income for the taxable 1015
year: 1016

(i) One hundred per cent of the capital gain received by 1017
the taxpayer in the taxable year from a qualifying interest in 1018

an Ohio venture capital operating company attributable to the 1019
company's investments in Ohio businesses during the period for 1020
which the company was an Ohio venture operating company; and 1021

(ii) Fifty per cent of the capital gain received by the 1022
taxpayer in the taxable year from a qualifying interest in an 1023
Ohio venture capital operating company attributable to the 1024
company's investments in all other businesses during the period 1025
for which the company was an Ohio venture operating company. 1026

(b) Add amounts previously deducted by the taxpayer under 1027
division (A) (35) (a) of this section if the director of 1028
development certifies to the tax commissioner that the 1029
requirements for the deduction were not met. 1030

(c) All terms used in division (A) (35) of this section 1031
have the same meanings as in section 122.851 of the Revised 1032
Code. 1033

(d) To the extent a capital gain described in division (A) 1034
(35) (a) of this section is business income, the taxpayer shall 1035
apply that division before applying division (A) (28) of this 1036
section. 1037

(36) Add, to the extent not otherwise included in 1038
computing federal or Ohio adjusted gross income for any taxable 1039
year, the taxpayer's proportionate share of the amount of the 1040
tax levied under section 5747.38 of the Revised Code and paid by 1041
an electing pass-through entity for the taxable year. 1042

(B) "Business income" means income, including gain or 1043
loss, arising from transactions, activities, and sources in the 1044
regular course of a trade or business and includes income, gain, 1045
or loss from real property, tangible property, and intangible 1046
property if the acquisition, rental, management, and disposition 1047

of the property constitute integral parts of the regular course 1048
of a trade or business operation. "Business income" includes 1049
income, including gain or loss, from a partial or complete 1050
liquidation of a business, including, but not limited to, gain 1051
or loss from the sale or other disposition of goodwill. 1052

(C) "Nonbusiness income" means all income other than 1053
business income and may include, but is not limited to, 1054
compensation, rents and royalties from real or tangible personal 1055
property, capital gains, interest, dividends and distributions, 1056
patent or copyright royalties, or lottery winnings, prizes, and 1057
awards. 1058

(D) "Compensation" means any form of remuneration paid to 1059
an employee for personal services. 1060

(E) "Fiduciary" means a guardian, trustee, executor, 1061
administrator, receiver, conservator, or any other person acting 1062
in any fiduciary capacity for any individual, trust, or estate. 1063

(F) "Fiscal year" means an accounting period of twelve 1064
months ending on the last day of any month other than December. 1065

(G) "Individual" means any natural person. 1066

(H) "Internal Revenue Code" means the "Internal Revenue 1067
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1068

(I) "Resident" means any of the following: 1069

(1) An individual who is domiciled in this state, subject 1070
to section 5747.24 of the Revised Code; 1071

(2) The estate of a decedent who at the time of death was 1072
domiciled in this state. The domicile tests of section 5747.24 1073
of the Revised Code are not controlling for purposes of division 1074
(I) (2) of this section. 1075

(3) A trust that, in whole or part, resides in this state. 1076
If only part of a trust resides in this state, the trust is a 1077
resident only with respect to that part. 1078

For the purposes of division (I)(3) of this section: 1079

(a) A trust resides in this state for the trust's current 1080
taxable year to the extent, as described in division (I)(3)(d) 1081
of this section, that the trust consists directly or indirectly, 1082
in whole or in part, of assets, net of any related liabilities, 1083
that were transferred, or caused to be transferred, directly or 1084
indirectly, to the trust by any of the following: 1085

(i) A person, a court, or a governmental entity or 1086
instrumentality on account of the death of a decedent, but only 1087
if the trust is described in division (I)(3)(e)(i) or (ii) of 1088
this section; 1089

(ii) A person who was domiciled in this state for the 1090
purposes of this chapter when the person directly or indirectly 1091
transferred assets to an irrevocable trust, but only if at least 1092
one of the trust's qualifying beneficiaries is domiciled in this 1093
state for the purposes of this chapter during all or some 1094
portion of the trust's current taxable year; 1095

(iii) A person who was domiciled in this state for the 1096
purposes of this chapter when the trust document or instrument 1097
or part of the trust document or instrument became irrevocable, 1098
but only if at least one of the trust's qualifying beneficiaries 1099
is a resident domiciled in this state for the purposes of this 1100
chapter during all or some portion of the trust's current 1101
taxable year. If a trust document or instrument became 1102
irrevocable upon the death of a person who at the time of death 1103
was domiciled in this state for purposes of this chapter, that 1104

person is a person described in division (I) (3) (a) (iii) of this section. 1105
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(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code. 1107
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(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e) (2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code. 1111
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(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: 1121
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(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 1129
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liabilities. 1135

(ii) Each subsequent time the trust receives assets, a 1136
revised qualifying ratio shall be computed. The numerator of the 1137
revised qualifying ratio is the sum of (1) the fair market value 1138
of the trust's assets immediately prior to the subsequent 1139
transfer, net of any related liabilities, multiplied by the 1140
qualifying ratio last computed without regard to the subsequent 1141
transfer, and (2) the fair market value of the subsequently 1142
transferred assets at the time transferred, net of any related 1143
liabilities, from sources enumerated in division (I) (3) (a) of 1144
this section. The denominator of the revised qualifying ratio is 1145
the fair market value of all the trust's assets immediately 1146
after the subsequent transfer, net of any related liabilities. 1147

(iii) Whether a transfer to the trust is by or from any of 1148
the sources enumerated in division (I) (3) (a) of this section 1149
shall be ascertained without regard to the domicile of the 1150
trust's beneficiaries. 1151

(e) For the purposes of division (I) (3) (a) (i) of this 1152
section: 1153

(i) A trust is described in division (I) (3) (e) (i) of this 1154
section if the trust is a testamentary trust and the testator of 1155
that testamentary trust was domiciled in this state at the time 1156
of the testator's death for purposes of the taxes levied under 1157
Chapter 5731. of the Revised Code. 1158

(ii) A trust is described in division (I) (3) (e) (ii) of 1159
this section if the transfer is a qualifying transfer described 1160
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1161
trust is an irrevocable inter vivos trust, and at least one of 1162
the trust's qualifying beneficiaries is domiciled in this state 1163

for purposes of this chapter during all or some portion of the 1164
trust's current taxable year. 1165

(f) For the purposes of division (I) (3) (e) (ii) of this 1166
section, a "qualifying transfer" is a transfer of assets, net of 1167
any related liabilities, directly or indirectly to a trust, if 1168
the transfer is described in any of the following: 1169

(i) The transfer is made to a trust, created by the 1170
decedent before the decedent's death and while the decedent was 1171
domiciled in this state for the purposes of this chapter, and, 1172
prior to the death of the decedent, the trust became irrevocable 1173
while the decedent was domiciled in this state for the purposes 1174
of this chapter. 1175

(ii) The transfer is made to a trust to which the 1176
decedent, prior to the decedent's death, had directly or 1177
indirectly transferred assets, net of any related liabilities, 1178
while the decedent was domiciled in this state for the purposes 1179
of this chapter, and prior to the death of the decedent the 1180
trust became irrevocable while the decedent was domiciled in 1181
this state for the purposes of this chapter. 1182

(iii) The transfer is made on account of a contractual 1183
relationship existing directly or indirectly between the 1184
transferor and either the decedent or the estate of the decedent 1185
at any time prior to the date of the decedent's death, and the 1186
decedent was domiciled in this state at the time of death for 1187
purposes of the taxes levied under Chapter 5731. of the Revised 1188
Code. 1189

(iv) The transfer is made to a trust on account of a 1190
contractual relationship existing directly or indirectly between 1191
the transferor and another person who at the time of the 1192

decedent's death was domiciled in this state for purposes of 1193
this chapter. 1194

(v) The transfer is made to a trust on account of the will 1195
of a testator who was domiciled in this state at the time of the 1196
testator's death for purposes of the taxes levied under Chapter 1197
5731. of the Revised Code. 1198

(vi) The transfer is made to a trust created by or caused 1199
to be created by a court, and the trust was directly or 1200
indirectly created in connection with or as a result of the 1201
death of an individual who, for purposes of the taxes levied 1202
under Chapter 5731. of the Revised Code, was domiciled in this 1203
state at the time of the individual's death. 1204

(g) The tax commissioner may adopt rules to ascertain the 1205
part of a trust residing in this state. 1206

(J) "Nonresident" means an individual or estate that is 1207
not a resident. An individual who is a resident for only part of 1208
a taxable year is a nonresident for the remainder of that 1209
taxable year. 1210

(K) "Pass-through entity" has the same meaning as in 1211
section 5733.04 of the Revised Code. 1212

(L) "Return" means the notifications and reports required 1213
to be filed pursuant to this chapter for the purpose of 1214
reporting the tax due and includes declarations of estimated tax 1215
when so required. 1216

(M) "Taxable year" means the calendar year or the 1217
taxpayer's fiscal year ending during the calendar year, or 1218
fractional part thereof, upon which the adjusted gross income is 1219
calculated pursuant to this chapter. 1220

(N) "Taxpayer" means any person subject to the tax imposed	1221
by section 5747.02 of the Revised Code or any pass-through	1222
entity that makes the election under division (D) of section	1223
5747.08 of the Revised Code.	1224
(O) "Dependents" means one of the following:	1225
(1) For taxable years beginning on or after January 1,	1226
2018, and before January 1, 2026, dependents as defined in the	1227
Internal Revenue Code;	1228
(2) For all other taxable years, dependents as defined in	1229
the Internal Revenue Code and as claimed in the taxpayer's	1230
federal income tax return for the taxable year or which the	1231
taxpayer would have been permitted to claim had the taxpayer	1232
filed a federal income tax return.	1233
(P) "Principal county of employment" means, in the case of	1234
a nonresident, the county within the state in which a taxpayer	1235
performs services for an employer or, if those services are	1236
performed in more than one county, the county in which the major	1237
portion of the services are performed.	1238
(Q) As used in sections 5747.50 to 5747.55 of the Revised	1239
Code:	1240
(1) "Subdivision" means any county, municipal corporation,	1241
park district, or township.	1242
(2) "Essential local government purposes" includes all	1243
functions that any subdivision is required by general law to	1244
exercise, including like functions that are exercised under a	1245
charter adopted pursuant to the Ohio Constitution.	1246
(R) "Overpayment" means any amount already paid that	1247
exceeds the figure determined to be the correct amount of the	1248

tax.	1249
(S) "Taxable income" or "Ohio taxable income" applies only	1250
to estates and trusts, and means federal taxable income, as	1251
defined and used in the Internal Revenue Code, adjusted as	1252
follows:	1253
(1) Add interest or dividends, net of ordinary, necessary,	1254
and reasonable expenses not deducted in computing federal	1255
taxable income, on obligations or securities of any state or of	1256
any political subdivision or authority of any state, other than	1257
this state and its subdivisions and authorities, but only to the	1258
extent that such net amount is not otherwise includible in Ohio	1259
taxable income and is described in either division (S) (1) (a) or	1260
(b) of this section:	1261
(a) The net amount is not attributable to the S portion of	1262
an electing small business trust and has not been distributed to	1263
beneficiaries for the taxable year;	1264
(b) The net amount is attributable to the S portion of an	1265
electing small business trust for the taxable year.	1266
(2) Add interest or dividends, net of ordinary, necessary,	1267
and reasonable expenses not deducted in computing federal	1268
taxable income, on obligations of any authority, commission,	1269
instrumentality, territory, or possession of the United States	1270
to the extent that the interest or dividends are exempt from	1271
federal income taxes but not from state income taxes, but only	1272
to the extent that such net amount is not otherwise includible	1273
in Ohio taxable income and is described in either division (S)	1274
(1) (a) or (b) of this section;	1275
(3) Add the amount of personal exemption allowed to the	1276
estate pursuant to section 642(b) of the Internal Revenue Code;	1277

(4) Deduct interest or dividends, net of related expenses 1278
deducted in computing federal taxable income, on obligations of 1279
the United States and its territories and possessions or of any 1280
authority, commission, or instrumentality of the United States 1281
to the extent that the interest or dividends are exempt from 1282
state taxes under the laws of the United States, but only to the 1283
extent that such amount is included in federal taxable income 1284
and is described in either division (S) (1) (a) or (b) of this 1285
section; 1286

(5) Deduct the amount of wages and salaries, if any, not 1287
otherwise allowable as a deduction but that would have been 1288
allowable as a deduction in computing federal taxable income for 1289
the taxable year, had the work opportunity tax credit allowed 1290
under sections 38, 51, and 52 of the Internal Revenue Code not 1291
been in effect, but only to the extent such amount relates 1292
either to income included in federal taxable income for the 1293
taxable year or to income of the S portion of an electing small 1294
business trust for the taxable year; 1295

(6) Deduct any interest or interest equivalent, net of 1296
related expenses deducted in computing federal taxable income, 1297
on public obligations and purchase obligations, but only to the 1298
extent that such net amount relates either to income included in 1299
federal taxable income for the taxable year or to income of the 1300
S portion of an electing small business trust for the taxable 1301
year; 1302

(7) Add any loss or deduct any gain resulting from sale, 1303
exchange, or other disposition of public obligations to the 1304
extent that such loss has been deducted or such gain has been 1305
included in computing either federal taxable income or income of 1306
the S portion of an electing small business trust for the 1307

taxable year; 1308

(8) Except in the case of the final return of an estate, 1309
add any amount deducted by the taxpayer on both its Ohio estate 1310
tax return pursuant to section 5731.14 of the Revised Code, and 1311
on its federal income tax return in determining federal taxable 1312
income; 1313

(9) (a) Deduct any amount included in federal taxable 1314
income solely because the amount represents a reimbursement or 1315
refund of expenses that in a previous year the decedent had 1316
deducted as an itemized deduction pursuant to section 63 of the 1317
Internal Revenue Code and applicable treasury regulations. The 1318
deduction otherwise allowed under division (S) (9) (a) of this 1319
section shall be reduced to the extent the reimbursement is 1320
attributable to an amount the taxpayer or decedent deducted 1321
under this section in any taxable year. 1322

(b) Add any amount not otherwise included in Ohio taxable 1323
income for any taxable year to the extent that the amount is 1324
attributable to the recovery during the taxable year of any 1325
amount deducted or excluded in computing federal or Ohio taxable 1326
income in any taxable year, but only to the extent such amount 1327
has not been distributed to beneficiaries for the taxable year. 1328

(10) Deduct any portion of the deduction described in 1329
section 1341(a) (2) of the Internal Revenue Code, for repaying 1330
previously reported income received under a claim of right, that 1331
meets both of the following requirements: 1332

(a) It is allowable for repayment of an item that was 1333
included in the taxpayer's taxable income or the decedent's 1334
adjusted gross income for a prior taxable year and did not 1335
qualify for a credit under division (A) or (B) of section 1336

5747.05 of the Revised Code for that year. 1337

(b) It does not otherwise reduce the taxpayer's taxable 1338
income or the decedent's adjusted gross income for the current 1339
or any other taxable year. 1340

(11) Add any amount claimed as a credit under section 1341
5747.059 of the Revised Code to the extent that the amount 1342
satisfies either of the following: 1343

(a) The amount was deducted or excluded from the 1344
computation of the taxpayer's federal taxable income as required 1345
to be reported for the taxpayer's taxable year under the 1346
Internal Revenue Code; 1347

(b) The amount resulted in a reduction in the taxpayer's 1348
federal taxable income as required to be reported for any of the 1349
taxpayer's taxable years under the Internal Revenue Code. 1350

(12) Deduct any amount, net of related expenses deducted 1351
in computing federal taxable income, that a trust is required to 1352
report as farm income on its federal income tax return, but only 1353
if the assets of the trust include at least ten acres of land 1354
satisfying the definition of "land devoted exclusively to 1355
agricultural use" under section 5713.30 of the Revised Code, 1356
regardless of whether the land is valued for tax purposes as 1357
such land under sections 5713.30 to 5713.38 of the Revised Code. 1358
If the trust is a pass-through entity investor, section 5747.231 1359
of the Revised Code applies in ascertaining if the trust is 1360
eligible to claim the deduction provided by division (S)(12) of 1361
this section in connection with the pass-through entity's farm 1362
income. 1363

Except for farm income attributable to the S portion of an 1364
electing small business trust, the deduction provided by 1365

division (S) (12) of this section is allowed only to the extent 1366
that the trust has not distributed such farm income. 1367

(13) Add the net amount of income described in section 1368
641(c) of the Internal Revenue Code to the extent that amount is 1369
not included in federal taxable income. 1370

(14) Add or deduct the amount the taxpayer would be 1371
required to add or deduct under division (A) (17) or (18) of this 1372
section if the taxpayer's Ohio taxable income were computed in 1373
the same manner as an individual's Ohio adjusted gross income is 1374
computed under this section. 1375

(15) Add, to the extent not otherwise included in 1376
computing taxable income or Ohio taxable income for any taxable 1377
year, the taxpayer's proportionate share of the amount of the 1378
tax levied under section 5747.38 of the Revised Code and paid by 1379
an electing pass-through entity for the taxable year. 1380

(T) "School district income" and "school district income 1381
tax" have the same meanings as in section 5748.01 of the Revised 1382
Code. 1383

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1384
(7) of this section, "public obligations," "purchase 1385
obligations," and "interest or interest equivalent" have the 1386
same meanings as in section 5709.76 of the Revised Code. 1387

(V) "Limited liability company" means any limited 1388
liability company formed under Chapter 1705. or 1706. of the 1389
Revised Code or under the laws of any other state. 1390

(W) "Pass-through entity investor" means any person who, 1391
during any portion of a taxable year of a pass-through entity, 1392
is a partner, member, shareholder, or equity investor in that 1393
pass-through entity. 1394

(X) "Banking day" has the same meaning as in section	1395
1304.01 of the Revised Code.	1396
(Y) "Month" means a calendar month.	1397
(Z) "Quarter" means the first three months, the second	1398
three months, the third three months, or the last three months	1399
of the taxpayer's taxable year.	1400
(AA) (1) "Modified business income" means the business	1401
income included in a trust's Ohio taxable income after such	1402
taxable income is first reduced by the qualifying trust amount,	1403
if any.	1404
(2) "Qualifying trust amount" of a trust means capital	1405
gains and losses from the sale, exchange, or other disposition	1406
of equity or ownership interests in, or debt obligations of, a	1407
qualifying investee to the extent included in the trust's Ohio	1408
taxable income, but only if the following requirements are	1409
satisfied:	1410
(a) The book value of the qualifying investee's physical	1411
assets in this state and everywhere, as of the last day of the	1412
qualifying investee's fiscal or calendar year ending immediately	1413
prior to the date on which the trust recognizes the gain or	1414
loss, is available to the trust.	1415
(b) The requirements of section 5747.011 of the Revised	1416
Code are satisfied for the trust's taxable year in which the	1417
trust recognizes the gain or loss.	1418
Any gain or loss that is not a qualifying trust amount is	1419
modified business income, qualifying investment income, or	1420
modified nonbusiness income, as the case may be.	1421
(3) "Modified nonbusiness income" means a trust's Ohio	1422

taxable income other than modified business income, other than 1423
the qualifying trust amount, and other than qualifying 1424
investment income, as defined in section 5747.012 of the Revised 1425
Code, to the extent such qualifying investment income is not 1426
otherwise part of modified business income. 1427

(4) "Modified Ohio taxable income" applies only to trusts, 1428
and means the sum of the amounts described in divisions (AA) (4) 1429
(a) to (c) of this section: 1430

(a) The fraction, calculated under section 5747.013, and 1431
applying section 5747.231 of the Revised Code, multiplied by the 1432
sum of the following amounts: 1433

(i) The trust's modified business income; 1434

(ii) The trust's qualifying investment income, as defined 1435
in section 5747.012 of the Revised Code, but only to the extent 1436
the qualifying investment income does not otherwise constitute 1437
modified business income and does not otherwise constitute a 1438
qualifying trust amount. 1439

(b) The qualifying trust amount multiplied by a fraction, 1440
the numerator of which is the sum of the book value of the 1441
qualifying investee's physical assets in this state on the last 1442
day of the qualifying investee's fiscal or calendar year ending 1443
immediately prior to the day on which the trust recognizes the 1444
qualifying trust amount, and the denominator of which is the sum 1445
of the book value of the qualifying investee's total physical 1446
assets everywhere on the last day of the qualifying investee's 1447
fiscal or calendar year ending immediately prior to the day on 1448
which the trust recognizes the qualifying trust amount. If, for 1449
a taxable year, the trust recognizes a qualifying trust amount 1450
with respect to more than one qualifying investee, the amount 1451

described in division (AA) (4) (b) of this section shall equal the 1452
sum of the products so computed for each such qualifying 1453
investee. 1454

(c) (i) With respect to a trust or portion of a trust that 1455
is a resident as ascertained in accordance with division (I) (3) 1456
(d) of this section, its modified nonbusiness income. 1457

(ii) With respect to a trust or portion of a trust that is 1458
not a resident as ascertained in accordance with division (I) (3) 1459
(d) of this section, the amount of its modified nonbusiness 1460
income satisfying the descriptions in divisions (B) (2) to (5) of 1461
section 5747.20 of the Revised Code, except as otherwise 1462
provided in division (AA) (4) (c) (ii) of this section. With 1463
respect to a trust or portion of a trust that is not a resident 1464
as ascertained in accordance with division (I) (3) (d) of this 1465
section, the trust's portion of modified nonbusiness income 1466
recognized from the sale, exchange, or other disposition of a 1467
debt interest in or equity interest in a section 5747.212 1468
entity, as defined in section 5747.212 of the Revised Code, 1469
without regard to division (A) of that section, shall not be 1470
allocated to this state in accordance with section 5747.20 of 1471
the Revised Code but shall be apportioned to this state in 1472
accordance with division (B) of section 5747.212 of the Revised 1473
Code without regard to division (A) of that section. 1474

If the allocation and apportionment of a trust's income 1475
under divisions (AA) (4) (a) and (c) of this section do not fairly 1476
represent the modified Ohio taxable income of the trust in this 1477
state, the alternative methods described in division (C) of 1478
section 5747.21 of the Revised Code may be applied in the manner 1479
and to the same extent provided in that section. 1480

(5) (a) Except as set forth in division (AA) (5) (b) of this 1481

section, "qualifying investee" means a person in which a trust 1482
has an equity or ownership interest, or a person or unit of 1483
government the debt obligations of either of which are owned by 1484
a trust. For the purposes of division (AA) (2) (a) of this section 1485
and for the purpose of computing the fraction described in 1486
division (AA) (4) (b) of this section, all of the following apply: 1487

(i) If the qualifying investee is a member of a qualifying 1488
controlled group on the last day of the qualifying investee's 1489
fiscal or calendar year ending immediately prior to the date on 1490
which the trust recognizes the gain or loss, then "qualifying 1491
investee" includes all persons in the qualifying controlled 1492
group on such last day. 1493

(ii) If the qualifying investee, or if the qualifying 1494
investee and any members of the qualifying controlled group of 1495
which the qualifying investee is a member on the last day of the 1496
qualifying investee's fiscal or calendar year ending immediately 1497
prior to the date on which the trust recognizes the gain or 1498
loss, separately or cumulatively own, directly or indirectly, on 1499
the last day of the qualifying investee's fiscal or calendar 1500
year ending immediately prior to the date on which the trust 1501
recognizes the qualifying trust amount, more than fifty per cent 1502
of the equity of a pass-through entity, then the qualifying 1503
investee and the other members are deemed to own the 1504
proportionate share of the pass-through entity's physical assets 1505
which the pass-through entity directly or indirectly owns on the 1506
last day of the pass-through entity's calendar or fiscal year 1507
ending within or with the last day of the qualifying investee's 1508
fiscal or calendar year ending immediately prior to the date on 1509
which the trust recognizes the qualifying trust amount. 1510

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1511

section, "upper level pass-through entity" means a pass-through 1512
entity directly or indirectly owning any equity of another pass- 1513
through entity, and "lower level pass-through entity" means that 1514
other pass-through entity. 1515

An upper level pass-through entity, whether or not it is 1516
also a qualifying investee, is deemed to own, on the last day of 1517
the upper level pass-through entity's calendar or fiscal year, 1518
the proportionate share of the lower level pass-through entity's 1519
physical assets that the lower level pass-through entity 1520
directly or indirectly owns on the last day of the lower level 1521
pass-through entity's calendar or fiscal year ending within or 1522
with the last day of the upper level pass-through entity's 1523
fiscal or calendar year. If the upper level pass-through entity 1524
directly and indirectly owns less than fifty per cent of the 1525
equity of the lower level pass-through entity on each day of the 1526
upper level pass-through entity's calendar or fiscal year in 1527
which or with which ends the calendar or fiscal year of the 1528
lower level pass-through entity and if, based upon clear and 1529
convincing evidence, complete information about the location and 1530
cost of the physical assets of the lower pass-through entity is 1531
not available to the upper level pass-through entity, then 1532
solely for purposes of ascertaining if a gain or loss 1533
constitutes a qualifying trust amount, the upper level pass- 1534
through entity shall be deemed as owning no equity of the lower 1535
level pass-through entity for each day during the upper level 1536
pass-through entity's calendar or fiscal year in which or with 1537
which ends the lower level pass-through entity's calendar or 1538
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1539
shall be construed to provide for any deduction or exclusion in 1540
computing any trust's Ohio taxable income. 1541

(b) With respect to a trust that is not a resident for the 1542

taxable year and with respect to a part of a trust that is not a 1543
resident for the taxable year, "qualifying investee" for that 1544
taxable year does not include a C corporation if both of the 1545
following apply: 1546

(i) During the taxable year the trust or part of the trust 1547
recognizes a gain or loss from the sale, exchange, or other 1548
disposition of equity or ownership interests in, or debt 1549
obligations of, the C corporation. 1550

(ii) Such gain or loss constitutes nonbusiness income. 1551

(6) "Available" means information is such that a person is 1552
able to learn of the information by the due date plus 1553
extensions, if any, for filing the return for the taxable year 1554
in which the trust recognizes the gain or loss. 1555

(BB) "Qualifying controlled group" has the same meaning as 1556
in section 5733.04 of the Revised Code. 1557

(CC) "Related member" has the same meaning as in section 1558
5733.042 of the Revised Code. 1559

(DD) (1) For the purposes of division (DD) of this section: 1560

(a) "Qualifying person" means any person other than a 1561
qualifying corporation. 1562

(b) "Qualifying corporation" means any person classified 1563
for federal income tax purposes as an association taxable as a 1564
corporation, except either of the following: 1565

(i) A corporation that has made an election under 1566
subchapter S, chapter one, subtitle A, of the Internal Revenue 1567
Code for its taxable year ending within, or on the last day of, 1568
the investor's taxable year; 1569

(ii) A subsidiary that is wholly owned by any corporation 1570
that has made an election under subchapter S, chapter one, 1571
subtitle A of the Internal Revenue Code for its taxable year 1572
ending within, or on the last day of, the investor's taxable 1573
year. 1574

(2) For the purposes of this chapter, unless expressly 1575
stated otherwise, no qualifying person indirectly owns any asset 1576
directly or indirectly owned by any qualifying corporation. 1577

(EE) For purposes of this chapter and Chapter 5751. of the 1578
Revised Code: 1579

(1) "Trust" does not include a qualified pre-income tax 1580
trust. 1581

(2) A "qualified pre-income tax trust" is any pre-income 1582
tax trust that makes a qualifying pre-income tax trust election 1583
as described in division (EE)(3) of this section. 1584

(3) A "qualifying pre-income tax trust election" is an 1585
election by a pre-income tax trust to subject to the tax imposed 1586
by section 5751.02 of the Revised Code the pre-income tax trust 1587
and all pass-through entities of which the trust owns or 1588
controls, directly, indirectly, or constructively through 1589
related interests, five per cent or more of the ownership or 1590
equity interests. The trustee shall notify the tax commissioner 1591
in writing of the election on or before April 15, 2006. The 1592
election, if timely made, shall be effective on and after 1593
January 1, 2006, and shall apply for all tax periods and tax 1594
years until revoked by the trustee of the trust. 1595

(4) A "pre-income tax trust" is a trust that satisfies all 1596
of the following requirements: 1597

(a) The document or instrument creating the trust was 1598

executed by the grantor before January 1, 1972; 1599

(b) The trust became irrevocable upon the creation of the 1600
trust; and 1601

(c) The grantor was domiciled in this state at the time 1602
the trust was created. 1603

(FF) "Uniformed services" has the same meaning as in 10 1604
U.S.C. 101. 1605

(GG) "Taxable business income" means the amount by which 1606
an individual's business income that is included in federal 1607
adjusted gross income exceeds the amount of business income the 1608
individual is authorized to deduct under division (A) (28) of 1609
this section for the taxable year. 1610

(HH) "Employer" does not include a franchisor with respect 1611
to the franchisor's relationship with a franchisee or an 1612
employee of a franchisee, unless the franchisor agrees to assume 1613
that role in writing or a court of competent jurisdiction 1614
determines that the franchisor exercises a type or degree of 1615
control over the franchisee or the franchisee's employees that 1616
is not customarily exercised by a franchisor for the purpose of 1617
protecting the franchisor's trademark, brand, or both. For 1618
purposes of this division, "franchisor" and "franchisee" have 1619
the same meanings as in 16 C.F.R. 436.1. 1620

(II) "Modified adjusted gross income" means Ohio adjusted 1621
gross income plus any amount deducted under divisions (A) (28) 1622
and (34) of this section for the taxable year. 1623

(JJ) "Qualifying Ohio educator" means an individual who, 1624
for a taxable year, qualifies as an eligible educator, as that 1625
term is defined in section 62 of the Internal Revenue Code, and 1626
who holds a certificate, license, or permit described in Chapter 1627

3319. or section 3301.071 of the Revised Code. 1628

Sec. 5747.03. (A) (1) All money collected under this 1629
chapter arising from the taxes imposed by section 5747.02 ~~or, 1630
5747.38, or 5747.41~~ of the Revised Code shall be credited to the 1631
general revenue fund and distributed pursuant to division (F) of 1632
section 321.24 and section 323.156 of the Revised Code; to make 1633
subsidy payments to institutions of higher education from 1634
appropriations to the department of higher education; to support 1635
expenditures for programs and services for the mentally ill, 1636
persons with developmental disabilities, and the elderly; for 1637
primary and secondary education; for medical assistance; and for 1638
any other purposes authorized by law, subject to the limitation 1639
that at least fifty per cent of the income tax collected by the 1640
state from the tax imposed by section 5747.02 of the Revised 1641
Code shall be returned pursuant to Section 9 of Article XII, 1642
Ohio Constitution. 1643

(2) To ensure that such constitutional requirement is 1644
satisfied the tax commissioner shall, on or before the thirtieth 1645
day of June of each year, from the best information available to 1646
the tax commissioner, determine and certify for each county to 1647
the director of budget and management the amount of taxes 1648
collected under this chapter from the tax imposed under section 1649
5747.02 of the Revised Code during the preceding calendar year 1650
that are required to be returned to the county by Section 9 of 1651
Article XII, Ohio Constitution. The director shall provide for 1652
payment from the general revenue fund to the county in the 1653
amount, if any, that the sum of the amount so certified for that 1654
county exceeds the sum of the following: 1655

(a) The sum of the payments from the general revenue fund 1656
for the preceding calendar year credited to the county's 1657

undivided income tax fund pursuant to division (F) of section 1658
321.24 and section 323.156 of the Revised Code or made directly 1659
from the general revenue fund to political subdivisions located 1660
in the county; 1661

(b) The sum of the amounts from the general revenue fund 1662
distributed in the county during the preceding calendar year for 1663
subsidy payments to institutions of higher education from 1664
appropriations to the department of higher education; for 1665
programs and services for mentally ill persons, persons with 1666
developmental disabilities, and elderly persons; for primary and 1667
secondary education; and for medical assistance. 1668

(c) In the case of payments made by the director under 1669
this division in 2007, the total amount distributed to the 1670
county during the preceding calendar year from the local 1671
government fund and the local government revenue assistance 1672
fund, and, in the case of payments made by the director under 1673
this division in subsequent calendar years, the amount 1674
distributed to the county from the local government fund; 1675

(d) In the case of payments made by the director under 1676
this division, the total amount distributed to the county during 1677
the preceding calendar year from the public library fund. 1678

Payments under this division shall be credited to the 1679
county's undivided income tax fund, except that, notwithstanding 1680
section 5705.14 of the Revised Code, such payments may be 1681
transferred by the board of county commissioners to the county 1682
general fund by resolution adopted with the affirmative vote of 1683
two-thirds of the members thereof. 1684

(B) All payments received in each month from taxes imposed 1685
under Chapter 5748. of the Revised Code and any penalties or 1686

interest thereon shall be paid into the school district income 1687
tax fund, which is hereby created in the state treasury, except 1688
that an amount equal to the following portion of such payments 1689
shall be paid into the general school district income tax 1690
administrative fund, which is hereby created in the state 1691
treasury: 1692

(1) One and three-quarters of one per cent of those 1693
received in fiscal year 1996; 1694

(2) One and one-half per cent of those received in fiscal 1695
year 1997 and thereafter. 1696

Money in the school district income tax administrative 1697
fund shall be used by the tax commissioner to defray costs 1698
incurred in administering the school district's income tax, 1699
including the cost of providing employers with information 1700
regarding the rate of tax imposed by any school district. Any 1701
moneys remaining in the fund after such use shall be deposited 1702
in the school district income tax fund. 1703

All interest earned on moneys in the school district 1704
income tax fund shall be credited to the fund. 1705

(C) (1) (a) Within thirty days of the end of each calendar 1706
quarter ending on the last day of March, June, September, and 1707
December, the director of budget and management shall make a 1708
payment from the school district income tax fund to each school 1709
district for which school district income tax revenue was 1710
received during that quarter. The amount of the payment shall 1711
equal the balance in the school district's account at the end of 1712
that quarter. 1713

(b) After a school district ceases to levy an income tax, 1714
the director of budget and management shall adjust the payments 1715

under division (C)(1)(a) of this section to retain sufficient 1716
money in the school district's account to pay refunds. For the 1717
calendar quarters ending on the last day of March and December 1718
of the calendar year following the last calendar year the tax is 1719
levied, the director shall make the payments in the amount 1720
required under division (C)(1)(a) of this section. For the 1721
calendar quarter ending on the last day of June of the calendar 1722
year following the last calendar year the tax is levied, the 1723
director shall make a payment equal to nine-tenths of the 1724
balance in the account at the end of that quarter. For the 1725
calendar quarter ending on the last day of September of the 1726
calendar year following the last calendar year the tax is 1727
levied, the director shall make no payment. For the second and 1728
succeeding calendar years following the last calendar year the 1729
tax is levied, the director shall make one payment each year, 1730
within thirty days of the last day of June, in an amount equal 1731
to the balance in the district's account on the last day of 1732
June. 1733

(2) Moneys paid to a school district under this division 1734
shall be deposited in its school district income tax fund. All 1735
interest earned on moneys in the school district income tax fund 1736
shall be apportioned by the tax commissioner pro rata among the 1737
school districts in the proportions and at the times the 1738
districts are entitled to receive payments under this division. 1739

Sec. 5747.08. An annual return with respect to the tax 1740
imposed by section 5747.02 of the Revised Code and each tax 1741
imposed under Chapter 5748. of the Revised Code shall be made by 1742
every taxpayer for any taxable year for which the taxpayer is 1743
liable for the tax imposed by that section or under that 1744
chapter, unless the total credits allowed under division (E) of 1745
section 5747.05 and divisions (F) and (G) of section 5747.055 of 1746

the Revised Code for the year are equal to or exceed the tax 1747
imposed by section 5747.02 of the Revised Code, in which case no 1748
return shall be required unless the taxpayer is liable for a tax 1749
imposed pursuant to Chapter 5748. of the Revised Code. 1750

(A) If an individual is deceased, any return or notice 1751
required of that individual under this chapter shall be made and 1752
filed by that decedent's executor, administrator, or other 1753
person charged with the property of that decedent. 1754

(B) If an individual is unable to make a return or notice 1755
required by this chapter, the return or notice required of that 1756
individual shall be made and filed by the individual's duly 1757
authorized agent, guardian, conservator, fiduciary, or other 1758
person charged with the care of the person or property of that 1759
individual. 1760

(C) Returns or notices required of an estate or a trust 1761
shall be made and filed by the fiduciary of the estate or trust. 1762

(D) (1) (a) Except as otherwise provided in division (D) (1) 1763
(b) of this section, any pass-through entity may file a single 1764
return on behalf of one or more of the entity's investors other 1765
than an investor that is a person subject to the tax imposed 1766
under section 5733.06 of the Revised Code. The single return 1767
shall set forth the name, address, and social security number or 1768
other identifying number of each of those pass-through entity 1769
investors and shall indicate the distributive share of each of 1770
those pass-through entity investor's income taxable in this 1771
state in accordance with sections 5747.20 to 5747.231 of the 1772
Revised Code. Such pass-through entity investors for whom the 1773
pass-through entity elects to file a single return are not 1774
entitled to the exemption or credit provided for by sections 1775
5747.02 and 5747.022 of the Revised Code; shall calculate the 1776

tax before business credits at the highest rate of tax set forth 1777
in section 5747.02 of the Revised Code for the taxable year for 1778
which the return is filed; and are entitled to only their 1779
distributive share of the business credits as defined in 1780
division (D) (2) of this section. A single check drawn by the 1781
pass-through entity shall accompany the return in full payment 1782
of the tax due, as shown on the single return, for such 1783
investors, other than investors who are persons subject to the 1784
tax imposed under section 5733.06 of the Revised Code. 1785

(b) (i) A pass-through entity shall not include in such a 1786
single return any investor that is a trust to the extent that 1787
any direct or indirect current, future, or contingent 1788
beneficiary of the trust is a person subject to the tax imposed 1789
under section 5733.06 of the Revised Code. 1790

(ii) A pass-through entity shall not include in such a 1791
single return any investor that is itself a pass-through entity 1792
to the extent that any direct or indirect investor in the second 1793
pass-through entity is a person subject to the tax imposed under 1794
section 5733.06 of the Revised Code. 1795

(c) ~~Nothing~~ Except as provided by division (L) of this 1796
section, nothing in division (D) of this section precludes the 1797
tax commissioner from requiring such investors to file the 1798
return and make the payment of taxes and related interest, 1799
penalty, and interest penalty required by this section or 1800
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 1801
Nothing in division (D) of this section precludes such an 1802
investor from filing the annual return under this section, 1803
utilizing the refundable credit equal to the investor's 1804
proportionate share of the tax paid by the pass-through entity 1805
on behalf of the investor under division (I) of this section, 1806

and making the payment of taxes imposed under section 5747.02 of 1807
the Revised Code. Nothing in division (D) of this section shall 1808
be construed to provide to such an investor or pass-through 1809
entity any additional deduction or credit, other than the credit 1810
provided by division (I) of this section, solely on account of 1811
the entity's filing a return in accordance with this section. 1812
Such a pass-through entity also shall make the filing and 1813
payment of estimated taxes on behalf of the pass-through entity 1814
investors other than an investor that is a person subject to the 1815
tax imposed under section 5733.06 of the Revised Code. 1816

(2) For the purposes of this section, "business credits" 1817
means the credits listed in section 5747.98 of the Revised Code 1818
excluding the following credits: 1819

(a) The retirement income credit under division (B) of 1820
section 5747.055 of the Revised Code; 1821

(b) The senior citizen credit under division (F) of 1822
section 5747.055 of the Revised Code; 1823

(c) The lump sum distribution credit under division (G) of 1824
section 5747.055 of the Revised Code; 1825

(d) The dependent care credit under section 5747.054 of 1826
the Revised Code; 1827

(e) The lump sum retirement income credit under division 1828
(C) of section 5747.055 of the Revised Code; 1829

(f) The lump sum retirement income credit under division 1830
(D) of section 5747.055 of the Revised Code; 1831

(g) The lump sum retirement income credit under division 1832
(E) of section 5747.055 of the Revised Code; 1833

(h) The credit for displaced workers who pay for job 1834

training under section 5747.27 of the Revised Code;	1835
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1836 1837
(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	1838 1839
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1840 1841
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1842 1843
(m) The earned income tax credit under section 5747.71 of the Revised Code;	1844 1845
(n) The lead abatement credit under section 5747.26 of the Revised Code;	1846 1847
(o) The credit for education expenses under section 5747.72 of the Revised Code;	1848 1849
(p) The credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code.	1850 1851
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	1852 1853 1854 1855 1856 1857 1858 1859
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity	1860 1861

shall be liable for any additional taxes, interest, interest 1862
penalty, or penalties imposed by this chapter if the tax 1863
commissioner finds that the single return does not reflect the 1864
correct tax due by the pass-through entity investors covered by 1865
that return. Nothing in this division shall be construed to 1866
limit or alter the liability, if any, imposed on pass-through 1867
entity investors for unpaid or underpaid taxes, interest, 1868
interest penalty, or penalties as a result of the pass-through 1869
entity's making the election provided for under division (D) of 1870
this section. For the purposes of division (D) of this section, 1871
"correct tax due" means the tax that would have been paid by the 1872
pass-through entity had the single return been filed in a manner 1873
reflecting the commissioner's findings. Nothing in division (D) 1874
of this section shall be construed to make or hold a pass- 1875
through entity liable for tax attributable to a pass-through 1876
entity investor's income from a source other than the pass- 1877
through entity electing to file the single return. 1878

(E) If a husband and wife file a joint federal income tax 1879
return for a taxable year, they shall file a joint return under 1880
this section for that taxable year, and their liabilities are 1881
joint and several, but, if the federal income tax liability of 1882
either spouse is determined on a separate federal income tax 1883
return, they shall file separate returns under this section. 1884

If either spouse is not required to file a federal income 1885
tax return and either or both are required to file a return 1886
pursuant to this chapter, they may elect to file separate or 1887
joint returns, and, pursuant to that election, their liabilities 1888
are separate or joint and several. If a husband and wife file 1889
separate returns pursuant to this chapter, each must claim the 1890
taxpayer's own exemption, but not both, as authorized under 1891
section 5747.02 of the Revised Code on the taxpayer's own 1892

return. 1893

(F) Each return or notice required to be filed under this 1894
section shall contain the signature of the taxpayer or the 1895
taxpayer's duly authorized agent and of the person who prepared 1896
the return for the taxpayer, and shall include the taxpayer's 1897
social security number. Each return shall be verified by a 1898
declaration under the penalties of perjury. The tax commissioner 1899
shall prescribe the form that the signature and declaration 1900
shall take. 1901

(G) Each return or notice required to be filed under this 1902
section shall be made and filed as required by section 5747.04 1903
of the Revised Code, on or before the fifteenth day of April of 1904
each year, on forms that the tax commissioner shall prescribe, 1905
together with remittance made payable to the treasurer of state 1906
in the combined amount of the state and all school district 1907
income taxes shown to be due on the form. 1908

Upon good cause shown, the commissioner may extend the 1909
period for filing any notice or return required to be filed 1910
under this section and may adopt rules relating to extensions. 1911
If the extension results in an extension of time for the payment 1912
of any state or school district income tax liability with 1913
respect to which the return is filed, the taxpayer shall pay at 1914
the time the tax liability is paid an amount of interest 1915
computed at the rate per annum prescribed by section 5703.47 of 1916
the Revised Code on that liability from the time that payment is 1917
due without extension to the time of actual payment. Except as 1918
provided in section 5747.132 of the Revised Code, in addition to 1919
all other interest charges and penalties, all taxes imposed 1920
under this chapter or Chapter 5748. of the Revised Code and 1921
remaining unpaid after they become due, except combined amounts 1922

due of one dollar or less, bear interest at the rate per annum 1923
prescribed by section 5703.47 of the Revised Code until paid or 1924
until the day an assessment is issued under section 5747.13 of 1925
the Revised Code, whichever occurs first. 1926

If the commissioner considers it necessary in order to 1927
ensure the payment of the tax imposed by section 5747.02 of the 1928
Revised Code or any tax imposed under Chapter 5748. of the 1929
Revised Code, the commissioner may require returns and payments 1930
to be made otherwise than as provided in this section. 1931

To the extent that any provision in this division 1932
conflicts with any provision in section 5747.026 of the Revised 1933
Code, the provision in that section prevails. 1934

(H) The amounts withheld pursuant to section 5747.06, 1935
5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of the 1936
Revised Code shall be allowed to the ultimate recipient of the 1937
income as credits against payment of the appropriate taxes 1938
imposed on the ultimate recipient by section 5747.02 and under 1939
Chapter 5748. of the Revised Code. As used in this division, 1940
"ultimate recipient" means the person who is required to report 1941
income from which amounts are withheld pursuant to section 1942
5747.06, 5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of 1943
the Revised Code on the annual return required to be filed under 1944
this section. 1945

(I) If a pass-through entity elects to file a single 1946
return under division (D) of this section and if any investor is 1947
required to file the annual return and make the payment of taxes 1948
required by this chapter on account of the investor's other 1949
income that is not included in a single return filed by a pass- 1950
through entity or any other investor elects to file the annual 1951
return, the investor is entitled to a refundable credit equal to 1952

the investor's proportionate share of the tax paid by the pass- 1953
through entity on behalf of the investor. The investor shall 1954
claim the credit for the investor's taxable year in which or 1955
with which ends the taxable year of the pass-through entity. 1956
Nothing in this chapter shall be construed to allow any credit 1957
provided in this chapter to be claimed more than once. For the 1958
purpose of computing any interest, penalty, or interest penalty, 1959
the investor shall be deemed to have paid the refundable credit 1960
provided by this division on the day that the pass-through 1961
entity paid the estimated tax or the tax giving rise to the 1962
credit. 1963

(J) The tax commissioner shall ensure that each return 1964
required to be filed under this section includes a box that the 1965
taxpayer may check to authorize a paid tax preparer who prepared 1966
the return to communicate with the department of taxation about 1967
matters pertaining to the return. The return or instructions 1968
accompanying the return shall indicate that by checking the box 1969
the taxpayer authorizes the department of taxation to contact 1970
the preparer concerning questions that arise during the 1971
processing of the return and authorizes the preparer only to 1972
provide the department with information that is missing from the 1973
return, to contact the department for information about the 1974
processing of the return or the status of the taxpayer's refund 1975
or payments, and to respond to notices about mathematical 1976
errors, offsets, or return preparation that the taxpayer has 1977
received from the department and has shown to the preparer. 1978

(K) The tax commissioner shall permit individual taxpayers 1979
to instruct the department of taxation to cause any refund of 1980
overpaid taxes to be deposited directly into a checking account, 1981
savings account, or an individual retirement account or 1982
individual retirement annuity, or preexisting college savings 1983

plan or program account offered by the Ohio tuition trust 1984
authority under Chapter 3334. of the Revised Code, as designated 1985
by the taxpayer, when the taxpayer files the annual return 1986
required by this section electronically. 1987

(L) If, for the taxable year, a nonresident or trust that 1988
is the owner of an electing pass-through entity, as defined in 1989
section 5747.38 of the Revised Code, does not have Ohio adjusted 1990
gross income or, in the case of a trust, modified Ohio taxable 1991
income other than from one or more electing pass-through 1992
entities, the nonresident or trust shall not be required to file 1993
an annual return under this section. Nothing in this division 1994
precludes such an owner from filing the annual return under this 1995
section, utilizing the refundable credit under section 5747.39 1996
of the Revised Code equal to the owner's proportionate share of 1997
the tax levied under section 5747.38 of the Revised Code and 1998
paid by the electing pass-through entity, and making the payment 1999
of taxes imposed under section 5747.02 of the Revised Code. 2000

(M) The tax commissioner may adopt rules to administer 2001
this section. 2002

Sec. 5747.11. (A) The tax commissioner shall refund to 2003
employers, qualifying entities, electing pass-through entities, 2004
or taxpayers subject to a tax imposed under section 5733.41, 2005
5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised 2006
Code the amount of any overpayment of such tax. 2007

(B) Except as otherwise provided under divisions (D) and 2008
(E) of this section, applications for refund shall be filed with 2009
the tax commissioner, on the form prescribed by the 2010
commissioner, within four years from the date of the illegal, 2011
erroneous, or excessive payment of the tax, or within any 2012
additional period allowed by division (B) (3) (b) of section 2013

5747.05, division (E) of section 5747.10, division (A) of 2014
section 5747.13, or division (C) of section 5747.45 of the 2015
Revised Code. 2016

On filing of the refund application, the commissioner 2017
shall determine the amount of refund due and, if that amount 2018
exceeds one dollar, certify such amount to the director of 2019
budget and management and treasurer of state for payment from 2020
the tax refund fund created by section 5703.052 of the Revised 2021
Code. Payment shall be made as provided in division (C) of 2022
section 126.35 of the Revised Code. 2023

(C) (1) Interest shall be allowed and paid at the rate per 2024
annum prescribed by section 5703.47 of the Revised Code on 2025
amounts refunded with respect to the tax imposed under section 2026
5747.02 or Chapter 5748. of the Revised Code from the date of 2027
the overpayment until the date of the refund of the overpayment, 2028
except that if any overpayment is refunded within ninety days 2029
after the final filing date of the annual return or ninety days 2030
after the return is filed, whichever is later, no interest shall 2031
be allowed on such overpayment. If the overpayment results from 2032
the carryback of a net operating loss or net capital loss to a 2033
previous taxable year, the overpayment is deemed not to have 2034
been made prior to the filing date, including any extension 2035
thereof, for the taxable year in which the net operating loss or 2036
net capital loss arises. For purposes of the payment of interest 2037
on overpayments, no amount of tax, for any taxable year, shall 2038
be treated as having been paid before the date on which the tax 2039
return for that year was due without regard to any extension of 2040
time for filing such return. 2041

(2) Interest shall be allowed at the rate per annum 2042
prescribed by section 5703.47 of the Revised Code on amounts 2043

refunded with respect to the taxes imposed under sections 2044
5733.41 and 5747.41 or under section 5747.38 of the Revised 2045
Code. The interest shall run from whichever of the following 2046
days is the latest until the day the refund is paid: the day the 2047
illegal, erroneous, or excessive payment was made; the ninetieth 2048
day after the final day the annual report was required to be 2049
filed under section 5747.42 of the Revised Code; or the 2050
ninetieth day after the day that report was filed. 2051

(D) "Ninety days" shall be substituted for "four years" in 2052
division (B) of this section if the taxpayer satisfies both of 2053
the following conditions: 2054

(1) The taxpayer has applied for a refund based in whole 2055
or in part upon section 5747.059 of the Revised Code; 2056

(2) The taxpayer asserts that either the imposition or 2057
collection of the tax imposed or charged by this chapter or any 2058
portion of such tax violates the Constitution of the United 2059
States or the Constitution of Ohio. 2060

(E) (1) Division (E) (2) of this section applies only if all 2061
of the following conditions are satisfied: 2062

(a) A qualifying entity pays an amount of the tax imposed 2063
by section 5733.41 or 5747.41 of the Revised Code; 2064

(b) The taxpayer is a qualifying investor as to that 2065
qualifying entity; 2066

(c) The taxpayer did not claim the credit provided for in 2067
section 5747.059 of the Revised Code as to the tax described in 2068
division (E) (1) (a) of this section; 2069

(d) The four-year period described in division (B) of this 2070
section has ended as to the taxable year for which the taxpayer 2071

otherwise would have claimed that credit. 2072

(2) A taxpayer shall file an application for refund 2073
pursuant to division (E) of this section within one year after 2074
the date the payment described in division (E)(1)(a) of this 2075
section is made. An application filed under division (E)(2) of 2076
this section shall claim refund only of overpayments resulting 2077
from the taxpayer's failure to claim the credit described in 2078
division (E)(1)(c) of this section. Nothing in division (E) of 2079
this section shall be construed to relieve a taxpayer from 2080
complying with division (A)(15) of section 5747.01 of the 2081
Revised Code. 2082

Sec. 5747.13. (A) If any employer collects the tax imposed 2083
by section 5747.02 or under Chapter 5748. of the Revised Code 2084
and fails to remit the tax as required by law, or fails to 2085
collect the tax, the employer is personally liable for any 2086
amount collected that the employer fails to remit, or any amount 2087
that the employer fails to collect. If any taxpayer fails to 2088
file a return or fails to pay the tax imposed by section 5747.02 2089
or under Chapter 5748. of the Revised Code, the taxpayer is 2090
personally liable for the amount of the tax. 2091

If any employer, taxpayer, ~~or~~ qualifying entity, or 2092
electing pass-through entity required to file a return under 2093
this chapter fails to file the return within the time 2094
prescribed, files an incorrect return, fails to remit the full 2095
amount of the taxes due for the period covered by the return, or 2096
fails to remit any additional tax due as a result of a reduction 2097
in the amount of the credit allowed under division (B) of 2098
section 5747.05 of the Revised Code together with interest on 2099
the additional tax within the time prescribed by that division, 2100
the tax commissioner may make an assessment against any person 2101

liable for any deficiency for the period for which the return is 2102
or taxes are due, based upon any information in the 2103
commissioner's possession. 2104

An assessment issued against either the employer or the 2105
taxpayer pursuant to this section shall not be considered an 2106
election of remedies or a bar to an assessment against the other 2107
for failure to report or pay the same tax. No assessment shall 2108
be issued against any person if the tax actually has been paid 2109
by another. 2110

No assessment shall be made or issued against an employer, 2111
a taxpayer, ~~or a qualifying entity, or an electing pass-through~~ 2112
entity more than four years after the final date the return 2113
subject to assessment was required to be filed or the date the 2114
return was filed, whichever is later. However, the commissioner 2115
may assess any balance due as the result of a reduction in the 2116
credit allowed under division (B) of section 5747.05 of the 2117
Revised Code, including applicable penalty and interest, within 2118
four years of the date on which the taxpayer reports a change in 2119
either the portion of the taxpayer's adjusted gross income 2120
subjected to an income tax or tax measured by income in another 2121
state or the District of Columbia, or the amount of liability 2122
for an income tax or tax measured by income to another state or 2123
the District of Columbia, as required by division (B) (3) of 2124
section 5747.05 of the Revised Code. Such time limits may be 2125
extended if both the employer, taxpayer, ~~or qualifying entity,~~ 2126
or electing pass-through entity and the commissioner consent in 2127
writing to the extension or if an agreement waiving or extending 2128
the time limits has been entered into pursuant to section 2129
122.171 of the Revised Code. Any such extension shall extend the 2130
four-year time limit in division (B) of section 5747.11 of the 2131
Revised Code for the same period of time. There shall be no bar 2132

or limit to an assessment against an employer for taxes withheld 2133
from employees and not remitted to the state, against an 2134
employer, a taxpayer, ~~or a~~ qualifying entity, or an electing 2135
pass-through entity that fails to file a return subject to 2136
assessment as required by this chapter, or against an employer, 2137
a taxpayer, ~~or a~~ qualifying entity, or an electing pass-through 2138
entity that files a fraudulent return. 2139

The commissioner shall give the party assessed written 2140
notice of the assessment in the manner provided in section 2141
5703.37 of the Revised Code. With the notice, the commissioner 2142
shall provide instructions on how to petition for reassessment 2143
and request a hearing on the petition. 2144

(B) Unless the party assessed files with the tax 2145
commissioner within sixty days after service of the notice of 2146
assessment, either personally or by certified mail, a written 2147
petition for reassessment, signed by the party assessed or that 2148
party's authorized agent having knowledge of the facts, the 2149
assessment becomes final, and the amount of the assessment is 2150
due and payable from the party assessed to the commissioner with 2151
remittance made payable to the treasurer of state. The petition 2152
shall indicate the objections of the party assessed, but 2153
additional objections may be raised in writing if received by 2154
the commissioner prior to the date shown on the final 2155
determination. If the petition has been properly filed, the 2156
commissioner shall proceed under section 5703.60 of the Revised 2157
Code. 2158

(C) After an assessment becomes final, if any portion of 2159
the assessment remains unpaid, including accrued interest, a 2160
certified copy of the tax commissioner's entry making the 2161
assessment final may be filed in the office of the clerk of the 2162

court of common pleas in the county in which the employer's, 2163
taxpayer's, ~~or~~ qualifying entity's, or electing pass-through 2164
entity's place of business is located or the county in which the 2165
party assessed resides. If the party assessed is not a resident 2166
of this state, the certified copy of the entry may be filed in 2167
the office of the clerk of the court of common pleas of Franklin 2168
county. 2169

Immediately upon the filing of the entry, the clerk shall 2170
enter a judgment against the party assessed in the amount shown 2171
on the entry. The judgment shall be filed by the clerk in one of 2172
two loose-leaf books, one entitled "special judgments for state 2173
and school district income taxes," and the other entitled 2174
"special judgments for qualifying entity and electing pass- 2175
through entity taxes." The judgment shall have the same effect 2176
as other judgments. Execution shall issue upon the judgment upon 2177
the request of the tax commissioner, and all laws applicable to 2178
sales on execution shall apply to sales made under the judgment. 2179

If the assessment is not paid in its entirety within sixty 2180
days after the assessment was issued, the portion of the 2181
assessment consisting of tax due shall bear interest at the rate 2182
per annum prescribed by section 5703.47 of the Revised Code from 2183
the day the tax commissioner issues the assessment until it is 2184
paid or until it is certified to the attorney general for 2185
collection under section 131.02 of the Revised Code, whichever 2186
comes first. If the unpaid portion of the assessment is 2187
certified to the attorney general for collection, the entire 2188
unpaid portion of the assessment shall bear interest at the rate 2189
per annum prescribed by section 5703.47 of the Revised Code from 2190
the date of certification until the date it is paid in its 2191
entirety. Interest shall be paid in the same manner as the tax 2192
and may be collected by the issuance of an assessment under this 2193

section. 2194

(D) All money collected under this section shall be 2195
considered as revenue arising from the taxes imposed by this 2196
chapter or Chapter 5733. or 5748. of the Revised Code, as 2197
appropriate. 2198

(E) If the party assessed files a petition for 2199
reassessment under division (B) of this section, the person, on 2200
or before the last day the petition may be filed, shall pay the 2201
assessed amount, including assessed interest and assessed 2202
penalties, if any of the following conditions exists: 2203

(1) The person files a tax return reporting Ohio adjusted 2204
gross income, less the exemptions allowed by section 5747.025 of 2205
the Revised Code, in an amount less than one cent, and the 2206
reported amount is not based on the computations required under 2207
division (A) of section 5747.01 or section 5747.025 of the 2208
Revised Code. 2209

(2) The person files a tax return that the tax 2210
commissioner determines to be incomplete, false, fraudulent, or 2211
frivolous. 2212

(3) The person fails to file a tax return, and the basis 2213
for this failure is not either of the following: 2214

(a) An assertion that the person has no nexus with this 2215
state; 2216

(b) The computations required under division (A) of 2217
section 5747.01 of the Revised Code or the application of 2218
credits allowed under this chapter has the result that the 2219
person's tax liability is less than one dollar and one cent. 2220

(F) Notwithstanding the fact that a petition for 2221

reassessment is pending, the petitioner may pay all or a portion 2222
of the assessment that is the subject of the petition. The 2223
acceptance of a payment by the treasurer of state does not 2224
prejudice any claim for refund upon final determination of the 2225
petition. 2226

If upon final determination of the petition an error in 2227
the assessment is corrected by the tax commissioner, upon 2228
petition so filed or pursuant to a decision of the board of tax 2229
appeals or any court to which the determination or decision has 2230
been appealed, so that the amount due from the party assessed 2231
under the corrected assessment is less than the portion paid, 2232
there shall be issued to the petitioner or to the petitioner's 2233
assigns or legal representative a refund in the amount of the 2234
overpayment as provided by section 5747.11 of the Revised Code, 2235
with interest on that amount as provided by such section, 2236
subject to section 5747.12 of the Revised Code. 2237

Sec. 5747.132. (A) As used in this section: 2238

(1) "Qualifying taxpayer" means a taxpayer, an employer, 2239
~~or a qualifying entity, or an electing pass-through entity.~~ 2240

(2) "Qualifying refund overpayment" means an amount 2241
received by a qualifying taxpayer in excess of a refund or 2242
request for payment claimed or made by or on behalf of the 2243
qualifying taxpayer on a return, report, or other document filed 2244
with the tax commissioner. 2245

(B) A qualifying taxpayer is not liable for any interest 2246
or penalty with respect to the repayment of a qualifying refund 2247
overpayment if the taxpayer pays the entire amount of the 2248
overpayment to the tax commissioner not later than thirty days 2249
after the taxpayer receives an assessment for it. If the 2250

taxpayer does not pay the entire amount of the overpayment to 2251
the commissioner within the time prescribed by this section, 2252
interest shall accrue on the amount of the deficiency pursuant 2253
to section 5747.13 of the Revised Code from the day the 2254
commissioner issues the assessment until the deficiency is paid. 2255

Sec. 5747.14. If the tax commissioner finds that an 2256
employer, a qualifying entity, an electing pass-through entity, 2257
or a taxpayer liable for any tax imposed under section 5733.41, 2258
this chapter, or Chapter 5748. of the Revised Code is about to 2259
depart from the state, to remove the employer's, qualifying 2260
entity's, electing pass-through entity's, or taxpayer's property 2261
therefrom, to conceal the employer's, qualifying entity's, 2262
electing pass-through entity's, or taxpayer's self or the 2263
employer's, qualifying entity's, electing pass-through entity's, 2264
or taxpayer's property, or to do any other act tending to 2265
prejudice or render wholly or partly ineffectual proceedings to 2266
collect such tax, unless such proceedings are brought without 2267
delay, or if the commissioner believes that the collection of 2268
the amount due from any employer, qualifying entity, electing 2269
pass-through entity, or taxpayer will be jeopardized by delay, 2270
the commissioner shall give notice of such findings to such 2271
employer, qualifying entity, electing pass-through entity, or 2272
taxpayer together with the demand for an immediate return and 2273
immediate payment of such tax, with an assessment and penalty, 2274
if applicable as provided in section 5747.13 of the Revised 2275
Code, whereupon such tax shall become immediately due and 2276
payable. In such cases the commissioner may immediately file the 2277
commissioner's entry with the clerk of the court of common pleas 2278
in the same manner and with the same effect as provided in 2279
section 5747.13 of the Revised Code, provided that if such 2280
employer, qualifying entity, electing pass-through entity, or 2281

taxpayer, within five days from notice of the assessment, 2282
furnishes evidence satisfactory to the commissioner, under the 2283
rules prescribed by the commissioner, that the employer, 2284
qualifying entity, electing pass-through entity, or taxpayer is 2285
not in default in making returns or paying or collecting any tax 2286
prescribed by this chapter or that the employer, qualifying 2287
entity, electing pass-through entity, or taxpayer will duly 2288
return and pay, or post bond satisfactory to the commissioner 2289
conditioned upon payment of the tax finally determined to be 2290
due, such tax shall not be payable prior to the time and manner 2291
otherwise fixed for payment under section 5747.13 of the Revised 2292
Code, and the person assessed shall be restored to the rights 2293
granted the person under such section. Upon satisfaction of the 2294
assessment the commissioner shall order the bond canceled, 2295
securities released, and judgment vacated. 2296

Sec. 5747.15. (A) In addition to any other penalty imposed 2297
by this chapter or Chapter 5703. of the Revised Code, the 2298
following penalties shall apply: 2299

(1) If a taxpayer, a qualifying entity, an electing pass- 2300
through entity, or an employer required to file any report or 2301
return, including an informational notice, report, or return, 2302
under this chapter fails to make and file the report or return 2303
within the time prescribed, including any extensions of time 2304
granted by the tax commissioner, a penalty may be imposed not 2305
exceeding the greater of fifty dollars per month or fraction of 2306
a month, not to exceed five hundred dollars, or five per cent 2307
per month or fraction of a month, not to exceed fifty per cent, 2308
of the sum of the taxes required to be shown on the report or 2309
return, for each month or fraction of a month elapsing between 2310
the due date, including extensions of the due date, and the date 2311
on which filed. 2312

(2) If a taxpayer fails to pay any amount of tax required 2313
to be paid under section 5733.41 or Chapters 5747. or 5748. of 2314
the Revised Code, except estimated tax under section 5747.09 or 2315
5747.43 of the Revised Code, by the dates prescribed for 2316
payment, a penalty may be imposed not exceeding twice the 2317
applicable interest charged under division (G) of section 2318
5747.08 of the Revised Code for the delinquent payment. 2319

(3) (a) If an employer fails to pay any amount of tax 2320
imposed by section 5747.02 of the Revised Code and required to 2321
be paid under this chapter by the dates prescribed for payment, 2322
a penalty may be imposed not exceeding the sum of ten per cent 2323
of the delinquent payment plus twice the interest charged under 2324
division (F) (5) of section 5747.07 of the Revised Code for the 2325
delinquent payment. 2326

(b) If a qualifying entity or an electing pass-through 2327
entity fails to pay any amount of tax imposed by section 2328
5733.41, 5747.38, or 5747.41 of the Revised Code and required to 2329
be paid under this chapter by the dates prescribed for payment, 2330
a penalty may be imposed not exceeding the sum of ten per cent 2331
of the delinquent payment plus twice the applicable interest 2332
charged under division (G) of section 5747.08 of the Revised 2333
Code for the delinquent payment. 2334

(4) (a) If an employer withholds from employees the tax 2335
imposed by section 5747.02 of the Revised Code and fails to 2336
remit the tax withheld to the state as required by this chapter 2337
on or before the dates prescribed for payment, a penalty may be 2338
imposed not exceeding fifty per cent of the delinquent payment. 2339

(b) If a qualifying entity withholds any amount of tax 2340
imposed under section 5747.41 of the Revised Code from an 2341
individual's qualifying amount and fails to remit that amount to 2342

the state as required by sections 5747.42 to 5747.453 of the Revised Code on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(5) If a taxpayer, a qualifying entity, an electing pass-through entity, or an employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax levied by section 5733.41, 5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised Code, a penalty of up to five hundred dollars may be imposed.

(6) If a taxpayer ~~or,~~ a qualifying entity, or an electing pass-through entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(7) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed under division (A) (7) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5747.13 of the Revised Code as tax, penalty, or interest imposed under section 5733.41, 5747.02, 5747.38, or 5747.41 of the Revised Code, without regard to whether the person making

the claim is otherwise subject to the provisions of this chapter 2373
or Chapter 5733. of the Revised Code, and without regard to any 2374
time limitation for the assessment imposed by division (A) of 2375
section 5747.13 of the Revised Code. 2376

(B) For purposes of this section, the taxes required to be 2377
shown on the return shall be reduced by the amount of any part 2378
of the taxes paid on or before the date, including any 2379
extensions of the date, prescribed for filing the return. 2380

(C) Any penalty imposed under this section shall be in 2381
addition to all other penalties imposed under this section. All 2382
or part of any penalty imposed under this section may be abated 2383
by the commissioner. All or part of any penalty imposed under 2384
this section may be abated by the commissioner if the taxpayer, 2385
qualifying entity, electing pass-through entity, or employer 2386
shows that the failure to comply with the provisions of this 2387
chapter is due to reasonable cause and not willful neglect. 2388

Sec. 5747.38. (A) As used in this section and section 2389
5747.39 of the Revised Code and in other sections of Chapter 2390
5747. of the Revised Code in the context of the tax imposed 2391
under this section: 2392

(1) "Electing pass-through entity" means a qualifying 2393
pass-through entity that elects to be subject to the tax levied 2394
under this section for a taxable year pursuant to division (C) 2395
of this section. 2396

(2) "Owner" means a person that is a partner, member, 2397
shareholder, or investor in an electing pass-through entity for 2398
any portion of the taxable year. 2399

(3) "Income" means the sum of owners' distributive shares 2400
of the income, gain, expense, or loss of an electing pass- 2401

through entity for the taxable year, as reported for federal 2402
income tax purposes. 2403

(4) "Qualifying taxable income" means the sum of the 2404
following: 2405

(a) The portion of an electing pass-through entity's 2406
income that is business income, subject to the applicable 2407
adjustments in divisions (A)(2) to (7) of section 5733.40 of the 2408
Revised Code, multiplied by the fraction described in division 2409
(B)(1) of that section; 2410

(b) The portion of the electing pass-through entity's 2411
income that is nonbusiness income allocated to this state under 2412
section 5747.20 of the Revised Code. 2413

(B) For the same purposes for which the tax is levied 2414
under section 5747.02 of the Revised Code, a tax is hereby 2415
levied on each electing pass-through entity on the entity's 2416
qualifying taxable income for the taxable year, at the following 2417
rates: 2418

(1) For an electing pass-through entity's taxable year 2419
that begins in 2022, five per cent; 2420

(2) For an electing pass-through entity's taxable year 2421
that begins in 2023 and in any year thereafter, the rate equal 2422
to the tax rate imposed on taxable business income under 2423
division (A)(4)(a) of section 5747.02 of the Revised Code 2424
applicable to that taxable year. 2425

(C) A pass-through entity that is not a disregarded 2426
entity, as defined in section 5733.01 of the Revised Code, may 2427
elect to be subject to the tax levied under this section by 2428
filing with the tax commissioner a form prescribed by the 2429
commissioner making such election on or before the deadline to 2430

file the return under section 5747.43 of the Revised Code for 2431
the taxable year. Such election applies only to the taxable year 2432
for which the election is made and is, once made, irrevocable 2433
for that year. 2434

(D) The tax levied under this section shall be calculated 2435
without regard to any deductions or credits otherwise permitted 2436
to be claimed by an owner of the electing pass-through entity in 2437
computing the owner's aggregate tax liability under section 2438
5747.02 of the Revised Code. 2439

(E) The tax levied under this section is intended to 2440
comply with the provisions of internal revenue service notice 2441
2020-75 in which such tax paid by an electing pass-through 2442
entity is deductible to the entity for federal income tax 2443
purposes. 2444

(F) The tax commissioner shall adopt rules to administer 2445
the tax levied under this section. Such rules shall include a 2446
description of how the adjustments to income under divisions (A) 2447
(36) and (S) (15) of section 5747.01 of the Revised Code and the 2448
credit under section 5747.39 of the Revised Code apply to direct 2449
or indirect owners of an electing pass-through entity based on 2450
various ownership structures. Any rule adopted under this 2451
section is not a regulatory restriction for the purpose of 2452
section 121.95 of the Revised Code. 2453

Sec. 5747.39. There is hereby allowed a refundable credit 2454
against a taxpayer's aggregate tax liability under section 2455
5747.02 of the Revised Code for a taxpayer who is an owner of an 2456
electing pass-through entity. The credit shall equal the owner's 2457
proportionate share of the tax levied under section 5747.38 of 2458
the Revised Code remitted by the owner's electing pass-through 2459
entity for the taxable year. 2460

The credit shall be claimed for the taxpayer's taxable 2461
year that includes the last day of the electing pass-through 2462
entity's taxable year for which the tax levied under that 2463
section was paid and in the order required under section 5747.98 2464
of the Revised Code. If the credit exceeds the aggregate amount 2465
of tax otherwise due, the excess shall be refunded to the 2466
taxpayer. 2467

The tax commissioner may request that a taxpayer claiming 2468
a credit under this section furnish information as is necessary 2469
to support the claim for the credit under this section, and no 2470
credit shall be allowed unless the requested information is 2471
provided. 2472

Sec. 5747.41. For the same purposes for which the tax is 2473
levied under section 5747.02 of the Revised Code, there is 2474
hereby levied a withholding tax on every qualifying pass-through 2475
entity having at least one qualifying investor who is an 2476
individual and on every qualifying trust having at least one 2477
qualifying beneficiary who is an individual. The withholding tax 2478
imposed by this section is imposed on the sum of the adjusted 2479
qualifying amounts of a qualifying pass-through entity's 2480
qualifying investors who are individuals and on the sum of the 2481
adjusted qualifying amounts of a qualifying trust's qualifying 2482
beneficiaries, at a rate equal to the tax rate imposed on 2483
taxable business income under division (A) (4) (a) of section 2484
5747.02 of the Revised Code. 2485

The tax imposed by this section applies only if the 2486
qualifying entity has nexus with this state under the 2487
Constitution of the United States for any portion of the 2488
qualifying entity's qualifying taxable year, and the sum of the 2489
qualifying entity's adjusted qualifying amounts exceeds one 2490

thousand dollars for the qualifying entity's qualifying taxable year. 2491
2492

The tax imposed under this section does not apply to a 2493
qualifying pass-through entity that makes an election under 2494
division (C) of section 5747.38 of the Revised Code to be 2495
subject to the tax levied under that section for the entity's 2496
qualifying taxable year. 2497

Sec. 5747.42. (A) In addition to the other returns 2498
required to be filed and other remittances required to be made 2499
pursuant to this chapter, every qualifying entity or electing 2500
pass-through entity that is subject to the tax imposed by 2501
section 5733.41, 5747.38, or 5747.41 of the Revised Code shall 2502
file an annual return as follows: 2503

(1) For a qualifying entity, on or before the fifteenth 2504
day of the fourth month following the end of the ~~qualifying~~ 2505
entity's qualifying taxable year, ~~and;~~ 2506

(2) For an electing pass-through entity, on or before the 2507
fifteenth day of April following the end of the entity's taxable 2508
year that ends in the preceding calendar year. 2509

Each entity shall also remit to the tax commissioner, with 2510
the remittance made payable to the treasurer of state, the 2511
amount of the taxes shown to be due on the return, less the 2512
amount paid for the taxable year on a declaration of estimated 2513
tax report filed by the taxpayer as provided by section 5747.43 2514
of the Revised Code. Remittance shall be made in the form 2515
prescribed by the tax commissioner, including electronic funds 2516
transfer if required by section 5747.44 of the Revised Code. 2517

A domestic qualifying entity shall not dissolve, and a 2518
foreign qualifying entity shall not withdraw or retire from 2519

business in this state, without filing the tax returns and 2520
paying the taxes charged for the year in which such dissolution 2521
or withdrawal occurs. 2522

(B) The tax commissioner shall furnish qualifying entities 2523
or electing pass-through entities, upon request, copies of the 2524
forms prescribed by the commissioner for the purpose of making 2525
the returns required by sections 5747.42 to 5747.453 of the 2526
Revised Code. 2527

(C) The annual return required by this section shall be 2528
signed by the ~~qualifying applicable~~ entity's trustee or other 2529
fiduciary, or president, vice-president, secretary, treasurer, 2530
general manager, general partner, superintendent, or managing 2531
agent in this state. The annual return shall contain the facts, 2532
figures, computations, and attachments that result in the tax 2533
charged by section 5733.41, 5747.38, or 5747.41 of the Revised 2534
Code. Each ~~qualifying~~ entity also shall file with its annual 2535
return all of the following: 2536

(1) ~~The~~ In the case of the tax charged by section 5733.41 2537
or 5747.41 of the Revised Code, the full name and address of 2538
each qualifying investor or qualifying beneficiary unless the 2539
qualifying entity submits such information in accordance with 2540
division (D) of this section; 2541

(2) ~~The~~ In the case of the tax charged by section 5733.41 2542
or 5747.41 of the Revised Code, the social security number, 2543
federal employer identification number, or other identifying 2544
number of each qualifying investor or qualifying beneficiary, 2545
unless the taxpayer submits that information in accordance with 2546
division (D) of this section; 2547

(3) In the case of the tax charged by section 5747.38 of 2548

the Revised Code, the full name and address and the social 2549
security number, federal employer identification number, or 2550
other identifying number of each owner of the electing pass- 2551
through entity, unless the entity submits such information in 2552
accordance with division (D) of this section; 2553

(4) The amount of tax imposed by sections 5733.41 and 2554
5747.41 or by section 5747.38 of the Revised Code, and the 2555
amount of the tax paid by the ~~qualifying~~ entity, for the 2556
~~qualifying~~ applicable taxable year covered by the annual return; 2557

~~(4)~~ (5) The amount of tax imposed by sections 5733.41 and 2558
5747.41 or by section 5747.38 of the Revised Code that is 2559
attributable to each qualifying investor ~~or,~~ qualifying 2560
beneficiary, or owner, as applicable, unless the ~~qualifying~~ 2561
entity submits this information in accordance with division (D) 2562
of this section. 2563

(D) On the date the annual return is due, including 2564
extensions of time, if any, the ~~qualifying~~ applicable entity may 2565
be required by rule to transmit electronically or by magnetic 2566
media the information set forth in division (C) of this section. 2567
The tax commissioner may adopt rules governing the format for 2568
the transmission of such information. The tax commissioner may 2569
exempt a ~~qualifying~~ an entity or a class of ~~qualifying~~ entities 2570
from the requirements imposed by this division. 2571

(E) Upon good cause shown, the tax commissioner may extend 2572
the period for filing any return required to be filed under this 2573
section or section 5747.43 or 5747.44 of the Revised Code and 2574
for transmitting any information required to be transmitted 2575
under those sections. The tax commissioner may adopt rules 2576
relating to extensions of time to file and to transmit. At the 2577
time a ~~qualifying~~ an entity pays any tax imposed under section 2578

5733.41, 5747.38, or 5747.41 of the Revised Code or estimated 2579
tax as required under section 5747.43 of the Revised Code, the 2580
~~qualifying~~ entity also shall pay interest computed at the rate 2581
per annum prescribed by section 5703.47 of the Revised Code on 2582
that tax or estimated tax, from the time the tax or estimated 2583
tax originally was required to be paid, without consideration of 2584
any filing extensions, to the time of actual payment. Nothing in 2585
this division shall be construed to abate, modify, or limit the 2586
imposition of any penalties imposed for the failure to timely 2587
pay taxes under this chapter or Chapter 5733. of the Revised 2588
Code without consideration of any filing extensions. 2589

Sec. 5747.43. (A) As used in this section: 2590

(1) "Estimated taxes" means the amount that a qualifying 2591
entity or electing pass-through entity estimates to be the sum 2592
of its liability under sections 5733.41 and 5747.41 or section 2593
5747.38 of the Revised Code for its current qualifying taxable 2594
year or taxable year, as applicable. 2595

(2) "Tax liability" means the total of the taxes and 2596
withholding taxes due under sections 5733.41 and 5747.41 of the 2597
Revised Code or the tax due under section 5747.38 of the Revised 2598
Code for the ~~qualifying applicable~~ taxable year prior to 2599
applying any estimated tax payment or refund from another year. 2600

(3) "Taxes paid" includes payments of estimated taxes made 2601
under division (C) of this section and tax refunds applied by 2602
the qualifying entity or electing pass-through entity in payment 2603
of estimated taxes. 2604

(4) "Required installment" means a payment equal to 2605
twenty-five per cent of the lesser of the following: 2606

(a) Ninety per cent of the tax liability for the 2607

qualifying taxable year; 2608

(b) One hundred per cent of the tax liability shown on the 2609
return of a qualifying entity or an electing pass-through entity 2610
for the preceding ~~qualifying~~-taxable year. 2611

Division (A) (4) (b) of this section applies only if the 2612
~~qualifying~~-entity filed a return under section 5747.42 of the 2613
Revised Code for the preceding ~~qualifying~~-taxable year and if 2614
the preceding ~~qualifying~~-taxable year was a twelve-month taxable 2615
year. 2616

(B) In addition to the return required to be filed 2617
pursuant to section 5747.42 of the Revised Code, each qualifying 2618
entity or electing pass-through entity that is subject to the 2619
tax imposed under section 5733.41 and to the withholding tax 2620
imposed by section 5747.41 of the Revised Code or that is 2621
subject to the tax imposed under section 5747.38 of the Revised 2622
Code shall file an estimated tax return and pay a portion of the 2623
~~qualifying~~-entity's tax liability for its ~~qualifying~~-taxable 2624
year. The portion of those taxes required to be paid, and the 2625
last day prescribed for payment thereof, shall be as prescribed 2626
by divisions (B) (1), (2), (3), and (4) of this section: 2627

(1) On or before the fifteenth day of the month following 2628
the last day of the first quarter of the ~~qualifying~~-entity's 2629
~~qualifying~~-taxable year, twenty-two and one-half per cent of the 2630
~~qualifying~~-entity's estimated tax liability for that taxable 2631
year; 2632

(2) On or before the fifteenth day of the month following 2633
the last day of the second quarter of the ~~qualifying~~-entity's 2634
~~qualifying~~-taxable year, forty-five per cent of the ~~qualifying~~- 2635
entity's estimated tax liability for that taxable year; 2636

(3) On or before the fifteenth day of the month following 2637
the last day of the third quarter of the ~~qualifying~~ entity's 2638
~~qualifying~~ taxable year, sixty-seven and one-half per cent of 2639
the ~~qualifying~~ entity's estimated tax liability for that taxable 2640
year; 2641

(4) On or before the fifteenth day of the month following 2642
the last day of the fourth quarter of the ~~qualifying~~ entity's 2643
~~qualifying~~ taxable year, ninety per cent of the ~~qualifying~~ 2644
entity's estimated tax liability for that taxable year. 2645

Payments of estimated taxes shall be made payable to the 2646
treasurer of state. 2647

(C) If a payment of estimated taxes is not paid in the 2648
full amount required under division (B) of this section, a 2649
penalty shall be added to the taxes charged for the qualifying 2650
taxable year or taxable year, as applicable, unless the 2651
underpayment is due to reasonable cause as described in division 2652
(D) of this section. The penalty shall accrue at the rate per 2653
annum prescribed by section 5703.47 of the Revised Code upon the 2654
amount of underpayment from the day the estimated payment was 2655
required to be made to the day the payment is made. 2656

The amount of the underpayment upon which the penalty 2657
shall accrue shall be determined as follows: 2658

(1) For the first payment of estimated taxes each year, 2659
the required installment less the amount of taxes paid by the 2660
date prescribed for that payment; 2661

(2) For the second payment of estimated taxes each year, 2662
the required installment less the amount of taxes paid by the 2663
date prescribed for that payment; 2664

(3) For the third payment of estimated taxes each year, 2665

the required installment less the amount of taxes paid by the 2666
date prescribed for that payment; 2667

(4) For the fourth payment of estimated taxes each year, 2668
the required installment less the amount of taxes paid by the 2669
date prescribed for that payment. 2670

For the purposes of this section, a payment of estimated 2671
taxes on or before any payment date shall be considered a 2672
payment of a previous underpayment only to the extent the 2673
payment of estimated taxes exceeds the amount of the payment 2674
presently required to be paid to avoid any penalty. 2675

The penalty imposed under division (C) of this section is 2676
in lieu of any other interest charge or penalty imposed for 2677
failure to file a declaration of estimated tax report and make 2678
estimated payments as required by this section. 2679

(D) An underpayment of estimated taxes determined under 2680
division (C) of this section is due to reasonable cause if any 2681
of the following apply: 2682

(1) The amount of tax that was paid equals at least ninety 2683
per cent of the tax liability for the current ~~qualifying~~-taxable 2684
year, determined by annualizing the income received during that 2685
year up to the end of the month immediately preceding the month 2686
in which the payment is due; 2687

(2) The amount of tax liability that was paid equals at 2688
least ninety per cent of the tax liability for the current 2689
~~qualifying~~-taxable year; 2690

(3) The amount of tax liability that was paid equals at 2691
least one hundred per cent of the tax liability shown on the 2692
return of the ~~qualifying~~-entity for the preceding ~~qualifying~~- 2693
taxable year, provided that the immediately preceding ~~qualifying~~- 2694

taxable year reflected a period of twelve months and the 2695
~~qualifying~~ entity filed a return under section 5747.42 of the 2696
Revised Code for that year. 2697

(E) (1) Divisions (B) and (C) of this section do not apply 2698
for a taxable year if either of the following applies to the 2699
~~qualifying~~ entity: 2700

(a) For the immediately preceding taxable year, the entity 2701
computes in good faith and in a reasonable manner that the sum 2702
of its adjusted qualifying amounts or its qualifying taxable 2703
income, as applicable, is ten thousand dollars or less. 2704

(b) For the taxable year the entity computes in good faith 2705
and in a reasonable manner that the sum of its adjusted 2706
qualifying amounts or its qualifying taxable income, as 2707
applicable, is ten thousand dollars or less. 2708

(2) Notwithstanding any other provision of Title LVII of 2709
the Revised Code to the contrary, the entity shall establish by 2710
a preponderance of the evidence that its computation of the 2711
adjusted qualifying amounts or qualifying taxable income, as 2712
applicable, for the immediately preceding taxable year and the 2713
taxable year was, in fact, made in good faith and in a 2714
reasonable manner. 2715

(F) The tax commissioner may waive the requirement for 2716
filing a declaration of estimated taxes for any class of 2717
qualifying entities if the commissioner finds the waiver is 2718
reasonable and proper in view of administrative costs and other 2719
factors. 2720

(G) Estimated taxes paid by a qualifying entity or an 2721
electing pass-through entity may be applied to satisfy the 2722
entity's tax liability under section 5733.41, 5747.38, or 2723

5747.41 of the Revised Code. Nothing in this section authorizes 2724
such an entity to apply estimated taxes paid against more than 2725
one tax. 2726

Sec. 5747.44. (A) If a qualifying entity's or an electing 2727
pass-through entity's total liability for taxes imposed under 2728
sections 5733.41 and 5747.41 or under section 5747.38 of the 2729
Revised Code exceeds one hundred eighty thousand dollars for the 2730
second preceding taxable year or qualifying taxable year, as 2731
applicable, the ~~qualifying~~ entity shall make all payments 2732
required under sections 5747.42 and 5747.43 or under section 2733
5747.38 of the Revised Code by electronic funds transfer as 2734
prescribed by this section and rules adopted by the treasurer of 2735
state under section 113.061 of the Revised Code. 2736

The tax commissioner shall notify each qualifying entity 2737
and electing pass-through entity required to remit taxes by 2738
electronic funds transfer of the entity's obligation to do so, 2739
shall maintain an updated list of those entities, and shall 2740
provide the list and any additions thereto or deletions 2741
therefrom to the treasurer of state. Failure by the tax 2742
commissioner to notify a ~~qualifying~~ an entity subject to this 2743
section to remit taxes by electronic funds transfer does not 2744
relieve the ~~qualifying~~ entity of its obligation to remit taxes 2745
by electronic funds transfer. 2746

(B) Except as otherwise provided in this division, the 2747
payment of taxes by electronic funds transfer does not affect a 2748
qualifying entity's or an electing pass-through entity's 2749
obligation to file the returns required under sections 5747.42 2750
and 5747.43 of the Revised Code. The treasurer of state, in 2751
consultation with the tax commissioner, may adopt rules in 2752
addition to the rules adopted under section 113.061 of the 2753

Revised Code governing the format for filing returns by 2754
qualifying entities and electing pass-through entities that 2755
remit taxes by electronic funds transfer. The rules may provide 2756
for the filing of returns at less frequent intervals than 2757
otherwise required if the treasurer of state and the tax 2758
commissioner determine that remittance by electronic funds 2759
transfer warrants less frequent filing of returns. 2760

(C) A qualifying entity or an electing pass-through entity 2761
required by this section to remit taxes by electronic funds 2762
transfer may apply to the treasurer of state in the manner 2763
prescribed by the treasurer of state to be excused from that 2764
requirement. The treasurer of state may excuse the ~~qualifying~~ 2765
entity from remittance by electronic funds transfer for good 2766
cause shown for the period of time requested by the ~~qualifying~~ 2767
entity or for a portion of that period. The treasurer of state 2768
shall notify the tax commissioner and the ~~qualifying~~ entity of 2769
the treasurer of state's decision as soon as is practicable. 2770

(D) If a qualifying entity or an electing pass-through 2771
entity required by this section to remit taxes by electronic 2772
funds transfer remits those taxes by some means other than by 2773
electronic funds transfer as prescribed by this section and the 2774
rules adopted by the treasurer of state, and the treasurer of 2775
state determines that such failure was not due to reasonable 2776
cause or was due to willful neglect, the treasurer of state 2777
shall notify the tax commissioner of the failure to remit by 2778
electronic funds transfer and shall provide the commissioner 2779
with any information used in making that determination. The tax 2780
commissioner may collect an additional charge by assessment in 2781
the manner prescribed by section 5747.13 of the Revised Code. 2782
The additional charge shall equal five per cent of the amount of 2783
the taxes required to be paid by electronic funds transfer, but 2784

shall not exceed five thousand dollars. Any additional charge 2785
assessed under this section is in addition to any other penalty 2786
or charge imposed under this chapter or Chapter 5733. of the 2787
Revised Code, and shall be considered as revenue arising from 2788
the taxes imposed under sections 5733.41 and 5747.41 or under 2789
section 5747.38 of the Revised Code. The tax commissioner may 2790
remit all or a portion of such a charge and may adopt rules 2791
governing such remission. 2792

No additional charge shall be assessed under this division 2793
against a qualifying entity or an electing pass-through entity 2794
that has been notified of its obligation to remit taxes under 2795
this section and that remits its first two tax payments after 2796
such notification by some means other than electronic funds 2797
transfer. The additional charge may be assessed upon the 2798
remittance of any subsequent tax payment that the ~~qualifying~~ 2799
entity remits by some means other than electronic funds 2800
transfer. 2801

Sec. 5747.45. (A) A qualifying entity's qualifying taxable 2802
year is the same as its taxable year for federal income tax 2803
purposes. If a qualifying entity's taxable year is changed for 2804
federal income tax purposes, the qualifying taxable year for 2805
purposes of this chapter and sections 5733.40 and 5733.41 of the 2806
Revised Code is changed accordingly. 2807

(B) A qualifying entity's and an electing pass-through 2808
entity's method of accounting shall be the same as its method of 2809
accounting for federal income tax purposes. In the absence of 2810
any method of accounting for federal income tax purposes, income 2811
shall be computed under such method as in the opinion of the tax 2812
commissioner clearly reflects income. 2813

If a qualifying entity's or an electing pass-through 2814

entity's method of accounting is changed for federal income tax 2815
purposes, its method of accounting for purposes of this chapter 2816
shall be changed accordingly. 2817

(C) If any of the facts, figures, computations, or 2818
attachments required in a qualifying entity's or an electing 2819
pass-through entity's annual report to determine the taxes 2820
imposed by section 5733.41, 5747.38, or 5747.41 of the Revised 2821
Code must be altered as the result of an adjustment to the 2822
~~qualifying~~ entity's federal income tax return, whether the 2823
adjustment is initiated by the ~~qualifying~~ entity or the internal 2824
revenue service, and such alteration affects the ~~qualifying~~ 2825
entity's tax liability under ~~one or both~~ any of those sections, 2826
the ~~qualifying~~ entity shall file an amended report with the tax 2827
commissioner in such form as the commissioner requires. The 2828
amended report shall be filed not later than one year after the 2829
adjustment has been agreed to or finally determined for federal 2830
income tax purposes or any federal income tax deficiency or 2831
refund, or the abatement or credit resulting therefrom, has been 2832
assessed or paid, whichever occurs first. 2833

(1) In the case of an underpayment, the amended report 2834
shall be accompanied by payment of an additional tax and 2835
interest due and is a report subject to assessment under section 2836
5747.13 of the Revised Code for the purpose of assessing any 2837
additional tax due under this division, together with any 2838
applicable penalty and interest. It shall not reopen those 2839
facts, figures, computations, or attachments from a previously 2840
filed report no longer subject to assessment that are not 2841
affected, either directly or indirectly, by the adjustment to 2842
the qualifying entity's or electing pass-through entity's 2843
federal income tax return. 2844

(2) In the case of an overpayment, an application for
refund may be filed under this division within the one-year
period prescribed for filing the amended report even if it is
filed beyond the period prescribed in division (B) of section
5747.11 of the Revised Code if it otherwise conforms to the
requirements of that section. An application filed under this
division shall claim refund of overpayments resulting from
alterations to only those facts, figures, computations, or
attachments required in the qualifying entity's or electing
pass-through entity's annual report that are affected, either
directly or indirectly, by the adjustment to the ~~qualifying~~
entity's federal income tax return unless it is also filed
within the time prescribed in division (B) of section 5747.11 of
the Revised Code. It shall not reopen those facts, figures,
computations, or attachments that are not affected, either
directly or indirectly, by the adjustment to the qualifying
entity's federal income tax return.

Sec. 5747.451. (A) The mere retirement from business or
voluntary dissolution of a domestic or foreign qualifying entity
or electing pass-through entity does not exempt it from the
requirements to make reports as required under sections 5747.42
to 5747.44 or to pay the taxes imposed under section 5733.41, 5747.38,
5747.38, or 5747.41 of the Revised Code. If any qualifying
entity or electing pass-through entity subject to the taxes
imposed under section 5733.41, 5747.38, or 5747.41 of the
Revised Code sells its business or stock of merchandise or quits
its business, the taxes required to be paid prior to that time,
together with any interest or penalty thereon, become due and
payable immediately, and the ~~qualifying~~ entity shall make a
final return within fifteen days after the date of selling or
quitting business. The successor of the qualifying entity or

electing pass-through entity shall withhold a sufficient amount 2876
of the purchase money to cover the amount of such taxes, 2877
interest, and penalties due and unpaid until the ~~qualifying~~ 2878
entity produces a receipt from the tax commissioner showing that 2879
the taxes, interest, and penalties have been paid, or a 2880
certificate indicating that no taxes are due. If the purchaser 2881
of the business or stock of goods fails to withhold purchase 2882
money, the purchaser is personally liable for the payment of the 2883
taxes, interest, and penalties accrued and unpaid during the 2884
operation of the business by the ~~qualifying~~ entity. If the 2885
amount of those taxes, interest, and penalty unpaid at the time 2886
of the purchase exceeds the total purchase money, the tax 2887
commissioner may adjust the ~~qualifying~~ entity's liability for 2888
those taxes, interest, and penalty, or adjust the responsibility 2889
of the purchaser to pay that liability, in a manner calculated 2890
to maximize the collection of those liabilities. 2891

(B) Annually, on the last day of each qualifying taxable 2892
year of a qualifying entity or taxable year of an electing pass- 2893
through entity, the taxes imposed under section 5733.41, 2894
5747.38, or 5747.41 of the Revised Code, together with any 2895
penalties subsequently accruing thereon, become a lien on all 2896
property in this state of the ~~qualifying~~ entity, whether such 2897
property is employed by the ~~qualifying~~ entity in the prosecution 2898
of its business or is in the hands of an assignee, trustee, or 2899
receiver for the benefit of the ~~qualifying~~ entity's creditors 2900
and investors. The lien shall continue until those taxes, 2901
together with any penalties subsequently accruing, are paid. 2902

Upon failure of such a qualifying entity or an electing 2903
pass-through entity to pay those taxes on the day fixed for 2904
payment, the treasurer of state shall thereupon notify the tax 2905
commissioner, and the commissioner may file in the office of the 2906

county recorder in each county in this state in which the 2907
~~qualifying~~ entity owns or has a beneficial interest in real 2908
estate, notice of the lien containing a brief description of 2909
such real estate. No fee shall be charged for such a filing. The 2910
lien is not valid as against any mortgagee, purchaser, or 2911
judgment creditor whose rights have attached prior to the time 2912
the notice is so filed in the county in which the real estate 2913
which is the subject of such mortgage, purchase, or judgment 2914
lien is located. The notice shall be recorded in the official 2915
records kept by the county recorder and indexed under the name 2916
of the ~~qualifying~~ entity charged with the tax. When the tax, 2917
together with any penalties subsequently accruing thereon, have 2918
been paid, the tax commissioner shall furnish to the ~~qualifying~~ 2919
entity an acknowledgment of such payment that the ~~qualifying~~ 2920
entity may record with the county recorder of each county in 2921
which notice of such lien has been filed, for which recording 2922
the county recorder shall charge and receive a fee of two 2923
dollars. 2924

(C) In addition to all other remedies for the collection 2925
of any taxes or penalties due under law, whenever any taxes, 2926
interest, or penalties due from any qualifying entity or 2927
electing pass-through entity under section 5733.41 of the 2928
Revised Code or this chapter have remained unpaid for a period 2929
of ninety days, or whenever any qualifying entity or electing 2930
pass-through entity has failed for a period of ninety days to 2931
make any report or return required by law, or to pay any penalty 2932
for failure to make or file such report or return, the attorney 2933
general, upon the request of the tax commissioner, shall file a 2934
petition in the court of common pleas in the county of the state 2935
in which such ~~qualifying~~ entity has its principal place of 2936
business for a judgment for the amount of the taxes, interest, 2937

or penalties appearing to be due, the enforcement of any lien in 2938
favor of the state, and an injunction to restrain such 2939
~~qualifying~~ entity and its officers, directors, and managing 2940
agents from the transaction of any business within this state, 2941
other than such acts as are incidental to liquidation or winding 2942
up, until the payment of such taxes, interest, and penalties, 2943
and the costs of the proceeding fixed by the court, or the 2944
making and filing of such report or return. 2945

The petition shall be in the name of the state. Any of the 2946
qualifying entities or electing pass-through entities having its 2947
principal places of business in the county may be joined in one 2948
suit. On the motion of the attorney general, the court of common 2949
pleas shall enter an order requiring all defendants to answer by 2950
a day certain, and may appoint a special master commissioner to 2951
take testimony, with such other power and authority as the court 2952
confers, and permitting process to be served by registered mail 2953
and by publication in a newspaper of general circulation in the 2954
county, which publication need not be made more than once, 2955
setting forth the name of each delinquent ~~qualifying~~ entity, the 2956
matter in which the ~~qualifying~~ entity is delinquent, the names 2957
of its officers, directors, and managing agents, if set forth in 2958
the petition, and the amount of any taxes, fees, or penalties 2959
claimed to be owing by the ~~qualifying~~ entity. 2960

All or any of the trustees or other fiduciaries, officers, 2961
directors, investors, beneficiaries, or managing agents of any 2962
qualifying entity or electing pass-through entity may be joined 2963
as defendants with ~~the qualifying~~ such entity. 2964

If it appears to the court upon hearing that any 2965
qualifying entity or electing pass-through entity that is a 2966
party to the proceeding is indebted to the state for taxes 2967

imposed under section 5733.41, 5747.38, or 5747.41 of the 2968
Revised Code, or interest or penalties thereon, judgment shall 2969
be entered therefor with interest; and if it appears that any 2970
qualifying entity or electing pass-through entity has failed to 2971
make or file any report or return, a mandatory injunction may be 2972
issued against the ~~qualifying~~ entity, its trustees or other 2973
fiduciaries, officers, directors, and managing agents, enjoining 2974
them from the transaction of any business within this state, 2975
other than acts incidental to liquidation or winding up, until 2976
the making and filing of all proper reports or returns and until 2977
the payment in full of all taxes, interest, and penalties. 2978

If the trustees or other fiduciaries, officers, directors, 2979
investors, beneficiaries, or managing agents of a qualifying 2980
entity or an electing pass-through entity are not made parties 2981
in the first instance, and a judgment or an injunction is 2982
rendered or issued against the ~~qualifying~~ entity, those 2983
officers, directors, investors, or managing agents may be made 2984
parties to such proceedings upon the motion of the attorney 2985
general, and, upon notice to them of the form and terms of such 2986
injunction, they shall be bound thereby as fully as if they had 2987
been made parties in the first instance. 2988

In any action authorized by this division, a statement of 2989
the tax commissioner, or the secretary of state, when duly 2990
certified, shall be prima-facie evidence of the amount of taxes, 2991
interest, or penalties due from any qualifying entity or 2992
electing pass-through entity, or of the failure of any 2993
~~qualifying~~ such entity to file with the commissioner or the 2994
secretary of state any report required by law, and any such 2995
certificate of the commissioner or the secretary of state may be 2996
required in evidence in any such proceeding. 2997

On the application of any defendant and for good cause 2998
shown, the court may order a separate hearing of the issues as 2999
to any defendant. 3000

The costs of the proceeding shall be apportioned among the 3001
parties as the court deems proper. 3002

The court in such proceeding may make, enter, and enforce 3003
such other judgments and orders and grant such other relief as 3004
is necessary or incidental to the enforcement of the claims and 3005
lien of the state. 3006

In the performance of the duties enjoined upon the 3007
attorney general by this division, the attorney general may 3008
direct any prosecuting attorney to bring an action, as 3009
authorized by this division, in the name of the state with 3010
respect to any delinquent qualifying entities or delinquent 3011
electing pass-through entities within the prosecuting attorney's 3012
county, and like proceedings and orders shall be had as if such 3013
action were instituted by the attorney general. 3014

(D) If any qualifying entity or electing pass-through 3015
entity fails to make and file the reports or returns required 3016
under this chapter, or to pay the penalties provided by law for 3017
failure to make and file such reports or returns for a period of 3018
ninety days after the time prescribed by this chapter, the 3019
attorney general, on the request of the tax commissioner, shall 3020
commence an action in quo warranto in the court of appeals of 3021
the county in which that ~~qualifying~~ entity has its principal 3022
place of business to forfeit and annul its privileges and 3023
franchises. If the court is satisfied that any such ~~qualifying~~ 3024
entity is in default, it shall render judgment ousting such 3025
~~qualifying~~ entity from the exercise of its privileges and 3026
franchises within this state, and shall otherwise proceed as 3027

provided in sections 2733.02 to 2733.39 of the Revised Code. 3028

Sec. 5747.453. An employee, an owner, or a beneficiary of, 3029
or an investor in, a qualifying entity or an electing pass- 3030
through entity having control or supervision of, or charged with 3031
the responsibility for, filing returns and making payments, or 3032
any trustee or other fiduciary, officer, member, or manager of 3033
the ~~qualifying~~ entity who is responsible for the execution of 3034
the ~~qualifying~~ entity's fiscal responsibilities, is personally 3035
liable for the failure to file any report or to pay any tax due 3036
as required by sections 5747.40 to 5747.453 of the Revised Code. 3037
The dissolution, termination, or bankruptcy of a qualifying 3038
entity or an electing pass-through entity does not discharge a 3039
responsible trustee's, fiduciary's, officer's, member's, 3040
manager's, employee's, investor's, owner's, or beneficiary's 3041
liability for failure of the ~~qualifying~~ entity to file any 3042
report or pay any tax due as required by those sections. The sum 3043
due for the liability may be collected by assessment in the 3044
manner provided in section 5747.13 of the Revised Code. 3045

Sec. 5747.98. (A) To provide a uniform procedure for 3046
calculating a taxpayer's aggregate tax liability under section 3047
5747.02 of the Revised Code, a taxpayer shall claim any credits 3048
to which the taxpayer is entitled in the following order: 3049

Either the retirement income credit under division (B) of 3050
section 5747.055 of the Revised Code or the lump sum retirement 3051
income credits under divisions (C), (D), and (E) of that 3052
section; 3053

Either the senior citizen credit under division (F) of 3054
section 5747.055 of the Revised Code or the lump sum 3055
distribution credit under division (G) of that section; 3056

The dependent care credit under section 5747.054 of the Revised Code;	3057 3058
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	3059 3060
The campaign contribution credit under section 5747.29 of the Revised Code;	3061 3062
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	3063 3064
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	3065 3066
The earned income credit under section 5747.71 of the Revised Code;	3067 3068
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	3069 3070
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	3071 3072 3073
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	3074 3075 3076
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	3077 3078
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	3079 3080
The enterprise zone credit under section 5709.66 of the Revised Code;	3081 3082
The credit for purchases of qualifying grape production	3083

property under section 5747.28 of the Revised Code;	3084
The small business investment credit under section 5747.81	3085
of the Revised Code;	3086
The nonrefundable lead abatement credit under section	3087
5747.26 of the Revised Code;	3088
The opportunity zone investment credit under section	3089
122.84 of the Revised Code;	3090
The enterprise zone credits under section 5709.65 of the	3091
Revised Code;	3092
The research and development credit under section 5747.331	3093
of the Revised Code;	3094
The credit for rehabilitating a historic building under	3095
section 5747.76 of the Revised Code;	3096
The nonresident credit under division (A) of section	3097
5747.05 of the Revised Code;	3098
The credit for a resident's out-of-state income under	3099
division (B) of section 5747.05 of the Revised Code;	3100
The refundable motion picture and Broadway theatrical	3101
production credit under section 5747.66 of the Revised Code;	3102
The refundable jobs creation credit or job retention	3103
credit under division (A) of section 5747.058 of the Revised	3104
Code;	3105
The refundable credit for taxes paid by a qualifying	3106
entity granted under section 5747.059 of the Revised Code;	3107
The refundable credits for taxes paid by a qualifying	3108
pass-through entity granted under division (I) of section	3109
5747.08 of the Revised Code;	3110

The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Section 2. That existing sections 5733.04, 5733.41, 5747.01, 5747.03, 5747.08, 5747.11, 5747.13, 5747.132, 5747.14, 5747.15, 5747.41, 5747.42, 5747.43, 5747.44, 5747.45, 5747.451, 5747.453, and 5747.98 of the Revised Code are hereby repealed.