

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 481

Representatives McClain, Seitz

A BILL

To amend sections 135.01, 135.31, and 5747.01 and
to enact section 113.07 of the Revised Code to
require the Treasurer of State to accept bullion
or specie as payment for any debt and to exempt
the capital gain on the sale or exchange of
bullion or specie from state and school district
income taxes.

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

Section 1. That sections 135.01, 135.31, and 5747.01 be
amended and section 113.07 of the Revised Code be enacted to
read as follows:

Sec. 113.07. (A) As used in this section:

"Allocated bullion or specie" means bullion or specie that
is stored in a secure facility and is specifically segregated,
or allocated, to a particular investor.

"Bullion" means refined precious metal, limited to gold or
silver, in any shape or form, with uniform content and purity,
including coins, rounds, bars, ingots, and any other products
that are stamped or imprinted with the weight and purity of the
precious metal that it contains, and that is valued primarily

based on its metal content and not on its form and function. 20
"Bullion" does not include gold bullion bars with a minimum 21
purity of less than ninety-nine and one-half per cent, or gold 22
bullion coins with a minimum purity of less than ninety per 23
cent. 24

"Specie" means gold and silver coin that is issued by the 25
United States. 26

"Unallocated bullion or specie" means bullion or specie 27
that is not specifically segregated, or allocated, to a 28
particular investor. 29

(B) The treasurer of state shall accept allocated bullion 30
or specie as payment for any debt, tax, fee, or obligation owed. 31
The treasurer of state shall not accept unallocated bullion or 32
specie, or derivative bullion or specie, as payment for any 33
debt, tax, fee, or obligation owed. 34

(C) The treasurer of state shall keep in the custody of 35
the state treasury an amount of bullion or specie greater than 36
or equal to two per cent of all state funds. The bullion or 37
specie, as a form of public moneys, is subject to the 38
requirements of Chapter 135. of the Revised Code. The treasurer 39
of state shall not keep custody of unallocated bullion or specie 40
or of derivative bullion or specie. 41

(D) The treasurer of state shall adopt rules, under 42
Chapter 119. of the Revised Code, to do all of the following: 43

(1) Govern the acceptance of bullion or specie as payment; 44

(2) Govern the electronic transfer of any electronic 45
representation of actual bullion or specie; 46

(3) Govern the deposit of bullion or specie with a 47

<u>financial institution eligible for such deposits under Chapter</u>	48
<u>135. of the Revised Code;</u>	49
<u>(4) Any other rules the treasurer of state determines</u>	50
<u>necessary to implement this section.</u>	51
Sec. 135.01. Except as otherwise provided in sections	52
135.14, 135.143, 135.181, and 135.182 of the Revised Code, as	53
used in sections 135.01 to 135.21 of the Revised Code:	54
(A) "Active deposit" means a public deposit necessary to	55
meet current demands on the treasury, and that is deposited in	56
any of the following:	57
(1) A commercial account that is payable or withdrawable,	58
in whole or in part, on demand;	59
(2) A negotiable order of withdrawal account as authorized	60
in the "Consumer Checking Account Equity Act of 1980," 94 Stat.	61
146, 12 U.S.C.A. 1832(a);	62
(3) A money market deposit account as authorized in the	63
"Garn-St. Germain Depository Institutions Act of 1982," 96 Stat.	64
1501, 12 U.S.C. 3503.	65
(B) "Auditor" includes the auditor of state and the	66
auditor, or officer exercising the functions of an auditor, of	67
any subdivision.	68
(C) "Capital funds" means the sum of the following: the	69
par value of the outstanding common capital stock, the par value	70
of the outstanding preferred capital stock, the aggregate par	71
value of all outstanding capital notes and debentures, and the	72
surplus. In the case of an institution having offices in more	73
than one county, the capital funds of such institution, for the	74
purposes of sections 135.01 to 135.21 of the Revised Code,	75

relative to the deposit of the public moneys of the subdivisions 76
in one such county, shall be considered to be that proportion of 77
the capital funds of the institution that is represented by the 78
ratio that the deposit liabilities of such institution 79
originating at the office located in the county bears to the 80
total deposit liabilities of the institution. 81

(D) "Governing board" means, in the case of the state, the 82
state board of deposit; in the case of all school districts and 83
educational service centers except as otherwise provided in this 84
section, the board of education or governing board of a service 85
center, and when the case so requires, the board of 86
commissioners of the sinking fund; in the case of a municipal 87
corporation, the legislative authority, and when the case so 88
requires, the board of trustees of the sinking fund; in the case 89
of a township, the board of township trustees; in the case of a 90
union or joint institution or enterprise of two or more 91
subdivisions not having a treasurer, the board of directors or 92
trustees thereof; and in the case of any other subdivision 93
electing or appointing a treasurer, the directors, trustees, or 94
other similar officers of such subdivision. The governing board 95
of a subdivision electing or appointing a treasurer shall be the 96
governing board of all other subdivisions for which such 97
treasurer is authorized by law to act. In the case of a county 98
school financing district that levies a tax pursuant to section 99
5705.215 of the Revised Code, the county board of education that 100
serves as its taxing authority shall operate as a governing 101
board. Any other county board of education shall operate as a 102
governing board unless it adopts a resolution designating the 103
board of county commissioners as the governing board for the 104
county school district. 105

(E) "Inactive deposit" means a public deposit other than 106

an interim deposit or an active deposit. 107

(F) "Interim deposit" means a deposit of interim moneys. 108
"Interim moneys" means public moneys in the treasury of any 109
subdivision after the award of inactive deposits has been made 110
in accordance with section 135.07 of the Revised Code, which 111
moneys are in excess of the aggregate amount of the inactive 112
deposits as estimated by the governing board prior to the period 113
of designation and which the governing board finds should not be 114
deposited as active or inactive deposits for the reason that 115
such moneys will not be needed for immediate use but will be 116
needed before the end of the period of designation. In the case 117
of the state treasury, "interim moneys" means public moneys that 118
are not active deposits and may be invested in accordance with 119
section 135.143 of the Revised Code. 120

(G) "Permissible rate of interest" means a rate of 121
interest that all eligible institutions mentioned in section 122
135.03 of the Revised Code are permitted to pay by law or valid 123
regulations. 124

(H) "Warrant clearance account" means an account 125
established by the treasurer of state for either of the 126
following purposes: 127

~~(a)~~ (1) The deposit of active state moneys for the 128
purposes of clearing state paper warrants through the banking 129
system, funding electronic benefit transfer cards, issuing 130
stored value cards, or otherwise facilitating the settlement of 131
state obligations; 132

~~(b)~~ (2) The deposit of custodial moneys from an account 133
held in the custody of the treasurer of state to facilitate 134
settlement of obligations of the custodial fund. 135

(I) "Public deposit" means public moneys deposited in a 136
public depository pursuant to sections 135.01 to 135.21 of the 137
Revised Code. 138

(J) "Public depository" means an institution which 139
receives or holds any public deposits. 140

(K) "Public moneys" means all moneys in the treasury of 141
the state or any subdivision of the state, or moneys coming 142
lawfully into the possession or custody of the treasurer of 143
state or of the treasurer of any subdivision. "Public moneys" 144
includes all such moneys in the form of bullion or specie, and 145
the electronic representation of actual allocated bullion or 146
specie held in a depository account, which may be transferred 147
electronically. "Public moneys of the state" includes all such 148
moneys coming lawfully into the possession of the treasurer of 149
state; and "public moneys of a subdivision" includes all such 150
moneys coming lawfully into the possession of the treasurer of 151
the subdivision. 152

(L) "Subdivision" means any municipal corporation, except 153
one which has adopted a charter under Article XVIII, Ohio 154
Constitution, and the charter or ordinances of the chartered 155
municipal corporation set forth special provisions respecting 156
the deposit or investment of its public moneys, or any school 157
district or educational service center, a county school 158
financing district, township, municipal or school district 159
sinking fund, special taxing or assessment district, or other 160
district or local authority electing or appointing a treasurer, 161
except a county. In the case of a school district or educational 162
service center, special taxing or assessment district, or other 163
local authority for which a treasurer, elected or appointed 164
primarily as the treasurer of a subdivision, is authorized or 165

required by law to act as ex officio treasurer, the subdivision 166
for which such a treasurer has been primarily elected or 167
appointed shall be considered to be the "subdivision." The term 168
also includes a union or joint institution or enterprise of two 169
or more subdivisions, that is not authorized to elect or appoint 170
a treasurer, and for which no ex officio treasurer is provided 171
by law. 172

(M) "Treasurer" means, in the case of the state, the 173
treasurer of state and in the case of any subdivision, the 174
treasurer, or officer exercising the functions of a treasurer, 175
of such subdivision. In the case of a board of trustees of the 176
sinking fund of a municipal corporation, the board of 177
commissioners of the sinking fund of a school district, or a 178
board of directors or trustees of any union or joint institution 179
or enterprise of two or more subdivisions not having a 180
treasurer, such term means such board of trustees of the sinking 181
fund, board of commissioners of the sinking fund, or board of 182
directors or trustees. 183

(N) "Treasury investment board" of a municipal corporation 184
means the mayor or other chief executive officer, the village 185
solicitor or city director of law, and the auditor or other 186
chief fiscal officer. 187

(O) "No-load money market mutual fund" means a no-load 188
money market mutual fund to which all of the following apply: 189

(1) The fund is registered as an investment company under 190
the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 191
80a-1 to 80a-64; 192

(2) The fund has the highest letter or numerical rating 193
provided by at least one nationally recognized statistical 194

rating organization; 195

(3) The fund does not include any investment in a 196
derivative. As used in division (O) (3) of this section, 197
"derivative" means a financial instrument or contract or 198
obligation whose value or return is based upon or linked to 199
another asset or index, or both, separate from the financial 200
instrument, contract, or obligation itself. Any security, 201
obligation, trust account, or other instrument that is created 202
from an issue of the United States treasury or is created from 203
an obligation of a federal agency or instrumentality or is 204
created from both is considered a derivative instrument. An 205
eligible investment described in section 135.14 or 135.35 of the 206
Revised Code with a variable interest rate payment, based upon a 207
single interest payment or single index comprised of other 208
investments provided for in division (B) (1) or (2) of section 209
135.14 of the Revised Code, is not a derivative, provided that 210
such variable rate investment has a maximum maturity of two 211
years. 212

(P) "Public depositor" means the state or a subdivision, 213
as applicable, that deposits public moneys in a public 214
depository pursuant to sections 135.01 to 135.21 of the Revised 215
Code. 216

(Q) "Uninsured public deposit" means the portion of a 217
public deposit that is not insured by the federal deposit 218
insurance corporation or by any other agency or instrumentality 219
of the federal government. 220

(R) "Bullion" has the meaning as in section 113.07 of the 221
Revised Code. 222

(S) "Specie" has the meaning as in section 113.07 of the 223

<u>Revised Code.</u>	224
Sec. 135.31. As used in sections 135.31 to 135.40 of the	225
Revised Code:	226
(A) "Active moneys" means an amount of public moneys in	227
public depositories determined to be necessary to meet current	228
demands upon a county treasury, and deposited in any of the	229
following:	230
(1) A commercial account and withdrawable, in whole or in	231
part, on demand;	232
(2) A negotiable order of withdrawal account as authorized	233
in the "Consumer Checking Account Equity Act of 1980," 94 Stat.	234
146, 12 U.S.C.A. 1832(a);	235
(3) A money market deposit account as authorized in the	236
"Garn-St. Germain Depository Institutions Act of 1982," 96 Stat.	237
1501, 12 U.S.C. 3503.	238
(B) "Inactive moneys" means all public moneys in public	239
depositories in excess of the amount determined to be needed as	240
active moneys.	241
(C) "Investing authority" means the treasurer, except as	242
provided in section 135.34 of the Revised Code.	243
(D) "Public deposits" means public moneys deposited in a	244
public depository pursuant to sections 135.31 to 135.40 of the	245
Revised Code.	246
(E) "Public moneys" means all moneys in the treasury of a	247
county or moneys coming lawfully into the possession or custody	248
of the treasurer. <u>"Public moneys" includes all such moneys in</u>	249
<u>the form of bullion or specie, and the electronic representation</u>	250
<u>of actual bullion or specie held in a depository account, which</u>	251

may be transferred electronically. As used in this division, 252
"bullion" and "specie" have the meanings defined in section 253
113.07 of the Revised Code. 254

(F) "Treasurer" means the county treasurer. 255

(G) "No-load money market mutual fund" means a no-load 256
money market mutual fund that is registered as an investment 257
company under the "Investment Company Act of 1940," 54 Stat. 258
789, 15 U.S.C.A. 80a-1 to 80a-64, and that has the highest 259
letter or numerical rating provided by at least one nationally 260
recognized statistical rating organization. 261

Sec. 5747.01. Except as otherwise expressly provided or 262
clearly appearing from the context, any term used in this 263
chapter that is not otherwise defined in this section has the 264
same meaning as when used in a comparable context in the laws of 265
the United States relating to federal income taxes or if not 266
used in a comparable context in those laws, has the same meaning 267
as in section 5733.40 of the Revised Code. Any reference in this 268
chapter to the Internal Revenue Code includes other laws of the 269
United States relating to federal income taxes. 270

As used in this chapter: 271

(A) "Adjusted gross income" or "Ohio adjusted gross 272
income" means federal adjusted gross income, as defined and used 273
in the Internal Revenue Code, adjusted as provided in this 274
section: 275

(1) Add interest or dividends on obligations or securities 276
of any state or of any political subdivision or authority of any 277
state, other than this state and its subdivisions and 278
authorities. 279

(2) Add interest or dividends on obligations of any 280

authority, commission, instrumentality, territory, or possession 281
of the United States to the extent that the interest or 282
dividends are exempt from federal income taxes but not from 283
state income taxes. 284

(3) Deduct interest or dividends on obligations of the 285
United States and its territories and possessions or of any 286
authority, commission, or instrumentality of the United States 287
to the extent that the interest or dividends are included in 288
federal adjusted gross income but exempt from state income taxes 289
under the laws of the United States. 290

(4) Deduct disability and survivor's benefits to the 291
extent included in federal adjusted gross income. 292

(5) Deduct the following, to the extent not otherwise 293
deducted or excluded in computing federal or Ohio adjusted gross 294
income: 295

(a) Benefits under Title II of the Social Security Act and 296
tier 1 railroad retirement; 297

(b) Railroad retirement benefits, other than tier 1 298
railroad retirement benefits, to the extent such amounts are 299
exempt from state taxation under federal law. 300

(6) Deduct the amount of wages and salaries, if any, not 301
otherwise allowable as a deduction but that would have been 302
allowable as a deduction in computing federal adjusted gross 303
income for the taxable year, had the work opportunity tax credit 304
allowed and determined under sections 38, 51, and 52 of the 305
Internal Revenue Code not been in effect. 306

(7) Deduct any interest or interest equivalent on public 307
obligations and purchase obligations to the extent that the 308
interest or interest equivalent is included in federal adjusted 309

gross income. 310

(8) Add any loss or deduct any gain resulting from the 311
sale, exchange, or other disposition of public obligations to 312
the extent that the loss has been deducted or the gain has been 313
included in computing federal adjusted gross income. 314

(9) Deduct or add amounts, as provided under section 315
5747.70 of the Revised Code, related to contributions made to or 316
tuition units purchased under a qualified tuition program 317
established pursuant to section 529 of the Internal Revenue 318
Code. 319

(10) (a) Deduct, to the extent not otherwise allowable as a 320
deduction or exclusion in computing federal or Ohio adjusted 321
gross income for the taxable year, the amount the taxpayer paid 322
during the taxable year for medical care insurance and qualified 323
long-term care insurance for the taxpayer, the taxpayer's 324
spouse, and dependents. No deduction for medical care insurance 325
under division (A) (10) (a) of this section shall be allowed 326
either to any taxpayer who is eligible to participate in any 327
subsidized health plan maintained by any employer of the 328
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 329
entitled to, or on application would be entitled to, benefits 330
under part A of Title XVIII of the "Social Security Act," 49 331
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 332
division (A) (10) (a) of this section, "subsidized health plan" 333
means a health plan for which the employer pays any portion of 334
the plan's cost. The deduction allowed under division (A) (10) (a) 335
of this section shall be the net of any related premium refunds, 336
related premium reimbursements, or related insurance premium 337
dividends received during the taxable year. 338

(b) Deduct, to the extent not otherwise deducted or 339

excluded in computing federal or Ohio adjusted gross income 340
during the taxable year, the amount the taxpayer paid during the 341
taxable year, not compensated for by any insurance or otherwise, 342
for medical care of the taxpayer, the taxpayer's spouse, and 343
dependents, to the extent the expenses exceed seven and one-half 344
per cent of the taxpayer's federal adjusted gross income. 345

(c) For purposes of division (A)(10) of this section, 346
"medical care" has the meaning given in section 213 of the 347
Internal Revenue Code, subject to the special rules, 348
limitations, and exclusions set forth therein, and "qualified 349
long-term care" has the same meaning given in section 7702B(c) 350
of the Internal Revenue Code. Solely for purposes of division 351
(A)(10)(a) of this section, "dependent" includes a person who 352
otherwise would be a "qualifying relative" and thus a 353
"dependent" under section 152 of the Internal Revenue Code but 354
for the fact that the person fails to meet the income and 355
support limitations under section 152(d)(1)(B) and (C) of the 356
Internal Revenue Code. 357

(11)(a) Deduct any amount included in federal adjusted 358
gross income solely because the amount represents a 359
reimbursement or refund of expenses that in any year the 360
taxpayer had deducted as an itemized deduction pursuant to 361
section 63 of the Internal Revenue Code and applicable United 362
States department of the treasury regulations. The deduction 363
otherwise allowed under division (A)(11)(a) of this section 364
shall be reduced to the extent the reimbursement is attributable 365
to an amount the taxpayer deducted under this section in any 366
taxable year. 367

(b) Add any amount not otherwise included in Ohio adjusted 368
gross income for any taxable year to the extent that the amount 369

is attributable to the recovery during the taxable year of any 370
amount deducted or excluded in computing federal or Ohio 371
adjusted gross income in any taxable year. 372

(12) Deduct any portion of the deduction described in 373
section 1341(a)(2) of the Internal Revenue Code, for repaying 374
previously reported income received under a claim of right, that 375
meets both of the following requirements: 376

(a) It is allowable for repayment of an item that was 377
included in the taxpayer's adjusted gross income for a prior 378
taxable year and did not qualify for a credit under division (A) 379
or (B) of section 5747.05 of the Revised Code for that year; 380

(b) It does not otherwise reduce the taxpayer's adjusted 381
gross income for the current or any other taxable year. 382

(13) Deduct an amount equal to the deposits made to, and 383
net investment earnings of, a medical savings account during the 384
taxable year, in accordance with section 3924.66 of the Revised 385
Code. The deduction allowed by division (A)(13) of this section 386
does not apply to medical savings account deposits and earnings 387
otherwise deducted or excluded for the current or any other 388
taxable year from the taxpayer's federal adjusted gross income. 389

(14)(a) Add an amount equal to the funds withdrawn from a 390
medical savings account during the taxable year, and the net 391
investment earnings on those funds, when the funds withdrawn 392
were used for any purpose other than to reimburse an account 393
holder for, or to pay, eligible medical expenses, in accordance 394
with section 3924.66 of the Revised Code; 395

(b) Add the amounts distributed from a medical savings 396
account under division (A)(2) of section 3924.68 of the Revised 397
Code during the taxable year. 398

(15) Add any amount claimed as a credit under section 399
5747.059 of the Revised Code to the extent that such amount 400
satisfies either of the following: 401

(a) The amount was deducted or excluded from the 402
computation of the taxpayer's federal adjusted gross income as 403
required to be reported for the taxpayer's taxable year under 404
the Internal Revenue Code; 405

(b) The amount resulted in a reduction of the taxpayer's 406
federal adjusted gross income as required to be reported for any 407
of the taxpayer's taxable years under the Internal Revenue Code. 408

(16) Deduct the amount contributed by the taxpayer to an 409
individual development account program established by a county 410
department of job and family services pursuant to sections 411
329.11 to 329.14 of the Revised Code for the purpose of matching 412
funds deposited by program participants. On request of the tax 413
commissioner, the taxpayer shall provide any information that, 414
in the tax commissioner's opinion, is necessary to establish the 415
amount deducted under division (A)(16) of this section. 416

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and 417
(v) of this section, add five-sixths of the amount of 418
depreciation expense allowed by subsection (k) of section 168 of 419
the Internal Revenue Code, including the taxpayer's 420
proportionate or distributive share of the amount of 421
depreciation expense allowed by that subsection to a pass- 422
through entity in which the taxpayer has a direct or indirect 423
ownership interest. 424

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 425
of this section, add five-sixths of the amount of qualifying 426
section 179 depreciation expense, including the taxpayer's 427

proportionate or distributive share of the amount of qualifying 428
section 179 depreciation expense allowed to any pass-through 429
entity in which the taxpayer has a direct or indirect ownership 430
interest. 431

(iii) Subject to division (A) (17) (a) (v) of this section, 432
for taxable years beginning in 2012 or thereafter, if the 433
increase in income taxes withheld by the taxpayer is equal to or 434
greater than ten per cent of income taxes withheld by the 435
taxpayer during the taxpayer's immediately preceding taxable 436
year, "two-thirds" shall be substituted for "five-sixths" for 437
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 438

(iv) Subject to division (A) (17) (a) (v) of this section, 439
for taxable years beginning in 2012 or thereafter, a taxpayer is 440
not required to add an amount under division (A) (17) of this 441
section if the increase in income taxes withheld by the taxpayer 442
and by any pass-through entity in which the taxpayer has a 443
direct or indirect ownership interest is equal to or greater 444
than the sum of (I) the amount of qualifying section 179 445
depreciation expense and (II) the amount of depreciation expense 446
allowed to the taxpayer by subsection (k) of section 168 of the 447
Internal Revenue Code, and including the taxpayer's 448
proportionate or distributive shares of such amounts allowed to 449
any such pass-through entities. 450

(v) If a taxpayer directly or indirectly incurs a net 451
operating loss for the taxable year for federal income tax 452
purposes, to the extent such loss resulted from depreciation 453
expense allowed by subsection (k) of section 168 of the Internal 454
Revenue Code and by qualifying section 179 depreciation expense, 455
"the entire" shall be substituted for "five-sixths of the" for 456
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 457

The tax commissioner, under procedures established by the 458
commissioner, may waive the add-backs related to a pass-through 459
entity if the taxpayer owns, directly or indirectly, less than 460
five per cent of the pass-through entity. 461

(b) Nothing in division (A) (17) of this section shall be 462
construed to adjust or modify the adjusted basis of any asset. 463

(c) To the extent the add-back required under division (A) 464
(17) (a) of this section is attributable to property generating 465
nonbusiness income or loss allocated under section 5747.20 of 466
the Revised Code, the add-back shall be situated to the same 467
location as the nonbusiness income or loss generated by the 468
property for the purpose of determining the credit under 469
division (A) of section 5747.05 of the Revised Code. Otherwise, 470
the add-back shall be apportioned, subject to one or more of the 471
four alternative methods of apportionment enumerated in section 472
5747.21 of the Revised Code. 473

(d) For the purposes of division (A) (17) (a) (v) of this 474
section, net operating loss carryback and carryforward shall not 475
include the allowance of any net operating loss deduction 476
carryback or carryforward to the taxable year to the extent such 477
loss resulted from depreciation allowed by section 168(k) of the 478
Internal Revenue Code and by the qualifying section 179 479
depreciation expense amount. 480

(e) For the purposes of divisions (A) (17) and (18) of this 481
section: 482

(i) "Income taxes withheld" means the total amount 483
withheld and remitted under sections 5747.06 and 5747.07 of the 484
Revised Code by an employer during the employer's taxable year. 485

(ii) "Increase in income taxes withheld" means the amount 486

by which the amount of income taxes withheld by an employer 487
during the employer's current taxable year exceeds the amount of 488
income taxes withheld by that employer during the employer's 489
immediately preceding taxable year. 490

(iii) "Qualifying section 179 depreciation expense" means 491
the difference between (I) the amount of depreciation expense 492
directly or indirectly allowed to a taxpayer under section 179 493
of the Internal Revised Code, and (II) the amount of 494
depreciation expense directly or indirectly allowed to the 495
taxpayer under section 179 of the Internal Revenue Code as that 496
section existed on December 31, 2002. 497

(18) (a) If the taxpayer was required to add an amount 498
under division (A) (17) (a) of this section for a taxable year, 499
deduct one of the following: 500

(i) One-fifth of the amount so added for each of the five 501
succeeding taxable years if the amount so added was five-sixths 502
of qualifying section 179 depreciation expense or depreciation 503
expense allowed by subsection (k) of section 168 of the Internal 504
Revenue Code; 505

(ii) One-half of the amount so added for each of the two 506
succeeding taxable years if the amount so added was two-thirds 507
of such depreciation expense; 508

(iii) One-sixth of the amount so added for each of the six 509
succeeding taxable years if the entire amount of such 510
depreciation expense was so added. 511

(b) If the amount deducted under division (A) (18) (a) of 512
this section is attributable to an add-back allocated under 513
division (A) (17) (c) of this section, the amount deducted shall 514
be situated to the same location. Otherwise, the add-back shall 515

be apportioned using the apportionment factors for the taxable 516
year in which the deduction is taken, subject to one or more of 517
the four alternative methods of apportionment enumerated in 518
section 5747.21 of the Revised Code. 519

(c) No deduction is available under division (A) (18) (a) of 520
this section with regard to any depreciation allowed by section 521
168(k) of the Internal Revenue Code and by the qualifying 522
section 179 depreciation expense amount to the extent that such 523
depreciation results in or increases a federal net operating 524
loss carryback or carryforward. If no such deduction is 525
available for a taxable year, the taxpayer may carry forward the 526
amount not deducted in such taxable year to the next taxable 527
year and add that amount to any deduction otherwise available 528
under division (A) (18) (a) of this section for that next taxable 529
year. The carryforward of amounts not so deducted shall continue 530
until the entire addition required by division (A) (17) (a) of 531
this section has been deducted. 532

(19) Deduct, to the extent not otherwise deducted or 533
excluded in computing federal or Ohio adjusted gross income for 534
the taxable year, the amount the taxpayer received during the 535
taxable year as reimbursement for life insurance premiums under 536
section 5919.31 of the Revised Code. 537

(20) Deduct, to the extent not otherwise deducted or 538
excluded in computing federal or Ohio adjusted gross income for 539
the taxable year, the amount the taxpayer received during the 540
taxable year as a death benefit paid by the adjutant general 541
under section 5919.33 of the Revised Code. 542

(21) Deduct, to the extent included in federal adjusted 543
gross income and not otherwise allowable as a deduction or 544
exclusion in computing federal or Ohio adjusted gross income for 545

the taxable year, military pay and allowances received by the 546
taxpayer during the taxable year for active duty service in the 547
United States army, air force, navy, marine corps, or coast 548
guard or reserve components thereof or the national guard. The 549
deduction may not be claimed for military pay and allowances 550
received by the taxpayer while the taxpayer is stationed in this 551
state. 552

(22) Deduct, to the extent not otherwise allowable as a 553
deduction or exclusion in computing federal or Ohio adjusted 554
gross income for the taxable year and not otherwise compensated 555
for by any other source, the amount of qualified organ donation 556
expenses incurred by the taxpayer during the taxable year, not 557
to exceed ten thousand dollars. A taxpayer may deduct qualified 558
organ donation expenses only once for all taxable years 559
beginning with taxable years beginning in 2007. 560

For the purposes of division (A) (22) of this section: 561

(a) "Human organ" means all or any portion of a human 562
liver, pancreas, kidney, intestine, or lung, and any portion of 563
human bone marrow. 564

(b) "Qualified organ donation expenses" means travel 565
expenses, lodging expenses, and wages and salary forgone by a 566
taxpayer in connection with the taxpayer's donation, while 567
living, of one or more of the taxpayer's human organs to another 568
human being. 569

(23) Deduct, to the extent not otherwise deducted or 570
excluded in computing federal or Ohio adjusted gross income for 571
the taxable year, amounts received by the taxpayer as retired 572
personnel pay for service in the uniformed services or reserve 573
components thereof, or the national guard, or received by the 574

surviving spouse or former spouse of such a taxpayer under the 575
survivor benefit plan on account of such a taxpayer's death. If 576
the taxpayer receives income on account of retirement paid under 577
the federal civil service retirement system or federal employees 578
retirement system, or under any successor retirement program 579
enacted by the congress of the United States that is established 580
and maintained for retired employees of the United States 581
government, and such retirement income is based, in whole or in 582
part, on credit for the taxpayer's uniformed service, the 583
deduction allowed under this division shall include only that 584
portion of such retirement income that is attributable to the 585
taxpayer's uniformed service, to the extent that portion of such 586
retirement income is otherwise included in federal adjusted 587
gross income and is not otherwise deducted under this section. 588
Any amount deducted under division (A) (23) of this section is 589
not included in a taxpayer's adjusted gross income for the 590
purposes of section 5747.055 of the Revised Code. No amount may 591
be deducted under division (A) (23) of this section on the basis 592
of which a credit was claimed under section 5747.055 of the 593
Revised Code. 594

(24) Deduct, to the extent not otherwise deducted or 595
excluded in computing federal or Ohio adjusted gross income for 596
the taxable year, the amount the taxpayer received during the 597
taxable year from the military injury relief fund created in 598
section 5902.05 of the Revised Code. 599

(25) Deduct, to the extent not otherwise deducted or 600
excluded in computing federal or Ohio adjusted gross income for 601
the taxable year, the amount the taxpayer received as a veterans 602
bonus during the taxable year from the Ohio department of 603
veterans services as authorized by Section 2r of Article VIII, 604
Ohio Constitution. 605

(26) Deduct, to the extent not otherwise deducted or 606
excluded in computing federal or Ohio adjusted gross income for 607
the taxable year, any income derived from a transfer agreement 608
or from the enterprise transferred under that agreement under 609
section 4313.02 of the Revised Code. 610

(27) Deduct, to the extent not otherwise deducted or 611
excluded in computing federal or Ohio adjusted gross income for 612
the taxable year, Ohio college opportunity or federal Pell grant 613
amounts received by the taxpayer or the taxpayer's spouse or 614
dependent pursuant to section 3333.122 of the Revised Code or 20 615
U.S.C. 1070a, et seq., and used to pay room or board furnished 616
by the educational institution for which the grant was awarded 617
at the institution's facilities, including meal plans 618
administered by the institution. For the purposes of this 619
division, receipt of a grant includes the distribution of a 620
grant directly to an educational institution and the crediting 621
of the grant to the enrollee's account with the institution. 622

(28) Deduct from the portion of an individual's federal 623
adjusted gross income that is business income, to the extent not 624
otherwise deducted or excluded in computing federal adjusted 625
gross income for the taxable year, one hundred twenty-five 626
thousand dollars for each spouse if spouses file separate 627
returns under section 5747.08 of the Revised Code or two hundred 628
fifty thousand dollars for all other individuals. 629

(29) Deduct, as provided under section 5747.78 of the 630
Revised Code, contributions to ABLE savings accounts made in 631
accordance with sections 113.50 to 113.56 of the Revised Code. 632

(30) (a) Deduct, to the extent not otherwise deducted or 633
excluded in computing federal or Ohio adjusted gross income 634
during the taxable year, all of the following: 635

(i) Compensation paid to a qualifying employee described 636
in division (A) (14) (a) of section 5703.94 of the Revised Code to 637
the extent such compensation is for disaster work conducted in 638
this state during a disaster response period pursuant to a 639
qualifying solicitation received by the employee's employer; 640

(ii) Compensation paid to a qualifying employee described 641
in division (A) (14) (b) of section 5703.94 of the Revised Code to 642
the extent such compensation is for disaster work conducted in 643
this state by the employee during the disaster response period 644
on critical infrastructure owned or used by the employee's 645
employer; 646

(iii) Income received by an out-of-state disaster business 647
for disaster work conducted in this state during a disaster 648
response period, or, if the out-of-state disaster business is a 649
pass-through entity, a taxpayer's distributive share of the 650
pass-through entity's income from the business conducting 651
disaster work in this state during a disaster response period, 652
if, in either case, the disaster work is conducted pursuant to a 653
qualifying solicitation received by the business. 654

(b) All terms used in division (A) (30) of this section 655
have the same meanings as in section 5703.94 of the Revised 656
Code. 657

(31) For a taxpayer who is a qualifying Ohio educator, 658
deduct, to the extent not otherwise deducted or excluded in 659
computing federal or Ohio adjusted gross income for the taxable 660
year, the lesser of two hundred fifty dollars or the amount of 661
expenses described in subsections (a) (2) (D) (i) and (ii) of 662
section 62 of the Internal Revenue Code paid or incurred by the 663
taxpayer during the taxpayer's taxable year in excess of the 664
amount the taxpayer is authorized to deduct for that taxable 665

year under subsection (a) (2) (D) of that section. 666

(32) Deduct, to the extent not otherwise deducted or 667
excluded in computing federal or Ohio adjusted gross income for 668
the taxable year, amounts received by the taxpayer as a 669
disability severance payment, computed under 10 U.S.C. 1212, 670
following discharge or release under honorable conditions from 671
the armed forces, as defined by 10 U.S.C. 101. 672

(33) Deduct, to the extent not otherwise deducted or 673
excluded in computing federal adjusted gross income or Ohio 674
adjusted gross income, amounts not subject to tax due to an 675
agreement entered into under division (A) (2) of section 5747.05 676
of the Revised Code. 677

(34) Deduct amounts as provided under section 5747.79 of 678
the Revised Code related to the taxpayer's qualifying capital 679
gains and deductible payroll. 680

To the extent a qualifying capital gain described under 681
division (A) (34) of this section is business income, the 682
taxpayer shall deduct those gains under this division before 683
deducting any such gains under division (A) (28) of this section. 684

(35) (a) For taxable years beginning in or after 2026, 685
deduct, to the extent not otherwise deducted or excluded in 686
computing federal or Ohio adjusted gross income for the taxable 687
year: 688

(i) One hundred per cent of the capital gain received by 689
the taxpayer in the taxable year from a qualifying interest in 690
an Ohio venture capital operating company attributable to the 691
company's investments in Ohio businesses during the period for 692
which the company was an Ohio venture operating company; and 693

(ii) Fifty per cent of the capital gain received by the 694

taxpayer in the taxable year from a qualifying interest in an 695
Ohio venture capital operating company attributable to the 696
company's investments in all other businesses during the period 697
for which the company was an Ohio venture operating company. 698

(b) Add amounts previously deducted by the taxpayer under 699
division (A) (35) (a) of this section if the director of 700
development certifies to the tax commissioner that the 701
requirements for the deduction were not met. 702

(c) All terms used in division (A) (35) of this section 703
have the same meanings as in section 122.851 of the Revised 704
Code. 705

(d) To the extent a capital gain described in division (A) 706
(35) (a) of this section is business income, the taxpayer shall 707
apply that division before applying division (A) (28) of this 708
section. 709

(36) Add, to the extent not otherwise included in 710
computing federal or Ohio adjusted gross income for any taxable 711
year, the taxpayer's proportionate share of the amount of the 712
tax levied under section 5747.38 of the Revised Code and paid by 713
an electing pass-through entity for the taxable year. 714

Notwithstanding any provision of the Revised Code to the 715
contrary, the portion of the addition required by division (A) 716
(36) of this section related to the apportioned business income 717
of the pass-through entity shall be considered business income 718
under division (B) of this section. Such addition is eligible 719
for the deduction in division (A) (28) of this section, subject 720
to the applicable dollar limitations, and the tax rate 721
prescribed by division (A) (4) (a) of section 5747.02 of the 722
Revised Code. The taxpayer shall provide, upon request of the 723

tax commissioner, any documentation necessary to verify the 724
portion of the addition that is business income under this 725
division. 726

(37) Deduct, to the extent not otherwise deducted or 727
excluded in computing federal or Ohio adjusted gross income for 728
the taxable year, amounts delivered to a qualifying institution 729
pursuant to section 3333.128 of the Revised Code for the benefit 730
of the taxpayer or the taxpayer's spouse or dependent. 731

(38) Deduct, to the extent not otherwise deducted or 732
excluded in computing federal or Ohio adjusted gross income for 733
the taxable year, amounts received under the Ohio adoption grant 734
program pursuant to section 5101.191 of the Revised Code. 735

(39) Deduct, to the extent included in federal adjusted 736
gross income, income attributable to amounts provided to a 737
taxpayer for any of the purposes for which an exclusion would 738
have been authorized under section 139 of the Internal Revenue 739
Code if the train derailment near the city of East Palestine on 740
February 3, 2023, had been a qualified disaster pursuant to that 741
section, or to compensate for lost business resulting from that 742
derailment, if such amounts are provided by any of the 743
following: 744

(a) A federal, state, or local government agency; 745

(b) A railroad company, as that term is defined in section 746
5727.01 of the Revised Code; 747

(c) Any subsidiary, insurer, or agent of a railroad 748
company or any related person. 749

Notwithstanding any provision to the contrary, the 750
derailment is not required to meet the definition of a 751
"qualified disaster" pursuant to section 139 of the Internal 752

Revenue Code to qualify for the deduction under this section. 753

(40) Deduct, to the extent included in federal adjusted 754
gross income, income attributable to loan repayments on behalf 755
of the taxpayer under the rural practice incentive program under 756
section 3333.135 of the Revised Code. 757

(41) Add any income taxes deducted in computing federal or 758
Ohio adjusted gross income to the extent the income taxes were 759
derived from income subject to a tax levied in another state or 760
the District of Columbia when such tax was enacted for purposes 761
of complying with internal revenue service notice 2020-75. 762

Notwithstanding any provision of the Revised Code to the 763
contrary, the portion of the addition required by division (A) 764
(41) of this section related to the apportioned business income 765
of the pass-through entity shall be considered business income 766
under division (B) of this section. Such addition is eligible 767
for the deduction in division (A) (28) of this section, subject 768
to the applicable dollar limitations, and the tax rate 769
prescribed by division (A) (4) (a) of section 5747.02 of the 770
Revised Code. The taxpayer shall provide, upon request of the 771
tax commissioner, any documentation necessary to verify the 772
portion of the addition that is business income under this 773
division. 774

(42) Deduct amounts contributed to a homeownership savings 775
account and calculated pursuant to divisions (B) and (C) of 776
section 5747.85 of the Revised Code. 777

(43) If the taxpayer is the account owner, add the amount 778
of funds withdrawn from a homeownership savings account not used 779
for eligible expenses, regardless of who deposited those funds. 780
As used in division (A) (43) of this section, "homeownership 781

savings account," "account owner," and "eligible expenses" have 782
the same meanings as in section 5747.85 of the Revised Code. 783

(44) Deduct, to the extent not otherwise deducted or 784
excluded in computing federal or Ohio adjusted gross income for 785
the taxable year, capital gains received by the taxpayer from 786
the sale of bullion or specie, as those terms are defined in 787
section 113.07 of the Revised Code, including bullion and specie 788
sold while in the physical possession of a trustee pursuant to 789
section 408 of the Internal Revenue Code. 790

(B) "Business income" means income, including gain or 791
loss, arising from transactions, activities, and sources in the 792
regular course of a trade or business and includes income, gain, 793
or loss from real property, tangible property, and intangible 794
property if the acquisition, rental, management, and disposition 795
of the property constitute integral parts of the regular course 796
of a trade or business operation. "Business income" includes 797
income, including gain or loss, from a partial or complete 798
liquidation of a business, including, but not limited to, gain 799
or loss from the sale or other disposition of goodwill or the 800
sale of an equity or ownership interest in a business. 801

As used in this division, the "sale of an equity or 802
ownership interest in a business" means sales to which either or 803
both of the following apply: 804

(1) The sale is treated for federal income tax purposes as 805
the sale of assets. 806

(2) The seller materially participated, as described in 26 807
C.F.R. 1.469-5T, in the activities of the business during the 808
taxable year in which the sale occurs or during any of the five 809
preceding taxable years. 810

(C) "Nonbusiness income" means all income other than 811
business income and may include, but is not limited to, 812
compensation, rents and royalties from real or tangible personal 813
property, capital gains, interest, dividends and distributions, 814
patent or copyright royalties, or lottery winnings, prizes, and 815
awards. 816

(D) "Compensation" means any form of remuneration paid to 817
an employee for personal services. 818

(E) "Fiduciary" means a guardian, trustee, executor, 819
administrator, receiver, conservator, or any other person acting 820
in any fiduciary capacity for any individual, trust, or estate. 821

(F) "Fiscal year" means an accounting period of twelve 822
months ending on the last day of any month other than December. 823

(G) "Individual" means any natural person. 824

(H) "Internal Revenue Code" means the "Internal Revenue 825
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 826

(I) "Resident" means any of the following: 827

(1) An individual who is domiciled in this state, subject 828
to section 5747.24 of the Revised Code; 829

(2) The estate of a decedent who at the time of death was 830
domiciled in this state. The domicile tests of section 5747.24 831
of the Revised Code are not controlling for purposes of division 832
(I) (2) of this section. 833

(3) A trust that, in whole or part, resides in this state. 834
If only part of a trust resides in this state, the trust is a 835
resident only with respect to that part. 836

For the purposes of division (I) (3) of this section: 837

(a) A trust resides in this state for the trust's current 838
taxable year to the extent, as described in division (I) (3) (d) 839
of this section, that the trust consists directly or indirectly, 840
in whole or in part, of assets, net of any related liabilities, 841
that were transferred, or caused to be transferred, directly or 842
indirectly, to the trust by any of the following: 843

(i) A person, a court, or a governmental entity or 844
instrumentality on account of the death of a decedent, but only 845
if the trust is described in division (I) (3) (e) (i) or (ii) of 846
this section; 847

(ii) A person who was domiciled in this state for the 848
purposes of this chapter when the person directly or indirectly 849
transferred assets to an irrevocable trust, but only if at least 850
one of the trust's qualifying beneficiaries is domiciled in this 851
state for the purposes of this chapter during all or some 852
portion of the trust's current taxable year; 853

(iii) A person who was domiciled in this state for the 854
purposes of this chapter when the trust document or instrument 855
or part of the trust document or instrument became irrevocable, 856
but only if at least one of the trust's qualifying beneficiaries 857
is a resident domiciled in this state for the purposes of this 858
chapter during all or some portion of the trust's current 859
taxable year. If a trust document or instrument became 860
irrevocable upon the death of a person who at the time of death 861
was domiciled in this state for purposes of this chapter, that 862
person is a person described in division (I) (3) (a) (iii) of this 863
section. 864

(b) A trust is irrevocable to the extent that the 865
transferor is not considered to be the owner of the net assets 866
of the trust under sections 671 to 678 of the Internal Revenue 867

Code. 868

(c) With respect to a trust other than a charitable lead 869
trust, "qualifying beneficiary" has the same meaning as 870
"potential current beneficiary" as defined in section 1361(e) (2) 871
of the Internal Revenue Code, and with respect to a charitable 872
lead trust "qualifying beneficiary" is any current, future, or 873
contingent beneficiary, but with respect to any trust 874
"qualifying beneficiary" excludes a person or a governmental 875
entity or instrumentality to any of which a contribution would 876
qualify for the charitable deduction under section 170 of the 877
Internal Revenue Code. 878

(d) For the purposes of division (I) (3) (a) of this 879
section, the extent to which a trust consists directly or 880
indirectly, in whole or in part, of assets, net of any related 881
liabilities, that were transferred directly or indirectly, in 882
whole or part, to the trust by any of the sources enumerated in 883
that division shall be ascertained by multiplying the fair 884
market value of the trust's assets, net of related liabilities, 885
by the qualifying ratio, which shall be computed as follows: 886

(i) The first time the trust receives assets, the 887
numerator of the qualifying ratio is the fair market value of 888
those assets at that time, net of any related liabilities, from 889
sources enumerated in division (I) (3) (a) of this section. The 890
denominator of the qualifying ratio is the fair market value of 891
all the trust's assets at that time, net of any related 892
liabilities. 893

(ii) Each subsequent time the trust receives assets, a 894
revised qualifying ratio shall be computed. The numerator of the 895
revised qualifying ratio is the sum of (1) the fair market value 896
of the trust's assets immediately prior to the subsequent 897

transfer, net of any related liabilities, multiplied by the 898
qualifying ratio last computed without regard to the subsequent 899
transfer, and (2) the fair market value of the subsequently 900
transferred assets at the time transferred, net of any related 901
liabilities, from sources enumerated in division (I) (3) (a) of 902
this section. The denominator of the revised qualifying ratio is 903
the fair market value of all the trust's assets immediately 904
after the subsequent transfer, net of any related liabilities. 905

(iii) Whether a transfer to the trust is by or from any of 906
the sources enumerated in division (I) (3) (a) of this section 907
shall be ascertained without regard to the domicile of the 908
trust's beneficiaries. 909

(e) For the purposes of division (I) (3) (a) (i) of this 910
section: 911

(i) A trust is described in division (I) (3) (e) (i) of this 912
section if the trust is a testamentary trust and the testator of 913
that testamentary trust was domiciled in this state at the time 914
of the testator's death for purposes of the taxes levied under 915
Chapter 5731. of the Revised Code. 916

(ii) A trust is described in division (I) (3) (e) (ii) of 917
this section if the transfer is a qualifying transfer described 918
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 919
trust is an irrevocable inter vivos trust, and at least one of 920
the trust's qualifying beneficiaries is domiciled in this state 921
for purposes of this chapter during all or some portion of the 922
trust's current taxable year. 923

(f) For the purposes of division (I) (3) (e) (ii) of this 924
section, a "qualifying transfer" is a transfer of assets, net of 925
any related liabilities, directly or indirectly to a trust, if 926

the transfer is described in any of the following: 927

(i) The transfer is made to a trust, created by the 928
decedent before the decedent's death and while the decedent was 929
domiciled in this state for the purposes of this chapter, and, 930
prior to the death of the decedent, the trust became irrevocable 931
while the decedent was domiciled in this state for the purposes 932
of this chapter. 933

(ii) The transfer is made to a trust to which the 934
decedent, prior to the decedent's death, had directly or 935
indirectly transferred assets, net of any related liabilities, 936
while the decedent was domiciled in this state for the purposes 937
of this chapter, and prior to the death of the decedent the 938
trust became irrevocable while the decedent was domiciled in 939
this state for the purposes of this chapter. 940

(iii) The transfer is made on account of a contractual 941
relationship existing directly or indirectly between the 942
transferor and either the decedent or the estate of the decedent 943
at any time prior to the date of the decedent's death, and the 944
decedent was domiciled in this state at the time of death for 945
purposes of the taxes levied under Chapter 5731. of the Revised 946
Code. 947

(iv) The transfer is made to a trust on account of a 948
contractual relationship existing directly or indirectly between 949
the transferor and another person who at the time of the 950
decedent's death was domiciled in this state for purposes of 951
this chapter. 952

(v) The transfer is made to a trust on account of the will 953
of a testator who was domiciled in this state at the time of the 954
testator's death for purposes of the taxes levied under Chapter 955

5731. of the Revised Code. 956

(vi) The transfer is made to a trust created by or caused 957
to be created by a court, and the trust was directly or 958
indirectly created in connection with or as a result of the 959
death of an individual who, for purposes of the taxes levied 960
under Chapter 5731. of the Revised Code, was domiciled in this 961
state at the time of the individual's death. 962

(g) The tax commissioner may adopt rules to ascertain the 963
part of a trust residing in this state. 964

(J) "Nonresident" means an individual or estate that is 965
not a resident. An individual who is a resident for only part of 966
a taxable year is a nonresident for the remainder of that 967
taxable year. 968

(K) "Pass-through entity" has the same meaning as in 969
section 5733.04 of the Revised Code. 970

(L) "Return" means the notifications and reports required 971
to be filed pursuant to this chapter for the purpose of 972
reporting the tax due and includes declarations of estimated tax 973
when so required. 974

(M) "Taxable year" means the calendar year or the 975
taxpayer's fiscal year ending during the calendar year, or 976
fractional part thereof, upon which the adjusted gross income is 977
calculated pursuant to this chapter. 978

(N) "Taxpayer" means any person subject to the tax imposed 979
by section 5747.02 of the Revised Code or any pass-through 980
entity that makes the election under division (D) of section 981
5747.08 of the Revised Code. 982

(O) "Dependents" means one of the following: 983

(1) For taxable years beginning on or after January 1, 984
2018, and before January 1, 2026, dependents as defined in the 985
Internal Revenue Code; 986

(2) For all other taxable years, dependents as defined in 987
the Internal Revenue Code and as claimed in the taxpayer's 988
federal income tax return for the taxable year or which the 989
taxpayer would have been permitted to claim had the taxpayer 990
filed a federal income tax return. 991

(P) "Principal county of employment" means, in the case of 992
a nonresident, the county within the state in which a taxpayer 993
performs services for an employer or, if those services are 994
performed in more than one county, the county in which the major 995
portion of the services are performed. 996

(Q) As used in sections 5747.50 to 5747.55 of the Revised 997
Code: 998

(1) "Subdivision" means any county, municipal corporation, 999
park district, or township. 1000

(2) "Essential local government purposes" includes all 1001
functions that any subdivision is required by general law to 1002
exercise, including like functions that are exercised under a 1003
charter adopted pursuant to the Ohio Constitution. 1004

(R) "Overpayment" means any amount already paid that 1005
exceeds the figure determined to be the correct amount of the 1006
tax. 1007

(S) "Taxable income" or "Ohio taxable income" applies only 1008
to estates and trusts, and means federal taxable income, as 1009
defined and used in the Internal Revenue Code, adjusted as 1010
follows: 1011

(1) Add interest or dividends, net of ordinary, necessary, 1012
and reasonable expenses not deducted in computing federal 1013
taxable income, on obligations or securities of any state or of 1014
any political subdivision or authority of any state, other than 1015
this state and its subdivisions and authorities, but only to the 1016
extent that such net amount is not otherwise includible in Ohio 1017
taxable income and is described in either division (S) (1) (a) or 1018
(b) of this section: 1019

(a) The net amount is not attributable to the S portion of 1020
an electing small business trust and has not been distributed to 1021
beneficiaries for the taxable year; 1022

(b) The net amount is attributable to the S portion of an 1023
electing small business trust for the taxable year. 1024

(2) Add interest or dividends, net of ordinary, necessary, 1025
and reasonable expenses not deducted in computing federal 1026
taxable income, on obligations of any authority, commission, 1027
instrumentality, territory, or possession of the United States 1028
to the extent that the interest or dividends are exempt from 1029
federal income taxes but not from state income taxes, but only 1030
to the extent that such net amount is not otherwise includible 1031
in Ohio taxable income and is described in either division (S) 1032
(1) (a) or (b) of this section; 1033

(3) Add the amount of personal exemption allowed to the 1034
estate pursuant to section 642(b) of the Internal Revenue Code; 1035

(4) Deduct interest or dividends, net of related expenses 1036
deducted in computing federal taxable income, on obligations of 1037
the United States and its territories and possessions or of any 1038
authority, commission, or instrumentality of the United States 1039
to the extent that the interest or dividends are exempt from 1040

state taxes under the laws of the United States, but only to the 1041
extent that such amount is included in federal taxable income 1042
and is described in either division (S) (1) (a) or (b) of this 1043
section; 1044

(5) Deduct the amount of wages and salaries, if any, not 1045
otherwise allowable as a deduction but that would have been 1046
allowable as a deduction in computing federal taxable income for 1047
the taxable year, had the work opportunity tax credit allowed 1048
under sections 38, 51, and 52 of the Internal Revenue Code not 1049
been in effect, but only to the extent such amount relates 1050
either to income included in federal taxable income for the 1051
taxable year or to income of the S portion of an electing small 1052
business trust for the taxable year; 1053

(6) Deduct any interest or interest equivalent, net of 1054
related expenses deducted in computing federal taxable income, 1055
on public obligations and purchase obligations, but only to the 1056
extent that such net amount relates either to income included in 1057
federal taxable income for the taxable year or to income of the 1058
S portion of an electing small business trust for the taxable 1059
year; 1060

(7) Add any loss or deduct any gain resulting from sale, 1061
exchange, or other disposition of public obligations to the 1062
extent that such loss has been deducted or such gain has been 1063
included in computing either federal taxable income or income of 1064
the S portion of an electing small business trust for the 1065
taxable year; 1066

(8) Except in the case of the final return of an estate, 1067
add any amount deducted by the taxpayer on both its Ohio estate 1068
tax return pursuant to section 5731.14 of the Revised Code, and 1069
on its federal income tax return in determining federal taxable 1070

income; 1071

(9) (a) Deduct any amount included in federal taxable 1072
income solely because the amount represents a reimbursement or 1073
refund of expenses that in a previous year the decedent had 1074
deducted as an itemized deduction pursuant to section 63 of the 1075
Internal Revenue Code and applicable treasury regulations. The 1076
deduction otherwise allowed under division (S) (9) (a) of this 1077
section shall be reduced to the extent the reimbursement is 1078
attributable to an amount the taxpayer or decedent deducted 1079
under this section in any taxable year. 1080

(b) Add any amount not otherwise included in Ohio taxable 1081
income for any taxable year to the extent that the amount is 1082
attributable to the recovery during the taxable year of any 1083
amount deducted or excluded in computing federal or Ohio taxable 1084
income in any taxable year, but only to the extent such amount 1085
has not been distributed to beneficiaries for the taxable year. 1086

(10) Deduct any portion of the deduction described in 1087
section 1341(a) (2) of the Internal Revenue Code, for repaying 1088
previously reported income received under a claim of right, that 1089
meets both of the following requirements: 1090

(a) It is allowable for repayment of an item that was 1091
included in the taxpayer's taxable income or the decedent's 1092
adjusted gross income for a prior taxable year and did not 1093
qualify for a credit under division (A) or (B) of section 1094
5747.05 of the Revised Code for that year. 1095

(b) It does not otherwise reduce the taxpayer's taxable 1096
income or the decedent's adjusted gross income for the current 1097
or any other taxable year. 1098

(11) Add any amount claimed as a credit under section 1099

5747.059 of the Revised Code to the extent that the amount 1100
satisfies either of the following: 1101

(a) The amount was deducted or excluded from the 1102
computation of the taxpayer's federal taxable income as required 1103
to be reported for the taxpayer's taxable year under the 1104
Internal Revenue Code; 1105

(b) The amount resulted in a reduction in the taxpayer's 1106
federal taxable income as required to be reported for any of the 1107
taxpayer's taxable years under the Internal Revenue Code. 1108

(12) Deduct any amount, net of related expenses deducted 1109
in computing federal taxable income, that a trust is required to 1110
report as farm income on its federal income tax return, but only 1111
if the assets of the trust include at least ten acres of land 1112
satisfying the definition of "land devoted exclusively to 1113
agricultural use" under section 5713.30 of the Revised Code, 1114
regardless of whether the land is valued for tax purposes as 1115
such land under sections 5713.30 to 5713.38 of the Revised Code. 1116
If the trust is a pass-through entity investor, section 5747.231 1117
of the Revised Code applies in ascertaining if the trust is 1118
eligible to claim the deduction provided by division (S)(12) of 1119
this section in connection with the pass-through entity's farm 1120
income. 1121

Except for farm income attributable to the S portion of an 1122
electing small business trust, the deduction provided by 1123
division (S)(12) of this section is allowed only to the extent 1124
that the trust has not distributed such farm income. 1125

(13) Add the net amount of income described in section 1126
641(c) of the Internal Revenue Code to the extent that amount is 1127
not included in federal taxable income. 1128

(14) Deduct the amount the taxpayer would be required to 1129
deduct under division (A) (18) of this section if the taxpayer's 1130
Ohio taxable income ~~were~~was computed in the same manner as an 1131
individual's Ohio adjusted gross income is computed under this 1132
section. 1133

(15) Add, to the extent not otherwise included in 1134
computing taxable income or Ohio taxable income for any taxable 1135
year, the taxpayer's proportionate share of the amount of the 1136
tax levied under section 5747.38 of the Revised Code and paid by 1137
an electing pass-through entity for the taxable year. 1138

(16) Add any income taxes deducted in computing federal 1139
taxable income or Ohio taxable income to the extent the income 1140
taxes were derived from income subject to a tax levied in 1141
another state or the District of Columbia when such tax was 1142
enacted for purposes of complying with internal revenue service 1143
notice 2020-75. 1144

(17) Deduct, to the extent included in federal taxable 1145
income, capital gains received by the trust from the sale of 1146
physically held bullion or specie, as those terms are defined in 1147
section 113.07 of the Revised Code, including bullion and specie 1148
sold while in the physical possession of a trustee pursuant to 1149
section 408 of the Internal Revenue Code. 1150

(T) "School district income" and "school district income 1151
tax" have the same meanings as in section 5748.01 of the Revised 1152
Code. 1153

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1154
(7) of this section, "public obligations," "purchase 1155
obligations," and "interest or interest equivalent" have the 1156
same meanings as in section 5709.76 of the Revised Code. 1157

(V) "Limited liability company" means any limited 1158
liability company formed under former Chapter 1705. of the 1159
Revised Code as that chapter existed prior to February 11, 2022, 1160
Chapter 1706. of the Revised Code, or the laws of any other 1161
state. 1162

(W) "Pass-through entity investor" means any person who, 1163
during any portion of a taxable year of a pass-through entity, 1164
is a partner, member, shareholder, or equity investor in that 1165
pass-through entity. 1166

(X) "Banking day" has the same meaning as in section 1167
1304.01 of the Revised Code. 1168

(Y) "Month" means a calendar month. 1169

(Z) "Quarter" means the first three months, the second 1170
three months, the third three months, or the last three months 1171
of the taxpayer's taxable year. 1172

(AA) (1) "Modified business income" means the business 1173
income included in a trust's Ohio taxable income after such 1174
taxable income is first reduced by the qualifying trust amount, 1175
if any. 1176

(2) "Qualifying trust amount" of a trust means capital 1177
gains and losses from the sale, exchange, or other disposition 1178
of equity or ownership interests in, or debt obligations of, a 1179
qualifying investee to the extent included in the trust's Ohio 1180
taxable income, but only if the following requirements are 1181
satisfied: 1182

(a) The book value of the qualifying investee's physical 1183
assets in this state and everywhere, as of the last day of the 1184
qualifying investee's fiscal or calendar year ending immediately 1185
prior to the date on which the trust recognizes the gain or 1186

loss, is available to the trust. 1187

(b) The requirements of section 5747.011 of the Revised 1188
Code are satisfied for the trust's taxable year in which the 1189
trust recognizes the gain or loss. 1190

Any gain or loss that is not a qualifying trust amount is 1191
modified business income, qualifying investment income, or 1192
modified nonbusiness income, as the case may be. 1193

(3) "Modified nonbusiness income" means a trust's Ohio 1194
taxable income other than modified business income, other than 1195
the qualifying trust amount, and other than qualifying 1196
investment income, as defined in section 5747.012 of the Revised 1197
Code, to the extent such qualifying investment income is not 1198
otherwise part of modified business income. 1199

(4) "Modified Ohio taxable income" applies only to trusts, 1200
and means the sum of the amounts described in divisions (AA) (4) 1201
(a) to (c) of this section: 1202

(a) The fraction, calculated under section 5747.013, and 1203
applying section 5747.231 of the Revised Code, multiplied by the 1204
sum of the following amounts: 1205

(i) The trust's modified business income; 1206

(ii) The trust's qualifying investment income, as defined 1207
in section 5747.012 of the Revised Code, but only to the extent 1208
the qualifying investment income does not otherwise constitute 1209
modified business income and does not otherwise constitute a 1210
qualifying trust amount. 1211

(b) The qualifying trust amount multiplied by a fraction, 1212
the numerator of which is the sum of the book value of the 1213
qualifying investee's physical assets in this state on the last 1214

day of the qualifying investee's fiscal or calendar year ending 1215
immediately prior to the day on which the trust recognizes the 1216
qualifying trust amount, and the denominator of which is the sum 1217
of the book value of the qualifying investee's total physical 1218
assets everywhere on the last day of the qualifying investee's 1219
fiscal or calendar year ending immediately prior to the day on 1220
which the trust recognizes the qualifying trust amount. If, for 1221
a taxable year, the trust recognizes a qualifying trust amount 1222
with respect to more than one qualifying investee, the amount 1223
described in division (AA) (4) (b) of this section shall equal the 1224
sum of the products so computed for each such qualifying 1225
investee. 1226

(c) (i) With respect to a trust or portion of a trust that 1227
is a resident as ascertained in accordance with division (I) (3) 1228
(d) of this section, its modified nonbusiness income. 1229

(ii) With respect to a trust or portion of a trust that is 1230
not a resident as ascertained in accordance with division (I) (3) 1231
(d) of this section, the amount of its modified nonbusiness 1232
income satisfying the descriptions in divisions (B) (2) to (5) of 1233
section 5747.20 of the Revised Code, except as otherwise 1234
provided in division (AA) (4) (c) (ii) of this section. With 1235
respect to a trust or portion of a trust that is not a resident 1236
as ascertained in accordance with division (I) (3) (d) of this 1237
section, the trust's portion of modified nonbusiness income 1238
recognized from the sale, exchange, or other disposition of a 1239
debt interest in or equity interest in a section 5747.212 1240
entity, as defined in section 5747.212 of the Revised Code, 1241
without regard to division (A) of that section, shall not be 1242
allocated to this state in accordance with section 5747.20 of 1243
the Revised Code but shall be apportioned to this state in 1244
accordance with division (B) of section 5747.212 of the Revised 1245

Code without regard to division (A) of that section. 1246

If the allocation and apportionment of a trust's income 1247
under divisions (AA) (4) (a) and (c) of this section do not fairly 1248
represent the modified Ohio taxable income of the trust in this 1249
state, the alternative methods described in division (C) of 1250
section 5747.21 of the Revised Code may be applied in the manner 1251
and to the same extent provided in that section. 1252

(5) (a) Except as set forth in division (AA) (5) (b) of this 1253
section, "qualifying investee" means a person in which a trust 1254
has an equity or ownership interest, or a person or unit of 1255
government the debt obligations of either of which are owned by 1256
a trust. For the purposes of division (AA) (2) (a) of this section 1257
and for the purpose of computing the fraction described in 1258
division (AA) (4) (b) of this section, all of the following apply: 1259

(i) If the qualifying investee is a member of a qualifying 1260
controlled group on the last day of the qualifying investee's 1261
fiscal or calendar year ending immediately prior to the date on 1262
which the trust recognizes the gain or loss, then "qualifying 1263
investee" includes all persons in the qualifying controlled 1264
group on such last day. 1265

(ii) If the qualifying investee, or if the qualifying 1266
investee and any members of the qualifying controlled group of 1267
which the qualifying investee is a member on the last day of the 1268
qualifying investee's fiscal or calendar year ending immediately 1269
prior to the date on which the trust recognizes the gain or 1270
loss, separately or cumulatively own, directly or indirectly, on 1271
the last day of the qualifying investee's fiscal or calendar 1272
year ending immediately prior to the date on which the trust 1273
recognizes the qualifying trust amount, more than fifty per cent 1274
of the equity of a pass-through entity, then the qualifying 1275

investee and the other members are deemed to own the 1276
proportionate share of the pass-through entity's physical assets 1277
which the pass-through entity directly or indirectly owns on the 1278
last day of the pass-through entity's calendar or fiscal year 1279
ending within or with the last day of the qualifying investee's 1280
fiscal or calendar year ending immediately prior to the date on 1281
which the trust recognizes the qualifying trust amount. 1282

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1283
section, "upper level pass-through entity" means a pass-through 1284
entity directly or indirectly owning any equity of another pass- 1285
through entity, and "lower level pass-through entity" means that 1286
other pass-through entity. 1287

An upper level pass-through entity, whether or not it is 1288
also a qualifying investee, is deemed to own, on the last day of 1289
the upper level pass-through entity's calendar or fiscal year, 1290
the proportionate share of the lower level pass-through entity's 1291
physical assets that the lower level pass-through entity 1292
directly or indirectly owns on the last day of the lower level 1293
pass-through entity's calendar or fiscal year ending within or 1294
with the last day of the upper level pass-through entity's 1295
fiscal or calendar year. If the upper level pass-through entity 1296
directly and indirectly owns less than fifty per cent of the 1297
equity of the lower level pass-through entity on each day of the 1298
upper level pass-through entity's calendar or fiscal year in 1299
which or with which ends the calendar or fiscal year of the 1300
lower level pass-through entity and if, based upon clear and 1301
convincing evidence, complete information about the location and 1302
cost of the physical assets of the lower pass-through entity is 1303
not available to the upper level pass-through entity, then 1304
solely for purposes of ascertaining if a gain or loss 1305
constitutes a qualifying trust amount, the upper level pass- 1306

through entity shall be deemed as owning no equity of the lower 1307
level pass-through entity for each day during the upper level 1308
pass-through entity's calendar or fiscal year in which or with 1309
which ends the lower level pass-through entity's calendar or 1310
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1311
shall be construed to provide for any deduction or exclusion in 1312
computing any trust's Ohio taxable income. 1313

(b) With respect to a trust that is not a resident for the 1314
taxable year and with respect to a part of a trust that is not a 1315
resident for the taxable year, "qualifying investee" for that 1316
taxable year does not include a C corporation if both of the 1317
following apply: 1318

(i) During the taxable year the trust or part of the trust 1319
recognizes a gain or loss from the sale, exchange, or other 1320
disposition of equity or ownership interests in, or debt 1321
obligations of, the C corporation. 1322

(ii) Such gain or loss constitutes nonbusiness income. 1323

(6) "Available" means information is such that a person is 1324
able to learn of the information by the due date plus 1325
extensions, if any, for filing the return for the taxable year 1326
in which the trust recognizes the gain or loss. 1327

(BB) "Qualifying controlled group" has the same meaning as 1328
in section 5733.04 of the Revised Code. 1329

(CC) "Related member" has the same meaning as in section 1330
5733.042 of the Revised Code. 1331

(DD) (1) For the purposes of division (DD) of this section: 1332

(a) "Qualifying person" means any person other than a 1333
qualifying corporation. 1334

(b) "Qualifying corporation" means any person classified 1335
for federal income tax purposes as an association taxable as a 1336
corporation, except either of the following: 1337

(i) A corporation that has made an election under 1338
subchapter S, chapter one, subtitle A, of the Internal Revenue 1339
Code for its taxable year ending within, or on the last day of, 1340
the investor's taxable year; 1341

(ii) A subsidiary that is wholly owned by any corporation 1342
that has made an election under subchapter S, chapter one, 1343
subtitle A of the Internal Revenue Code for its taxable year 1344
ending within, or on the last day of, the investor's taxable 1345
year. 1346

(2) For the purposes of this chapter, unless expressly 1347
stated otherwise, no qualifying person indirectly owns any asset 1348
directly or indirectly owned by any qualifying corporation. 1349

(EE) For purposes of this chapter and Chapter 5751. of the 1350
Revised Code: 1351

(1) "Trust" does not include a qualified pre-income tax 1352
trust. 1353

(2) A "qualified pre-income tax trust" is any pre-income 1354
tax trust that makes a qualifying pre-income tax trust election 1355
as described in division (EE) (3) of this section. 1356

(3) A "qualifying pre-income tax trust election" is an 1357
election by a pre-income tax trust to subject to the tax imposed 1358
by section 5751.02 of the Revised Code the pre-income tax trust 1359
and all pass-through entities of which the trust owns or 1360
controls, directly, indirectly, or constructively through 1361
related interests, five per cent or more of the ownership or 1362
equity interests. The trustee shall notify the tax commissioner 1363

in writing of the election on or before April 15, 2006. The 1364
election, if timely made, shall be effective on and after 1365
January 1, 2006, and shall apply for all tax periods and tax 1366
years until revoked by the trustee of the trust. 1367

(4) A "pre-income tax trust" is a trust that satisfies all 1368
of the following requirements: 1369

(a) The document or instrument creating the trust was 1370
executed by the grantor before January 1, 1972; 1371

(b) The trust became irrevocable upon the creation of the 1372
trust; and 1373

(c) The grantor was domiciled in this state at the time 1374
the trust was created. 1375

(FF) "Uniformed services" has the same meaning as in 10 1376
U.S.C. 101. 1377

(GG) "Taxable business income" means the amount by which 1378
an individual's business income that is included in federal 1379
adjusted gross income exceeds the amount of business income the 1380
individual is authorized to deduct under division (A) (28) of 1381
this section for the taxable year. 1382

(HH) "Employer" does not include a franchisor with respect 1383
to the franchisor's relationship with a franchisee or an 1384
employee of a franchisee, unless the franchisor agrees to assume 1385
that role in writing or a court of competent jurisdiction 1386
determines that the franchisor exercises a type or degree of 1387
control over the franchisee or the franchisee's employees that 1388
is not customarily exercised by a franchisor for the purpose of 1389
protecting the franchisor's trademark, brand, or both. For 1390
purposes of this division, "franchisor" and "franchisee" have 1391
the same meanings as in 16 C.F.R. 436.1. 1392

(II) "Modified adjusted gross income" means Ohio adjusted 1393
gross income plus any amount deducted under divisions (A) (28) 1394
and (34) of this section for the taxable year. 1395

(JJ) "Qualifying Ohio educator" means an individual who, 1396
for a taxable year, qualifies as an eligible educator, as that 1397
term is defined in section 62 of the Internal Revenue Code, and 1398
who holds a certificate, license, or permit described in Chapter 1399
3319. or section 3301.071 of the Revised Code. 1400

Section 2. That existing sections 135.01, 135.31, and 1401
5747.01 of the Revised Code are hereby repealed. 1402

Section 3. The amendment by this act of section 5747.01 of 1403
the Revised Code applies to taxable years ending on or after the 1404
effective date of this section. 1405