

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 306

**Senator Maharath
Cosponsor: Senator Antonio**

A BILL

To amend section 5747.01 of the Revised Code to 1
allow individuals who rent their primary 2
residence to claim an income tax deduction of up 3
to \$3,000 per year. 4

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

Section 1. That section 5747.01 of the Revised Code be 5
amended to read as follows: 6

Sec. 5747.01. Except as otherwise expressly provided or 7
clearly appearing from the context, any term used in this 8
chapter that is not otherwise defined in this section has the 9
same meaning as when used in a comparable context in the laws of 10
the United States relating to federal income taxes or if not 11
used in a comparable context in those laws, has the same meaning 12
as in section 5733.40 of the Revised Code. Any reference in this 13
chapter to the Internal Revenue Code includes other laws of the 14
United States relating to federal income taxes. 15

As used in this chapter: 16

(A) "Adjusted gross income" or "Ohio adjusted gross 17
income" means federal adjusted gross income, as defined and used 18

in the Internal Revenue Code, adjusted as provided in this 19
section: 20

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

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

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

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

(5) Deduct benefits under Title II of the Social Security 38
Act and tier 1 railroad retirement benefits to the extent 39
included in federal adjusted gross income under section 86 of 40
the Internal Revenue Code. 41

(6) In the case of a taxpayer who is a beneficiary of a 42
trust that makes an accumulation distribution as defined in 43
section 665 of the Internal Revenue Code, add, for the 44
beneficiary's taxable years beginning before 2002, the portion, 45
if any, of such distribution that does not exceed the 46
undistributed net income of the trust for the three taxable 47

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

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

(8) Deduct any interest or interest equivalent on public 71
obligations and purchase obligations to the extent that the 72
interest or interest equivalent is included in federal adjusted 73
gross income. 74

(9) Add any loss or deduct any gain resulting from the 75
sale, exchange, or other disposition of public obligations to 76
the extent that the loss has been deducted or the gain has been 77

included in computing federal adjusted gross income. 78

(10) Deduct or add amounts, as provided under section 79
5747.70 of the Revised Code, related to contributions to 80
variable college savings program accounts made or tuition units 81
purchased pursuant to Chapter 3334. of the Revised Code. 82

(11) (a) Deduct, to the extent not otherwise allowable as a 83
deduction or exclusion in computing federal or Ohio adjusted 84
gross income for the taxable year, the amount the taxpayer paid 85
during the taxable year for medical care insurance and qualified 86
long-term care insurance for the taxpayer, the taxpayer's 87
spouse, and dependents. No deduction for medical care insurance 88
under division (A) (11) (a) of this section shall be allowed 89
either to any taxpayer who is eligible to participate in any 90
subsidized health plan maintained by any employer of the 91
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 92
entitled to, or on application would be entitled to, benefits 93
under part A of Title XVIII of the "Social Security Act," 49 94
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 95
division (A) (11) (a) of this section, "subsidized health plan" 96
means a health plan for which the employer pays any portion of 97
the plan's cost. The deduction allowed under division (A) (11) (a) 98
of this section shall be the net of any related premium refunds, 99
related premium reimbursements, or related insurance premium 100
dividends received during the taxable year. 101

(b) Deduct, to the extent not otherwise deducted or 102
excluded in computing federal or Ohio adjusted gross income 103
during the taxable year, the amount the taxpayer paid during the 104
taxable year, not compensated for by any insurance or otherwise, 105
for medical care of the taxpayer, the taxpayer's spouse, and 106
dependents, to the extent the expenses exceed seven and one-half 107

per cent of the taxpayer's federal adjusted gross income. 108

(c) Deduct, to the extent not otherwise deducted or 109
excluded in computing federal or Ohio adjusted gross income, any 110
amount included in federal adjusted gross income under section 111
105 or not excluded under section 106 of the Internal Revenue 112
Code solely because it relates to an accident and health plan 113
for a person who otherwise would be a "qualifying relative" and 114
thus a "dependent" under section 152 of the Internal Revenue 115
Code but for the fact that the person fails to meet the income 116
and support limitations under section 152(d)(1)(B) and (C) of 117
the Internal Revenue Code. 118

(d) For purposes of division (A)(11) of this section, 119
"medical care" has the meaning given in section 213 of the 120
Internal Revenue Code, subject to the special rules, 121
limitations, and exclusions set forth therein, and "qualified 122
long-term care" has the same meaning given in section 7702B(c) 123
of the Internal Revenue Code. Solely for purposes of divisions 124
(A)(11)(a) and (c) of this section, "dependent" includes a 125
person who otherwise would be a "qualifying relative" and thus a 126
"dependent" under section 152 of the Internal Revenue Code but 127
for the fact that the person fails to meet the income and 128
support limitations under section 152(d)(1)(B) and (C) of the 129
Internal Revenue Code. 130

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

shall be reduced to the extent the reimbursement is attributable 138
to an amount the taxpayer deducted under this section in any 139
taxable year. 140

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

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

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

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

(14) Deduct an amount equal to the deposits made to, and 156
net investment earnings of, a medical savings account during the 157
taxable year, in accordance with section 3924.66 of the Revised 158
Code. The deduction allowed by division (A) (14) of this section 159
does not apply to medical savings account deposits and earnings 160
otherwise deducted or excluded for the current or any other 161
taxable year from the taxpayer's federal adjusted gross income. 162

(15) (a) Add an amount equal to the funds withdrawn from a 163
medical savings account during the taxable year, and the net 164
investment earnings on those funds, when the funds withdrawn 165
were used for any purpose other than to reimburse an account 166

holder for, or to pay, eligible medical expenses, in accordance	167
with section 3924.66 of the Revised Code;	168
(b) Add the amounts distributed from a medical savings	169
account under division (A)(2) of section 3924.68 of the Revised	170
Code during the taxable year.	171
(16) Add any amount claimed as a credit under section	172
5747.059 of the Revised Code to the extent that such amount	173
satisfies either of the following:	174
(a) The amount was deducted or excluded from the	175
computation of the taxpayer's federal adjusted gross income as	176
required to be reported for the taxpayer's taxable year under	177
the Internal Revenue Code;	178
(b) The amount resulted in a reduction of the taxpayer's	179
federal adjusted gross income as required to be reported for any	180
of the taxpayer's taxable years under the Internal Revenue Code.	181
(17) Deduct the amount contributed by the taxpayer to an	182
individual development account program established by a county	183
department of job and family services pursuant to sections	184
329.11 to 329.14 of the Revised Code for the purpose of matching	185
funds deposited by program participants. On request of the tax	186
commissioner, the taxpayer shall provide any information that,	187
in the tax commissioner's opinion, is necessary to establish the	188
amount deducted under division (A)(17) of this section.	189
(18) Beginning in taxable year 2001 but not for any	190
taxable year beginning after December 31, 2005, if the taxpayer	191
is married and files a joint return and the combined federal	192
adjusted gross income of the taxpayer and the taxpayer's spouse	193
for the taxable year does not exceed one hundred thousand	194
dollars, or if the taxpayer is single and has a federal adjusted	195

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

(19) Add any reimbursement received during the taxable 208
year of any amount the taxpayer deducted under division (A) (18) 209
of this section in any previous taxable year to the extent the 210
amount is not otherwise included in Ohio adjusted gross income. 211

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 212
(v) of this section, add five-sixths of the amount of 213
depreciation expense allowed by subsection (k) of section 168 of 214
the Internal Revenue Code, including the taxpayer's 215
proportionate or distributive share of the amount of 216
depreciation expense allowed by that subsection to a pass- 217
through entity in which the taxpayer has a direct or indirect 218
ownership interest. 219

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 220
of this section, add five-sixths of the amount of qualifying 221
section 179 depreciation expense, including the taxpayer's 222
proportionate or distributive share of the amount of qualifying 223
section 179 depreciation expense allowed to any pass-through 224
entity in which the taxpayer has a direct or indirect ownership 225

interest.	226
(iii) Subject to division (A) (20) (a) (v) of this section,	227
for taxable years beginning in 2012 or thereafter, if the	228
increase in income taxes withheld by the taxpayer is equal to or	229
greater than ten per cent of income taxes withheld by the	230
taxpayer during the taxpayer's immediately preceding taxable	231
year, "two-thirds" shall be substituted for "five-sixths" for	232
the purpose of divisions (A) (20) (a) (i) and (ii) of this section.	233
(iv) Subject to division (A) (20) (a) (v) of this section,	234
for taxable years beginning in 2012 or thereafter, a taxpayer is	235
not required to add an amount under division (A) (20) of this	236
section if the increase in income taxes withheld by the taxpayer	237
and by any pass-through entity in which the taxpayer has a	238
direct or indirect ownership interest is equal to or greater	239
than the sum of (I) the amount of qualifying section 179	240
depreciation expense and (II) the amount of depreciation expense	241
allowed to the taxpayer by subsection (k) of section 168 of the	242
Internal Revenue Code, and including the taxpayer's	243
proportionate or distributive shares of such amounts allowed to	244
any such pass-through entities.	245
(v) If a taxpayer directly or indirectly incurs a net	246
operating loss for the taxable year for federal income tax	247
purposes, to the extent such loss resulted from depreciation	248
expense allowed by subsection (k) of section 168 of the Internal	249
Revenue Code and by qualifying section 179 depreciation expense,	250
"the entire" shall be substituted for "five-sixths of the" for	251
the purpose of divisions (A) (20) (a) (i) and (ii) of this section.	252
The tax commissioner, under procedures established by the	253
commissioner, may waive the add-backs related to a pass-through	254
entity if the taxpayer owns, directly or indirectly, less than	255

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

immediately preceding taxable year.	285
(iii) "Qualifying section 179 depreciation expense" means	286
the difference between (I) the amount of depreciation expense	287
directly or indirectly allowed to a taxpayer under section 179	288
of the Internal Revised Code, and (II) the amount of	289
depreciation expense directly or indirectly allowed to the	290
taxpayer under section 179 of the Internal Revenue Code as that	291
section existed on December 31, 2002.	292
(21) (a) If the taxpayer was required to add an amount	293
under division (A) (20) (a) of this section for a taxable year,	294
deduct one of the following:	295
(i) One-fifth of the amount so added for each of the five	296
succeeding taxable years if the amount so added was five-sixths	297
of qualifying section 179 depreciation expense or depreciation	298
expense allowed by subsection (k) of section 168 of the Internal	299
Revenue Code;	300
(ii) One-half of the amount so added for each of the two	301
succeeding taxable years if the amount so added was two-thirds	302
of such depreciation expense;	303
(iii) One-sixth of the amount so added for each of the six	304
succeeding taxable years if the entire amount of such	305
depreciation expense was so added.	306
(b) If the amount deducted under division (A) (21) (a) of	307
this section is attributable to an add-back allocated under	308
division (A) (20) (c) of this section, the amount deducted shall	309
be situated to the same location. Otherwise, the add-back shall	310
be apportioned using the apportionment factors for the taxable	311
year in which the deduction is taken, subject to one or more of	312
the four alternative methods of apportionment enumerated in	313

section 5747.21 of the Revised Code. 314

(c) No deduction is available under division (A) (21) (a) of 315
this section with regard to any depreciation allowed by section 316
168(k) of the Internal Revenue Code and by the qualifying 317
section 179 depreciation expense amount to the extent that such 318
depreciation results in or increases a federal net operating 319
loss carryback or carryforward. If no such deduction is 320
available for a taxable year, the taxpayer may carry forward the 321
amount not deducted in such taxable year to the next taxable 322
year and add that amount to any deduction otherwise available 323
under division (A) (21) (a) of this section for that next taxable 324
year. The carryforward of amounts not so deducted shall continue 325
until the entire addition required by division (A) (20) (a) of 326
this section has been deducted. 327

(d) No refund shall be allowed as a result of adjustments 328
made by division (A) (21) of this section. 329

(22) Deduct, to the extent not otherwise deducted or 330
excluded in computing federal or Ohio adjusted gross income for 331
the taxable year, the amount the taxpayer received during the 332
taxable year as reimbursement for life insurance premiums under 333
section 5919.31 of the Revised Code. 334

(23) Deduct, to the extent not otherwise deducted or 335
excluded in computing federal or Ohio adjusted gross income for 336
the taxable year, the amount the taxpayer received during the 337
taxable year as a death benefit paid by the adjutant general 338
under section 5919.33 of the Revised Code. 339

(24) Deduct, to the extent included in federal adjusted 340
gross income and not otherwise allowable as a deduction or 341
exclusion in computing federal or Ohio adjusted gross income for 342

the taxable year, military pay and allowances received by the 343
taxpayer during the taxable year for active duty service in the 344
United States army, air force, navy, marine corps, or coast 345
guard or reserve components thereof or the national guard. The 346
deduction may not be claimed for military pay and allowances 347
received by the taxpayer while the taxpayer is stationed in this 348
state. 349

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

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

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

(b) "Qualified organ donation expenses" means travel 362
expenses, lodging expenses, and wages and salary forgone by a 363
taxpayer in connection with the taxpayer's donation, while 364
living, of one or more of the taxpayer's human organs to another 365
human being. 366

(26) Deduct, to the extent not otherwise deducted or 367
excluded in computing federal or Ohio adjusted gross income for 368
the taxable year, amounts received by the taxpayer as retired 369
personnel pay for service in the uniformed services or reserve 370
components thereof, or the national guard, or received by the 371

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

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

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

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

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

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

(32) Deduct, as provided under section 5747.78 of the 427
Revised Code, contributions to ABLE savings accounts made in 428
accordance with sections 113.50 to 113.56 of the Revised Code. 429

(33) (a) Deduct, to the extent not otherwise deducted or 430
excluded in computing federal or Ohio adjusted gross income 431
during the taxable year, all of the following: 432

(i) Compensation paid to a qualifying employee described 433
in division (A) (14) (a) of section 5703.94 of the Revised Code to 434
the extent such compensation is for disaster work conducted in 435
this state during a disaster response period pursuant to a 436
qualifying solicitation received by the employee's employer; 437

(ii) Compensation paid to a qualifying employee described 438
in division (A) (14) (b) of section 5703.94 of the Revised Code to 439
the extent such compensation is for disaster work conducted in 440
this state by the employee during the disaster response period 441
on critical infrastructure owned or used by the employee's 442
employer; 443

(iii) Income received by an out-of-state disaster business 444
for disaster work conducted in this state during a disaster 445
response period, or, if the out-of-state disaster business is a 446
pass-through entity, a taxpayer's distributive share of the 447
pass-through entity's income from the business conducting 448
disaster work in this state during a disaster response period, 449
if, in either case, the disaster work is conducted pursuant to a 450
qualifying solicitation received by the business. 451

(b) All terms used in division (A) (33) of this section 452
have the same meanings as in section 5703.94 of the Revised 453
Code. 454

(34) For a taxpayer who is a qualifying Ohio educator, 455
deduct, to the extent not otherwise deducted or excluded in 456
computing federal or Ohio adjusted gross income for the taxable 457
year, the lesser of two hundred fifty dollars or the amount of 458
expenses described in subsections (a) (2) (D) (i) and (ii) of 459
section 62 of the Internal Revenue Code paid or incurred by the 460
taxpayer during the taxpayer's taxable year in excess of the 461
amount the taxpayer is authorized to deduct for that taxable 462

year under subsection (a) (2) (D) of that section. 463

(35) Deduct, to the extent not otherwise deducted or 464
excluded in computing federal or Ohio adjusted gross income for 465
the taxable year, qualifying rent payments made during the 466
taxable year. For the purposes of this division, a payment is a 467
"qualifying rent payment" if the taxpayer paid the amount to 468
rent a dwelling for use as the taxpayer's principal place of 469
residence and if that dwelling is not exempt from property 470
taxation. The total amount of qualifying rent payments that may 471
be deducted in any taxable year by a taxpayer or a taxpayer and 472
the taxpayer's spouse may not exceed three thousand dollars. 473

(B) "Business income" means income, including gain or 474
loss, arising from transactions, activities, and sources in the 475
regular course of a trade or business and includes income, gain, 476
or loss from real property, tangible property, and intangible 477
property if the acquisition, rental, management, and disposition 478
of the property constitute integral parts of the regular course 479
of a trade or business operation. "Business income" includes 480
income, including gain or loss, from a partial or complete 481
liquidation of a business, including, but not limited to, gain 482
or loss from the sale or other disposition of goodwill. 483

(C) "Nonbusiness income" means all income other than 484
business income and may include, but is not limited to, 485
compensation, rents and royalties from real or tangible personal 486
property, capital gains, interest, dividends and distributions, 487
patent or copyright royalties, or lottery winnings, prizes, and 488
awards. 489

(D) "Compensation" means any form of remuneration paid to 490
an employee for personal services. 491

(E) "Fiduciary" means a guardian, trustee, executor,	492
administrator, receiver, conservator, or any other person acting	493
in any fiduciary capacity for any individual, trust, or estate.	494
(F) "Fiscal year" means an accounting period of twelve	495
months ending on the last day of any month other than December.	496
(G) "Individual" means any natural person.	497
(H) "Internal Revenue Code" means the "Internal Revenue	498
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	499
(I) "Resident" means any of the following, provided that	500
division (I) (3) of this section applies only to taxable years of	501
a trust beginning in 2002 or thereafter:	502
(1) An individual who is domiciled in this state, subject	503
to section 5747.24 of the Revised Code;	504
(2) The estate of a decedent who at the time of death was	505
domiciled in this state. The domicile tests of section 5747.24	506
of the Revised Code are not controlling for purposes of division	507
(I) (2) of this section.	508
(3) A trust that, in whole or part, resides in this state.	509
If only part of a trust resides in this state, the trust is a	510
resident only with respect to that part.	511
For the purposes of division (I) (3) of this section:	512
(a) A trust resides in this state for the trust's current	513
taxable year to the extent, as described in division (I) (3) (d)	514
of this section, that the trust consists directly or indirectly,	515
in whole or in part, of assets, net of any related liabilities,	516
that were transferred, or caused to be transferred, directly or	517
indirectly, to the trust by any of the following:	518

(i) A person, a court, or a governmental entity or 519
instrumentality on account of the death of a decedent, but only 520
if the trust is described in division (I) (3) (e) (i) or (ii) of 521
this section; 522

(ii) A person who was domiciled in this state for the 523
purposes of this chapter when the person directly or indirectly 524
transferred assets to an irrevocable trust, but only if at least 525
one of the trust's qualifying beneficiaries is domiciled in this 526
state for the purposes of this chapter during all or some 527
portion of the trust's current taxable year; 528

(iii) A person who was domiciled in this state for the 529
purposes of this chapter when the trust document or instrument 530
or part of the trust document or instrument became irrevocable, 531
but only if at least one of the trust's qualifying beneficiaries 532
is a resident domiciled in this state for the purposes of this 533
chapter during all or some portion of the trust's current 534
taxable year. If a trust document or instrument became 535
irrevocable upon the death of a person who at the time of death 536
was domiciled in this state for purposes of this chapter, that 537
person is a person described in division (I) (3) (a) (iii) of this 538
section. 539

(b) A trust is irrevocable to the extent that the 540
transferor is not considered to be the owner of the net assets 541
of the trust under sections 671 to 678 of the Internal Revenue 542
Code. 543

(c) With respect to a trust other than a charitable lead 544
trust, "qualifying beneficiary" has the same meaning as 545
"potential current beneficiary" as defined in section 1361(e) (2) 546
of the Internal Revenue Code, and with respect to a charitable 547
lead trust "qualifying beneficiary" is any current, future, or 548

contingent beneficiary, but with respect to any trust 549
"qualifying beneficiary" excludes a person or a governmental 550
entity or instrumentality to any of which a contribution would 551
qualify for the charitable deduction under section 170 of the 552
Internal Revenue Code. 553

(d) For the purposes of division (I) (3) (a) of this 554
section, the extent to which a trust consists directly or 555
indirectly, in whole or in part, of assets, net of any related 556
liabilities, that were transferred directly or indirectly, in 557
whole or part, to the trust by any of the sources enumerated in 558
that division shall be ascertained by multiplying the fair 559
market value of the trust's assets, net of related liabilities, 560
by the qualifying ratio, which shall be computed as follows: 561

(i) The first time the trust receives assets, the 562
numerator of the qualifying ratio is the fair market value of 563
those assets at that time, net of any related liabilities, from 564
sources enumerated in division (I) (3) (a) of this section. The 565
denominator of the qualifying ratio is the fair market value of 566
all the trust's assets at that time, net of any related 567
liabilities. 568

(ii) Each subsequent time the trust receives assets, a 569
revised qualifying ratio shall be computed. The numerator of the 570
revised qualifying ratio is the sum of (1) the fair market value 571
of the trust's assets immediately prior to the subsequent 572
transfer, net of any related liabilities, multiplied by the 573
qualifying ratio last computed without regard to the subsequent 574
transfer, and (2) the fair market value of the subsequently 575
transferred assets at the time transferred, net of any related 576
liabilities, from sources enumerated in division (I) (3) (a) of 577
this section. The denominator of the revised qualifying ratio is 578

the fair market value of all the trust's assets immediately 579
after the subsequent transfer, net of any related liabilities. 580

(iii) Whether a transfer to the trust is by or from any of 581
the sources enumerated in division (I) (3) (a) of this section 582
shall be ascertained without regard to the domicile of the 583
trust's beneficiaries. 584

(e) For the purposes of division (I) (3) (a) (i) of this 585
section: 586

(i) A trust is described in division (I) (3) (e) (i) of this 587
section if the trust is a testamentary trust and the testator of 588
that testamentary trust was domiciled in this state at the time 589
of the testator's death for purposes of the taxes levied under 590
Chapter 5731. of the Revised Code. 591

(ii) A trust is described in division (I) (3) (e) (ii) of 592
this section if the transfer is a qualifying transfer described 593
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 594
trust is an irrevocable inter vivos trust, and at least one of 595
the trust's qualifying beneficiaries is domiciled in this state 596
for purposes of this chapter during all or some portion of the 597
trust's current taxable year. 598

(f) For the purposes of division (I) (3) (e) (ii) of this 599
section, a "qualifying transfer" is a transfer of assets, net of 600
any related liabilities, directly or indirectly to a trust, if 601
the transfer is described in any of the following: 602

(i) The transfer is made to a trust, created by the 603
decedent before the decedent's death and while the decedent was 604
domiciled in this state for the purposes of this chapter, and, 605
prior to the death of the decedent, the trust became irrevocable 606
while the decedent was domiciled in this state for the purposes 607

of this chapter. 608

(ii) The transfer is made to a trust to which the 609
decedent, prior to the decedent's death, had directly or 610
indirectly transferred assets, net of any related liabilities, 611
while the decedent was domiciled in this state for the purposes 612
of this chapter, and prior to the death of the decedent the 613
trust became irrevocable while the decedent was domiciled in 614
this state for the purposes of this chapter. 615

(iii) The transfer is made on account of a contractual 616
relationship existing directly or indirectly between the 617
transferor and either the decedent or the estate of the decedent 618
at any time prior to the date of the decedent's death, and the 619
decedent was domiciled in this state at the time of death for 620
purposes of the taxes levied under Chapter 5731. of the Revised 621
Code. 622

(iv) The transfer is made to a trust on account of a 623
contractual relationship existing directly or indirectly between 624
the transferor and another person who at the time of the 625
decedent's death was domiciled in this state for purposes of 626
this chapter. 627

(v) The transfer is made to a trust on account of the will 628
of a testator who was domiciled in this state at the time of the 629
testator's death for purposes of the taxes levied under Chapter 630
5731. of the Revised Code. 631

(vi) The transfer is made to a trust created by or caused 632
to be created by a court, and the trust was directly or 633
indirectly created in connection with or as a result of the 634
death of an individual who, for purposes of the taxes levied 635
under Chapter 5731. of the Revised Code, was domiciled in this 636

state at the time of the individual's death. 637

(g) The tax commissioner may adopt rules to ascertain the 638
part of a trust residing in this state. 639

(J) "Nonresident" means an individual or estate that is 640
not a resident. An individual who is a resident for only part of 641
a taxable year is a nonresident for the remainder of that 642
taxable year. 643

(K) "Pass-through entity" has the same meaning as in 644
section 5733.04 of the Revised Code. 645

(L) "Return" means the notifications and reports required 646
to be filed pursuant to this chapter for the purpose of 647
reporting the tax due and includes declarations of estimated tax 648
when so required. 649

(M) "Taxable year" means the calendar year or the 650
taxpayer's fiscal year ending during the calendar year, or 651
fractional part thereof, upon which the adjusted gross income is 652
calculated pursuant to this chapter. 653

(N) "Taxpayer" means any person subject to the tax imposed 654
by section 5747.02 of the Revised Code or any pass-through 655
entity that makes the election under division (D) of section 656
5747.08 of the Revised Code. 657

(O) "Dependents" means one of the following: 658

(1) For taxable years beginning on or after January 1, 659
2018, and before January 1, 2026, dependents as defined in the 660
Internal Revenue Code; 661

(2) For all other taxable years, dependents as defined in 662
the Internal Revenue Code and as claimed in the taxpayer's 663
federal income tax return for the taxable year or which the 664

taxpayer would have been permitted to claim had the taxpayer 665
filed a federal income tax return. 666

(P) "Principal county of employment" means, in the case of 667
a nonresident, the county within the state in which a taxpayer 668
performs services for an employer or, if those services are 669
performed in more than one county, the county in which the major 670
portion of the services are performed. 671

(Q) As used in sections 5747.50 to 5747.55 of the Revised 672
Code: 673

(1) "Subdivision" means any county, municipal corporation, 674
park district, or township. 675

(2) "Essential local government purposes" includes all 676
functions that any subdivision is required by general law to 677
exercise, including like functions that are exercised under a 678
charter adopted pursuant to the Ohio Constitution. 679

(R) "Overpayment" means any amount already paid that 680
exceeds the figure determined to be the correct amount of the 681
tax. 682

(S) "Taxable income" or "Ohio taxable income" applies only 683
to estates and trusts, and means federal taxable income, as 684
defined and used in the Internal Revenue Code, adjusted as 685
follows: 686

(1) Add interest or dividends, net of ordinary, necessary, 687
and reasonable expenses not deducted in computing federal 688
taxable income, on obligations or securities of any state or of 689
any political subdivision or authority of any state, other than 690
this state and its subdivisions and authorities, but only to the 691
extent that such net amount is not otherwise includible in Ohio 692
taxable income and is described in either division (S) (1) (a) or 693

(b) of this section:	694
(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;	695 696 697
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	698 699
(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section;	700 701 702 703 704 705 706 707 708
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	709 710
(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S) (1) (a) or (b) of this section;	711 712 713 714 715 716 717 718 719
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for	720 721 722

the taxable year, had the targeted jobs credit allowed under 723
sections 38, 51, and 52 of the Internal Revenue Code not been in 724
effect, but only to the extent such amount relates either to 725
income included in federal taxable income for the taxable year 726
or to income of the S portion of an electing small business 727
trust for the taxable year; 728

(6) Deduct any interest or interest equivalent, net of 729
related expenses deducted in computing federal taxable income, 730
on public obligations and purchase obligations, but only to the 731
extent that such net amount relates either to income included in 732
federal taxable income for the taxable year or to income of the 733
S portion of an electing small business trust for the taxable 734
year; 735

(7) Add any loss or deduct any gain resulting from sale, 736
exchange, or other disposition of public obligations to the 737
extent that such loss has been deducted or such gain has been 738
included in computing either federal taxable income or income of 739
the S portion of an electing small business trust for the 740
taxable year; 741

(8) Except in the case of the final return of an estate, 742
add any amount deducted by the taxpayer on both its Ohio estate 743
tax return pursuant to section 5731.14 of the Revised Code, and 744
on its federal income tax return in determining federal taxable 745
income; 746

(9) (a) Deduct any amount included in federal taxable 747
income solely because the amount represents a reimbursement or 748
refund of expenses that in a previous year the decedent had 749
deducted as an itemized deduction pursuant to section 63 of the 750
Internal Revenue Code and applicable treasury regulations. The 751
deduction otherwise allowed under division (S) (9) (a) of this 752

section shall be reduced to the extent the reimbursement is 753
attributable to an amount the taxpayer or decedent deducted 754
under this section in any taxable year. 755

(b) Add any amount not otherwise included in Ohio taxable 756
income for any taxable year to the extent that the amount is 757
attributable to the recovery during the taxable year of any 758
amount deducted or excluded in computing federal or Ohio taxable 759
income in any taxable year, but only to the extent such amount 760
has not been distributed to beneficiaries for the taxable year. 761

(10) Deduct any portion of the deduction described in 762
section 1341(a)(2) of the Internal Revenue Code, for repaying 763
previously reported income received under a claim of right, that 764
meets both of the following requirements: 765

(a) It is allowable for repayment of an item that was 766
included in the taxpayer's taxable income or the decedent's 767
adjusted gross income for a prior taxable year and did not 768
qualify for a credit under division (A) or (B) of section 769
5747.05 of the Revised Code for that year. 770

(b) It does not otherwise reduce the taxpayer's taxable 771
income or the decedent's adjusted gross income for the current 772
or any other taxable year. 773

(11) Add any amount claimed as a credit under section 774
5747.059 of the Revised Code to the extent that the amount 775
satisfies either of the following: 776

(a) The amount was deducted or excluded from the 777
computation of the taxpayer's federal taxable income as required 778
to be reported for the taxpayer's taxable year under the 779
Internal Revenue Code; 780

(b) The amount resulted in a reduction in the taxpayer's 781

federal taxable income as required to be reported for any of the 782
taxpayer's taxable years under the Internal Revenue Code. 783

(12) Deduct any amount, net of related expenses deducted 784
in computing federal taxable income, that a trust is required to 785
report as farm income on its federal income tax return, but only 786
if the assets of the trust include at least ten acres of land 787
satisfying the definition of "land devoted exclusively to 788
agricultural use" under section 5713.30 of the Revised Code, 789
regardless of whether the land is valued for tax purposes as 790
such land under sections 5713.30 to 5713.38 of the Revised Code. 791
If the trust is a pass-through entity investor, section 5747.231 792
of the Revised Code applies in ascertaining if the trust is 793
eligible to claim the deduction provided by division (S) (12) of 794
this section in connection with the pass-through entity's farm 795
income. 796

Except for farm income attributable to the S portion of an 797
electing small business trust, the deduction provided by 798
division (S) (12) of this section is allowed only to the extent 799
that the trust has not distributed such farm income. Division 800
(S) (12) of this section applies only to taxable years of a trust 801
beginning in 2002 or thereafter. 802

(13) Add the net amount of income described in section 803
641(c) of the Internal Revenue Code to the extent that amount is 804
not included in federal taxable income. 805

(14) Add or deduct the amount the taxpayer would be 806
required to add or deduct under division (A) (20) or (21) of this 807
section if the taxpayer's Ohio taxable income were computed in 808
the same manner as an individual's Ohio adjusted gross income is 809
computed under this section. In the case of a trust, division 810
(S) (14) of this section applies only to any of the trust's 811

taxable years beginning in 2002 or thereafter.	812
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	813 814 815
(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.	816 817 818 819
(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.	820 821 822
(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.	823 824 825 826
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	827 828
(Y) "Month" means a calendar month.	829
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	830 831 832
(AA) (1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the	833 834 835 836 837 838 839

state board of career colleges and schools under Chapter 3332. 840
of the Revised Code. 841

(2) "Qualified tuition and fees" means tuition and fees 842
imposed by an eligible institution as a condition of enrollment 843
or attendance, not exceeding two thousand five hundred dollars 844
in each of the individual's first two years of post-secondary 845
education. If the individual is a part-time student, "qualified 846
tuition and fees" includes tuition and fees paid for the 847
academic equivalent of the first two years of post-secondary 848
education during a maximum of five taxable years, not exceeding 849
a total of five thousand dollars. "Qualified tuition and fees" 850
does not include: 851

(a) Expenses for any course or activity involving sports, 852
games, or hobbies unless the course or activity is part of the 853
individual's degree or diploma program; 854

(b) The cost of books, room and board, student activity 855
fees, athletic fees, insurance expenses, or other expenses 856
unrelated to the individual's academic course of instruction; 857

(c) Tuition, fees, or other expenses paid or reimbursed 858
through an employer, scholarship, grant in aid, or other 859
educational benefit program. 860

(BB) (1) "Modified business income" means the business 861
income included in a trust's Ohio taxable income after such 862
taxable income is first reduced by the qualifying trust amount, 863
if any. 864

(2) "Qualifying trust amount" of a trust means capital 865
gains and losses from the sale, exchange, or other disposition 866
of equity or ownership interests in, or debt obligations of, a 867
qualifying investee to the extent included in the trust's Ohio 868

taxable income, but only if the following requirements are	869
satisfied:	870
(a) The book value of the qualifying investee's physical	871
assets in this state and everywhere, as of the last day of the	872
qualifying investee's fiscal or calendar year ending immediately	873
prior to the date on which the trust recognizes the gain or	874
loss, is available to the trust.	875
(b) The requirements of section 5747.011 of the Revised	876
Code are satisfied for the trust's taxable year in which the	877
trust recognizes the gain or loss.	878
Any gain or loss that is not a qualifying trust amount is	879
modified business income, qualifying investment income, or	880
modified nonbusiness income, as the case may be.	881
(3) "Modified nonbusiness income" means a trust's Ohio	882
taxable income other than modified business income, other than	883
the qualifying trust amount, and other than qualifying	884
investment income, as defined in section 5747.012 of the Revised	885
Code, to the extent such qualifying investment income is not	886
otherwise part of modified business income.	887
(4) "Modified Ohio taxable income" applies only to trusts,	888
and means the sum of the amounts described in divisions (BB) (4)	889
(a) to (c) of this section:	890
(a) The fraction, calculated under section 5747.013, and	891
applying section 5747.231 of the Revised Code, multiplied by the	892
sum of the following amounts:	893
(i) The trust's modified business income;	894
(ii) The trust's qualifying investment income, as defined	895
in section 5747.012 of the Revised Code, but only to the extent	896

the qualifying investment income does not otherwise constitute 897
modified business income and does not otherwise constitute a 898
qualifying trust amount. 899

(b) The qualifying trust amount multiplied by a fraction, 900
the numerator of which is the sum of the book value of the 901
qualifying investee's physical assets in this state on the last 902
day of the qualifying investee's fiscal or calendar year ending 903
immediately prior to the day on which the trust recognizes the 904
qualifying trust amount, and the denominator of which is the sum 905
of the book value of the qualifying investee's total physical 906
assets everywhere on the last day of the qualifying investee's 907
fiscal or calendar year ending immediately prior to the day on 908
which the trust recognizes the qualifying trust amount. If, for 909
a taxable year, the trust recognizes a qualifying trust amount 910
with respect to more than one qualifying investee, the amount 911
described in division (BB) (4) (b) of this section shall equal the 912
sum of the products so computed for each such qualifying 913
investee. 914

(c) (i) With respect to a trust or portion of a trust that 915
is a resident as ascertained in accordance with division (I) (3) 916
(d) of this section, its modified nonbusiness income. 917

(ii) With respect to a trust or portion of a trust that is 918
not a resident as ascertained in accordance with division (I) (3) 919
(d) of this section, the amount of its modified nonbusiness 920
income satisfying the descriptions in divisions (B) (2) to (5) of 921
section 5747.20 of the Revised Code, except as otherwise 922
provided in division (BB) (4) (c) (ii) of this section. With 923
respect to a trust or portion of a trust that is not a resident 924
as ascertained in accordance with division (I) (3) (d) of this 925
section, the trust's portion of modified nonbusiness income 926

recognized from the sale, exchange, or other disposition of a 927
debt interest in or equity interest in a section 5747.212 928
entity, as defined in section 5747.212 of the Revised Code, 929
without regard to division (A) of that section, shall not be 930
allocated to this state in accordance with section 5747.20 of 931
the Revised Code but shall be apportioned to this state in 932
accordance with division (B) of section 5747.212 of the Revised 933
Code without regard to division (A) of that section. 934

If the allocation and apportionment of a trust's income 935
under divisions (BB) (4) (a) and (c) of this section do not fairly 936
represent the modified Ohio taxable income of the trust in this 937
state, the alternative methods described in division (C) of 938
section 5747.21 of the Revised Code may be applied in the manner 939
and to the same extent provided in that section. 940

(5) (a) Except as set forth in division (BB) (5) (b) of this 941
section, "qualifying investee" means a person in which a trust 942
has an equity or ownership interest, or a person or unit of 943
government the debt obligations of either of which are owned by 944
a trust. For the purposes of division (BB) (2) (a) of this section 945
and for the purpose of computing the fraction described in 946
division (BB) (4) (b) of this section, all of the following apply: 947

(i) If the qualifying investee is a member of a qualifying 948
controlled group on the last day of the qualifying investee's 949
fiscal or calendar year ending immediately prior to the date on 950
which the trust recognizes the gain or loss, then "qualifying 951
investee" includes all persons in the qualifying controlled 952
group on such last day. 953

(ii) If the qualifying investee, or if the qualifying 954
investee and any members of the qualifying controlled group of 955
which the qualifying investee is a member on the last day of the 956

qualifying investee's fiscal or calendar year ending immediately 957
prior to the date on which the trust recognizes the gain or 958
loss, separately or cumulatively own, directly or indirectly, on 959
the last day of the qualifying investee's fiscal or calendar 960
year ending immediately prior to the date on which the trust 961
recognizes the qualifying trust amount, more than fifty per cent 962
of the equity of a pass-through entity, then the qualifying 963
investee and the other members are deemed to own the 964
proportionate share of the pass-through entity's physical assets 965
which the pass-through entity directly or indirectly owns on the 966
last day of the pass-through entity's calendar or fiscal year 967
ending within or with the last day of the qualifying investee's 968
fiscal or calendar year ending immediately prior to the date on 969
which the trust recognizes the qualifying trust amount. 970

(iii) For the purposes of division (BB) (5) (a) (iii) of this 971
section, "upper level pass-through entity" means a pass-through 972
entity directly or indirectly owning any equity of another pass- 973
through entity, and "lower level pass-through entity" means that 974
other pass-through entity. 975

An upper level pass-through entity, whether or not it is 976
also a qualifying investee, is deemed to own, on the last day of 977
the upper level pass-through entity's calendar or fiscal year, 978
the proportionate share of the lower level pass-through entity's 979
physical assets that the lower level pass-through entity 980
directly or indirectly owns on the last day of the lower level 981
pass-through entity's calendar or fiscal year ending within or 982
with the last day of the upper level pass-through entity's 983
fiscal or calendar year. If the upper level pass-through entity 984
directly and indirectly owns less than fifty per cent of the 985
equity of the lower level pass-through entity on each day of the 986
upper level pass-through entity's calendar or fiscal year in 987

which or with which ends the calendar or fiscal year of the 988
lower level pass-through entity and if, based upon clear and 989
convincing evidence, complete information about the location and 990
cost of the physical assets of the lower pass-through entity is 991
not available to the upper level pass-through entity, then 992
solely for purposes of ascertaining if a gain or loss 993
constitutes a qualifying trust amount, the upper level pass- 994
through entity shall be deemed as owning no equity of the lower 995
level pass-through entity for each day during the upper level 996
pass-through entity's calendar or fiscal year in which or with 997
which ends the lower level pass-through entity's calendar or 998
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 999
shall be construed to provide for any deduction or exclusion in 1000
computing any trust's Ohio taxable income. 1001

(b) With respect to a trust that is not a resident for the 1002
taxable year and with respect to a part of a trust that is not a 1003
resident for the taxable year, "qualifying investee" for that 1004
taxable year does not include a C corporation if both of the 1005
following apply: 1006

(i) During the taxable year the trust or part of the trust 1007
recognizes a gain or loss from the sale, exchange, or other 1008
disposition of equity or ownership interests in, or debt 1009
obligations of, the C corporation. 1010

(ii) Such gain or loss constitutes nonbusiness income. 1011

(6) "Available" means information is such that a person is 1012
able to learn of the information by the due date plus 1013
extensions, if any, for filing the return for the taxable year 1014
in which the trust recognizes the gain or loss. 1015

(CC) "Qualifying controlled group" has the same meaning as 1016

in section 5733.04 of the Revised Code. 1017

(DD) "Related member" has the same meaning as in section 1018
5733.042 of the Revised Code. 1019

(EE) (1) For the purposes of division (EE) of this section: 1020

(a) "Qualifying person" means any person other than a 1021
qualifying corporation. 1022

(b) "Qualifying corporation" means any person classified 1023
for federal income tax purposes as an association taxable as a 1024
corporation, except either of the following: 1025

(i) A corporation that has made an election under 1026
subchapter S, chapter one, subtitle A, of the Internal Revenue 1027
Code for its taxable year ending within, or on the last day of, 1028
the investor's taxable year; 1029

(ii) A subsidiary that is wholly owned by any corporation 1030
that has made an election under subchapter S, chapter one, 1031
subtitle A of the Internal Revenue Code for its taxable year 1032
ending within, or on the last day of, the investor's taxable 1033
year. 1034

(2) For the purposes of this chapter, unless expressly 1035
stated otherwise, no qualifying person indirectly owns any asset 1036
directly or indirectly owned by any qualifying corporation. 1037

(FF) For purposes of this chapter and Chapter 5751. of the 1038
Revised Code: 1039

(1) "Trust" does not include a qualified pre-income tax 1040
trust. 1041

(2) A "qualified pre-income tax trust" is any pre-income 1042
tax trust that makes a qualifying pre-income tax trust election 1043

as described in division (FF) (3) of this section. 1044

(3) A "qualifying pre-income tax trust election" is an 1045
election by a pre-income tax trust to subject to the tax imposed 1046
by section 5751.02 of the Revised Code the pre-income tax trust 1047
and all pass-through entities of which the trust owns or 1048
controls, directly, indirectly, or constructively through 1049
related interests, five per cent or more of the ownership or 1050
equity interests. The trustee shall notify the tax commissioner 1051
in writing of the election on or before April 15, 2006. The 1052
election, if timely made, shall be effective on and after 1053
January 1, 2006, and shall apply for all tax periods and tax 1054
years until revoked by the trustee of the trust. 1055

(4) A "pre-income tax trust" is a trust that satisfies all 1056
of the following requirements: 1057

(a) The document or instrument creating the trust was 1058
executed by the grantor before January 1, 1972; 1059

(b) The trust became irrevocable upon the creation of the 1060
trust; and 1061

(c) The grantor was domiciled in this state at the time 1062
the trust was created. 1063

(GG) "Uniformed services" has the same meaning as in 10 1064
U.S.C. 101. 1065

(HH) "Taxable business income" means the amount by which 1066
an individual's business income that is included in federal 1067
adjusted gross income exceeds the amount of business income the 1068
individual is authorized to deduct under division (A) (31) of 1069
this section for the taxable year. 1070

(II) "Employer" does not include a franchisor with respect 1071

to the franchisor's relationship with a franchisee or an 1072
employee of a franchisee, unless the franchisor agrees to assume 1073
that role in writing or a court of competent jurisdiction 1074
determines that the franchisor exercises a type or degree of 1075
control over the franchisee or the franchisee's employees that 1076
is not customarily exercised by a franchisor for the purpose of 1077
protecting the franchisor's trademark, brand, or both. For 1078
purposes of this division, "franchisor" and "franchisee" have 1079
the same meanings as in 16 C.F.R. 436.1. 1080

(JJ) "Modified adjusted gross income" means Ohio adjusted 1081
gross income plus any amount deducted under division (A) (31) of 1082
this section for the taxable year. 1083

(KK) "Qualifying Ohio educator" means an individual who, 1084
for a taxable year, qualifies as an eligible educator, as that 1085
term is defined in section 62 of the Internal Revenue Code, and 1086
who holds a certificate, license, or permit described in Chapter 1087
3319. or section 3301.071 of the Revised Code. 1088

Section 2. That existing section 5747.01 of the Revised 1089
Code is hereby repealed. 1090

Section 3. The amendment by this act of section 5747.01 of 1091
the Revised Code applies to taxable years ending on or after the 1092
effective date of this act. 1093