

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**H. B. No. 112**

**Representatives Gilb, Grendell, Fessler, Jolivette, Young, Faber, Raga,  
Brinkman, Olman**

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**A B I L L**

To amend sections 9.66, 122.152, 122.16, 122.17, 1  
122.171, 150.07, 150.10, 901.13, 3924.66, 3924.68, 2  
5703.05, 5709.65, 5709.66, 5733.33, 5733.40, 3  
5733.42, 5747.01, 5747.02, 5747.05, 5747.059, 4  
5747.062, 5747.08, 5747.11, 5747.21, 5747.211, and 5  
5747.212 and to repeal sections 3924.71, 5747.022, 6  
5747.023, 5747.024, 5747.025, 5747.051, 5747.054, 7  
5747.055, 5747.057, 5747.058, 5747.081, 5747.26, 8  
5747.261, 5747.27, 5747.28, 5747.29, 5747.30, 9  
5747.31, 5747.32, 5747.33, 5747.34, 5747.35, 10  
5747.36, 5747.37, 5747.38, 5747.39, 5747.70, 11  
5747.75, 5747.80, and 5747.98 of the Revised Code 12  
to redesign the personal income tax as a "flat," 13  
single-rate income tax. 14

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

**Section 1.** That sections 9.66, 122.152, 122.16, 122.17, 15  
122.171, 150.07, 150.10, 901.13, 3924.66, 3924.68, 5703.05, 16  
5709.65, 5709.66, 5733.33, 5733.40, 5733.42, 5747.01, 5747.02, 17  
5747.05, 5747.059, 5747.062, 5747.08, 5747.11, 5747.21, 5747.211, 18  
and 5747.212 of the Revised Code be amended to read as follows: 19

Sec. 9.66. (A) As used in this section:	20
(1) "Economic development assistance" means all of the following:	21
(a) The programs and assistance provided or administered by the department of development under Chapters 122. and 166. of the Revised Code and any other section of the Revised Code under which the department provides or administers economic development assistance;	22
(a) The programs and assistance provided or administered by the department of development under Chapters 122. and 166. of the Revised Code and any other section of the Revised Code under which the department provides or administers economic development assistance;	23
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(a) The programs and assistance provided or administered by the department of development under Chapters 122. and 166. of the Revised Code and any other section of the Revised Code under which the department provides or administers economic development assistance;	27
(b) The programs and assistance provided or administered by a political subdivision under Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code and any other section of the Revised Code under which a political subdivision provides economic development assistance;	28
(b) The programs and assistance provided or administered by a political subdivision under Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code and any other section of the Revised Code under which a political subdivision provides economic development assistance;	29
(b) The programs and assistance provided or administered by a political subdivision under Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code and any other section of the Revised Code under which a political subdivision provides economic development assistance;	30
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(c) Assistance provided under any other section of the Revised Code under which the state or a state agency provides or administers economic development assistance;	34
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(d) The tax credit authorized by section 5725.31, 5729.07, <u>or</u> 5733.42, <del>or 5747.39</del> of the Revised Code.	37
(d) The tax credit authorized by section 5725.31, 5729.07, <u>or</u> 5733.42, <del>or 5747.39</del> of the Revised Code.	38
(2) "Liability" means any of the following:	39
(a) Any delinquent tax owed the state or a political subdivision of the state;	40
(a) Any delinquent tax owed the state or a political subdivision of the state;	41
(a) Any delinquent tax owed the state or a political subdivision of the state;	41
(b) Any moneys owed the state or a state agency for the administration or enforcement of the environmental laws of the state;	42
(b) Any moneys owed the state or a state agency for the administration or enforcement of the environmental laws of the state;	43
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(b) Any moneys owed the state or a state agency for the administration or enforcement of the environmental laws of the state;	44
(c) Any other moneys owed the state, a state agency, or a political subdivision of the state that are past due.	45
(c) Any other moneys owed the state, a state agency, or a political subdivision of the state that are past due.	46
"Liability" includes any item described in division (A)(2) of this section that is being contested in a court of law.	47
"Liability" includes any item described in division (A)(2) of this section that is being contested in a court of law.	48

(3) "Political subdivision" means any county, municipal corporation, or township of the state. 49  
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(4) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government. 51  
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(B) A person who applies to the state, a state agency, or a political subdivision for economic development assistance shall indicate on the application for assistance whether the person has any outstanding liabilities owed to the state, a state agency, or a political subdivision. Such a person also shall authorize the state, state agency, or political subdivision to inspect the personal or corporate financial statements of the applicant, including tax records and other similar information not open to public inspection. 54  
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(C)(1) Whoever knowingly makes a false statement under division (B) of this section concerning an application for economic development assistance or who fails to provide any information required by that division is ineligible for the assistance applied for and is ineligible for any future economic development assistance from the state, a state agency, or a political subdivision. 63  
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(2) Whoever knowingly makes a false statement under division (B) of this section concerning an application for economic development assistance or who fails to provide any information required by that division shall return any moneys received from the state, a state agency, or a political subdivision in connection with that application. 70  
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**Sec. 122.152.** (A) After receiving notice of approval for an investment of money from the industrial technology and enterprise advisory council committee under section 122.151 of the Revised 76  
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Code, an investor, within a period of time determined by the 79  
committee, may make the investment and apply to the council for a 80  
tax credit certificate. If the council is satisfied the investor 81  
has made the investment in the proper form, it shall issue to the 82  
investor a tax credit certificate indicating that the investor is 83  
allowed a tax credit in an amount equal to twenty-five per cent of 84  
the investment. 85

An investor who receives approval of a proposed investment of 86  
money through a group application, after making the investment, 87  
shall apply for a tax credit certificate on an individual basis. 88

(B) An investor who is issued a tax credit certificate under 89  
this section may claim a nonrefundable credit equal to the amount 90  
indicated on the certificate against any state tax liability other 91  
than the tax imposed by section 5747.02 of the Revised Code. The 92  
investor shall claim the credit for the taxable year in which the 93  
certificate is issued. 94

(1) If the credit to which a taxpayer otherwise would be 95  
entitled under this section for any taxable year is greater than 96  
the tax otherwise due under division (D) of section 5707.03 or 97  
section 5727.24 or 5727.38 of the Revised Code, the excess shall 98  
be allowed as a credit in each of the ensuing fifteen taxable 99  
years, but the amount of any excess credit allowed in an ensuing 100  
taxable year shall be deducted from the balance carried forward to 101  
the next taxable year. 102

(2) If the credit to which a taxpayer otherwise would be 103  
entitled under this section for any taxable year is greater than 104  
the tax otherwise due under ~~section 5747.02 or~~ Chapter 5733. of 105  
the Revised Code, after allowing for any other credits that 106  
precede the credit allowed under this section in the order 107  
required under section 5733.98 ~~or 5747.98~~ of the Revised Code, the 108  
excess shall be allowed as a credit in each of the ensuing fifteen 109

taxable years, but the amount of any excess credit allowed in an 110  
ensuing taxable year shall be deducted from the balance carried 111  
forward to the next taxable year. 112

(C) Any portion of a credit allowed under this section that 113  
is utilized by an investor to reduce the investor's state tax 114  
liability shall not be utilized by any other person. 115

(D) To claim a tax credit allowed under this section, an 116  
investor shall attach to the appropriate return a copy of the 117  
certificate issued to the investor under this section. 118

(E) Nothing in this section shall limit or disallow 119  
pass-through treatment of a pass-through entity's income, 120  
deductions, or credits, or other amounts necessary to compute a 121  
state tax liability. 122

(F) A tax credit certificate issued to an investor under this 123  
section may not be transferred by that investor to any other 124  
person. 125

(G)(1) The industrial technology and enterprise advisory 126  
council shall develop the form of the tax credit certificate and 127  
shall use that form when issuing a tax credit certificate under 128  
this section. 129

(2) The industrial technology and enterprise advisory council 130  
shall report to the tax commissioner any information requested by 131  
the commissioner concerning tax credit certificates issued under 132  
this section. 133

(H) An investment made by an investor or group of investors 134  
who enter into a contractual agreement with an Ohio entity to 135  
invest money in the Ohio entity is an acceptable investment if all 136  
of the following conditions are met: 137

(1) The investment is made pursuant to a subscription 138  
agreement providing that the investor or group of investors is 139

entitled to receive a refund of funds if the investment is not 140  
approved by the industrial technology and enterprise advisory 141  
council. 142

(2) The investment is placed in escrow until the investment 143  
is approved by the industrial technology and enterprise advisory 144  
council. 145

(3) The investor or group of investors shows proof of the 146  
withdrawal of the funds by the Ohio entity after the investment is 147  
approved by the industrial technology and enterprise advisory 148  
council. 149

**Sec. 122.16.** (A) As used in this section: 150

(1) "Distressed area" means either a municipal corporation 151  
that has a population of at least fifty thousand or a county, that 152  
meets two of the following criteria: 153

(a) Its average rate of unemployment, during the most recent 154  
five-year period for which data are available, is equal to at 155  
least one hundred twenty-five per cent of the average rate of 156  
unemployment for the United States for the same period. 157

(b) It has a per capita income equal to or below eighty per 158  
cent of the median county per capita income of the United States 159  
as determined by the most recently available figures from the 160  
United States census bureau. 161

(c)(i) In the case of a municipal corporation, at least 162  
twenty per cent of the residents have a total income for the most 163  
recent census year that is below the official poverty line. 164

(ii) In the case of a county, in intercensal years, the 165  
county has a ratio of transfer payment income to total county 166  
income equal to or greater than twenty-five per cent. 167

(2) "Eligible area" means a distressed area, a labor surplus 168  
area, an inner city area, or a situational distress area. 169

(3) "Eligible costs associated with a voluntary action" means 170  
costs incurred during the qualifying period in performing a remedy 171  
or remedial activities, as defined in section 3746.01 of the 172  
Revised Code, and any costs incurred during the qualifying period 173  
in performing both a phase I and phase II property assessment, as 174  
defined in the rules adopted under section 3746.04 of the Revised 175  
Code, provided that the performance of the phase I and phase II 176  
property assessment resulted in the implementation of the remedy 177  
or remedial activities. 178

(4) "Inner city area" means, in a municipal corporation that 179  
has a population of at least one hundred thousand and does not 180  
meet the criteria of a labor surplus area or a distressed area, 181  
targeted investment areas established by the municipal corporation 182  
within its boundaries that are comprised of the most recent census 183  
block tracts that individually have at least twenty per cent of 184  
their population at or below the state poverty level or other 185  
census block tracts contiguous to such census block tracts. 186

(5) "Labor surplus area" means an area designated as a labor 187  
surplus area by the United States department of labor. 188

(6) "Official poverty line" has the same meaning as in 189  
division (A) of section 3923.51 of the Revised Code. 190

(7) "Partner" includes a member of a limited liability 191  
company formed under Chapter 1705. of the Revised Code or under 192  
the laws of any other state if the limited liability company is 193  
not treated as a corporation for purposes of Chapter 5733. of the 194  
Revised Code and is not classified as an association taxable as a 195  
corporation for federal income tax purposes. 196

(8) "Partnership" includes a limited liability company formed 197  
under Chapter 1705. of the Revised Code or under the laws of any 198  
other state if the limited liability company is not treated as a 199  
corporation for purposes of Chapter 5733. of the Revised Code and 200

is not classified as an association taxable as a corporation for 201  
federal income tax purposes. 202

(9) "Qualifying period" means the period that begins July 1, 203  
1996, and ends June 30, 1999. 204

(10) "S corporation" means a corporation that has made an 205  
election under subchapter S of chapter one of subtitle A of the 206  
Internal Revenue Code for its taxable year under the Internal 207  
Revenue Code; 208

(11) "Situational distress area" means a county or a 209  
municipal corporation that has experienced or is experiencing a 210  
closing or downsizing of a major employer that will adversely 211  
affect the economy of the county or municipal corporation. In 212  
order for a county or municipal corporation to be designated as a 213  
situational distress area, the governing body of the county or 214  
municipal corporation shall submit a petition to the director of 215  
development in the form prescribed by the director. A county or 216  
municipal corporation may be designated as a situational distress 217  
area for a period not exceeding thirty-six months. 218

The petition shall include written documentation that 219  
demonstrates all of the following: 220

(a) The number of jobs lost by the closing or downsizing; 221

(b) The impact that the job loss has on the unemployment rate 222  
of the county or municipal corporation as measured by the director 223  
of job and family services; 224

(c) The annual payroll associated with the job loss; 225

(d) The amount of state and local taxes associated with the 226  
job loss; 227

(e) The impact that the closing or downsizing has on the 228  
suppliers located in the county or municipal corporation. 229

(12) "Voluntary action" has the same meaning as in section 230



3746.01 of the Revised Code.	231
(13) "Taxpayer" means a corporation subject to the tax	232
imposed by section 5733.06 of the Revised Code <del>or any person</del>	233
<del>subject to the tax imposed by section 5747.02 of the Revised Code.</del>	234
(14) "Governing body" means the board of county commissioners	235
of a county, the board of township trustees of a township, or the	236
legislative authority of a municipal corporation.	237
(15) "Eligible site" means property for which a covenant not	238
to sue has been issued under section 3746.12 of the Revised Code.	239
(B)(1) A taxpayer, partnership, or S corporation that has	240
been issued, under section 3746.12 of the Revised Code, a covenant	241
not to sue for a site by the director of environmental protection	242
during the qualifying period may apply to the director of	243
development, in the manner prescribed by the director, to enter	244
into an agreement under which the applicant agrees to economically	245
redevelop the site in a manner that will create employment	246
opportunities and a credit will be granted to the applicant	247
against the tax imposed by section 5733.06 <del>or 5747.02</del> of the	248
Revised Code. The application shall state the eligible costs	249
associated with a voluntary action incurred by the applicant. The	250
application shall be accompanied by proof, in a form prescribed by	251
the director of development, that the covenant not to sue has been	252
issued.	253
The applicant shall request the certified professional that	254
submitted the no further action letter for the eligible site under	255
section 3746.11 of the Revised Code to submit an affidavit to the	256
director of development verifying the eligible costs associated	257
with the voluntary action at that site.	258
The director shall review the applications in the order they	259
are received. If the director determines that the applicant meets	260
the requirements of this section, the director may enter into an	261

greement granting a credit against the tax imposed by section 262  
5733.06 ~~or 5747.02~~ of the Revised Code. In making the 263  
determination, the director may consider the extent to which 264  
political subdivisions and other units of government will 265  
cooperate with the applicant to redevelop the eligible site. The 266  
agreement shall state the amount of the tax credit and the 267  
reporting requirements described in division (F) of this section. 268

(2) The maximum annual amount of credits the director of 269  
development may grant under such agreements shall be as follows: 270

1996	\$5,000,000	271
1997	\$10,000,000	272
1998	\$10,000,000	273
1999	\$5,000,000	274

For any year in which the director of development does not 275  
grant tax credits under this section equal to the maximum annual 276  
amount, the amount not granted for that year shall be added to the 277  
maximum annual amount that may be granted for the following year. 278  
However, the director shall not grant any tax credits under this 279  
section after June 30, 1999. 280

(C)(1) If the covenant not to sue was issued in connection 281  
with a site that is not located in an eligible area, the credit 282  
amount is equal to the lesser of five hundred thousand dollars or 283  
ten per cent of the eligible costs associated with a voluntary 284  
action incurred by the taxpayer, partnership, or S corporation. 285

(2) If a covenant not to sue was issued in connection with a 286  
site that is located in an eligible area, the credit amount is 287  
equal to the lesser of seven hundred fifty thousand dollars or 288  
fifteen per cent of the eligible costs associated with a voluntary 289  
action incurred by the taxpayer, partnership, or S corporation. 290

(3) A taxpayer, partnership, or S corporation that has been 291  
issued covenants not to sue under section 3746.12 of the Revised 292

Code for more than one site may apply to the director of 293  
development to enter into more than one agreement granting a 294  
credit against the tax imposed by section 5733.06 ~~or 5747.02~~ of 295  
the Revised Code. 296

(4) For each year for which a taxpayer, partnership, or S 297  
corporation has been granted a credit under an agreement entered 298  
into under this section, the director of development shall issue a 299  
certificate to the taxpayer, partnership, or S corporation 300  
indicating the amount of the credit the taxpayer, the partners of 301  
the partnership, or the shareholders of the S corporation may 302  
claim for that year, not including any amount that may be carried 303  
forward from previous years under section 5733.34 ~~or 5747.32~~ of 304  
the Revised Code. 305

(D)(1) Each agreement entered into under this section shall 306  
incorporate a commitment by the taxpayer, partnership, or S 307  
corporation not to permit the use of an eligible site to cause the 308  
relocation of employment positions to that site from elsewhere in 309  
this state, except as otherwise provided in division (D)(2) of 310  
this section. The commitment shall be binding on the taxpayer, 311  
partnership, or S corporation for the lesser of five years from 312  
the date the agreement is entered into or the number of years the 313  
taxpayer, partnership, or S corporation is entitled to claim the 314  
tax credit under the agreement. 315

(2) An eligible site may be the site of employment positions 316  
relocated from elsewhere in this state if the director of 317  
development determines both of the following: 318

(a) That the site from which the employment positions would 319  
be relocated is inadequate to meet market and industry conditions, 320  
expansion plans, consolidation plans, or other business 321  
considerations affecting the relocating employer; 322

(b) That the governing body of the county, township, or 323

municipal corporation from which the employment positions would be 324  
relocated has been notified of the possible relocation. 325

For purposes of this section, the movement of an employment 326  
position from one political subdivision to another political 327  
subdivision shall be considered a relocation of an employment 328  
position, but the transfer of an individual employee from one 329  
political subdivision to another political subdivision shall not 330  
be considered a relocation of an employment position as long as 331  
the individual's employment position in the first political 332  
subdivision is refilled. 333

(E) A taxpayer, partnership, or S corporation that has 334  
entered into an agreement granting a credit against the tax 335  
imposed by section 5733.06 ~~or 5747.02~~ of the Revised Code that 336  
subsequently recovers in a lawsuit or settlement of a lawsuit at 337  
least seventy-five per cent of the eligible costs associated with 338  
a voluntary action shall not claim any credit amount remaining, 339  
including any amounts carried forward from prior years, beginning 340  
with the taxable year in which the judgment in the lawsuit is 341  
entered or the settlement is finally agreed to. 342

Any amount of credit that a taxpayer, partnership, or S 343  
corporation may not claim by reason of this division shall not be 344  
considered to have been granted for the purpose of determining the 345  
total amount of credits that may be issued under division (B)(2) 346  
of this section. 347

(F) Each year for which a taxpayer, partnership, or S 348  
corporation claims a credit under section 5733.34 ~~or 5747.32~~ of 349  
the Revised Code, the taxpayer, partnership, or S corporation 350  
shall report the following to the director of development: 351

(1) The status of all cost recovery litigation described in 352  
division (E) of this section to which it was a party during the 353  
previous year; 354

(2) Confirmation that the covenant not to sue has not been 355  
revoked or has not been voided; 356

(3) Confirmation that the taxpayer, partnership, or S 357  
corporation has not permitted the eligible site to be used in such 358  
a manner as to cause the relocation of employment positions from 359  
elsewhere in this state in violation of the commitment required 360  
under division (D) of this section; 361

(4) Any other information the director of development 362  
requires to perform the director's duties under this section. 363

(G) The director of development shall annually certify, by 364  
the first day of January of each year during the qualifying 365  
period, the eligible areas for the calendar year that includes 366  
that first day of January. 367

(H) The director of development, in accordance with Chapter 368  
119. of the Revised Code, shall adopt rules necessary to implement 369  
this section, including rules prescribing forms required for 370  
administering this section. 371

**Sec. 122.17.** (A) As used in this section: 372

(1) "Full-time employee" means an individual who is employed 373  
for consideration for at least thirty-five hours a week, or who 374  
renders any other standard of service generally accepted by custom 375  
or specified by contract as full-time employment. 376

(2) "New employee" means one of the following: 377

(a) A full-time employee first employed by a taxpayer in the 378  
project that is the subject of the agreement after the taxpayer 379  
enters into a tax credit agreement with the tax credit authority 380  
under this section; 381

(b) A full-time employee first employed by a taxpayer in the 382  
project that is the subject of the tax credit after the tax credit 383

authority approves a project for a tax credit under this section 384  
in a public meeting, as long as the taxpayer enters into the tax 385  
credit agreement prepared by the department of development after 386  
such meeting within sixty days after receiving the agreement from 387  
the department. If the taxpayer fails to enter into the agreement 388  
within sixty days, "new employee" has the same meaning as under 389  
division (A)(2)(a) of this section. 390

Under division (A)(2)(a) or (b) of this section, if the tax 391  
credit authority determines it appropriate, "new employee" also 392  
may include an employee re-hired or called back from lay-off to 393  
work in a new facility or on a new product or service established 394  
or produced by the taxpayer after entering into the agreement 395  
under this section or after the tax credit authority approves the 396  
tax credit in a public meeting. "New employee" does not include 397  
any employee of the taxpayer who was previously employed in this 398  
state by a related member of the taxpayer and whose employment was 399  
shifted to the taxpayer after the taxpayer entered into the tax 400  
credit agreement or after the tax credit authority approved the 401  
credit in a public meeting, or any employee of the taxpayer for 402  
which the taxpayer has been granted a certificate under division 403  
(B) of section 5709.66 of the Revised Code. "New employee" also 404  
does not include an employee of the taxpayer who is employed in an 405  
employment position that was relocated to a project from other 406  
operations of the taxpayer in this state or from operations of a 407  
related member of the taxpayer in this state. In addition, "new 408  
employee" does not include a child, grandchild, parent, or spouse, 409  
other than a spouse who is legally separated from the individual, 410  
of any individual who is an employee of the taxpayer and who has a 411  
direct or indirect ownership interest of at least five per cent in 412  
the profits, capital, or value of the taxpayer. Such ownership 413  
interest shall be determined in accordance with section 1563 of 414  
the Internal Revenue Code and regulations prescribed thereunder. 415

(3) "New income tax revenue" means the total amount withheld 416  
under section 5747.06 of the Revised Code by the taxpayer during 417  
the taxable year from the compensation of new employees for the 418  
tax levied under Chapter 5747. of the Revised Code. 419

(4) "Related member" has the same meaning as under division 420  
(A)(6) of section 5733.042 of the Revised Code without regard to 421  
division (B) of that section. 422

(B) The tax credit authority may make grants under this 423  
section to foster job creation in this state. Such a grant shall 424  
take the form of a refundable credit allowed against the tax 425  
imposed by section 5733.06 ~~or 5747.02~~ of the Revised Code. The 426  
credit shall be claimed for the taxable years specified in the 427  
taxpayer's agreement with the tax credit authority under division 428  
(D) of this section. The credit shall be claimed after the 429  
allowance of all other credits provided by Chapter 5733. ~~or 5747.~~ 430  
of the Revised Code. The amount of the credit equals the new 431  
income tax revenue for the taxable year multiplied by the 432  
percentage specified in the agreement with the tax credit 433  
authority. 434

(C) A taxpayer or potential taxpayer who proposes a project 435  
to create new jobs in this state may apply to the tax credit 436  
authority to enter into an agreement for a tax credit under this 437  
section. The director of development shall prescribe the form of 438  
the application. After receipt of an application, the authority 439  
may enter into an agreement with the taxpayer for a credit under 440  
this section if it determines all of the following: 441

(1) The taxpayer's project will create new jobs in this 442  
state; 443

(2) The taxpayer's project is economically sound and will 444  
benefit the people of this state by increasing opportunities for 445  
employment and strengthening the economy of this state; 446

(3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(D) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement;

(2) The term of the tax credit, which shall not exceed ten years, and the first taxable year for which the credit may be claimed;

(3) A requirement that the taxpayer shall maintain operations at the project location for at least twice the number of years as the term of the tax credit;

(4) The percentage, as determined by the tax credit authority, of new income tax revenue that will be allowed as the amount of the credit for each taxable year;

(5) A specific method for determining how many new employees are employed during a taxable year;

(6) A requirement that the taxpayer annually shall report to the director of development the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform ~~his~~ the director's duties under this section;

(7) A requirement that the director of development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified;

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (D)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the



lesser of five years from the date the agreement is entered into 477  
or the number of years the taxpayer is entitled to claim the tax 478  
credit. 479

(b) The taxpayer may relocate employment positions from 480  
elsewhere in this state to the project site that is the subject of 481  
the agreement if the director of development determines both of 482  
the following: 483

(i) That the site from which the employment positions would 484  
be relocated is inadequate to meet market and industry conditions, 485  
expansion plans, consolidation plans, or other business 486  
considerations affecting the taxpayer; 487

(ii) That the legislative authority of the county, township, 488  
or municipal corporation from which the employment positions would 489  
be relocated has been notified of the relocation. 490

For purposes of this section, the movement of an employment 491  
position from one political subdivision to another political 492  
subdivision shall be considered a relocation of an employment 493  
position, but the transfer of an individual employee from one 494  
political subdivision to another political subdivision shall not 495  
be considered a relocation of an employment position as long as 496  
the individual's employment position in the first political 497  
subdivision is refilled. 498

(E) If a taxpayer fails to meet or comply with any condition 499  
or requirement set forth in a tax credit agreement, the tax credit 500  
authority may amend the agreement to reduce the percentage or term 501  
of the tax credit. The reduction of the percentage or term shall 502  
take effect in the taxable year immediately following the taxable 503  
year in which the authority amends the agreement. If the taxpayer 504  
relocates employment positions in violation of the provision 505  
required under division (D)(8)(a) of this section, the taxpayer 506  
shall not claim the tax credit under section 5733.0610 of the 507

Revised Code for any tax years following the calendar year in 508  
which the relocation occurs, ~~or shall not claim the tax credit~~ 509  
~~under section 5747.058 of the Revised Code for the taxable year in~~ 510  
~~which the relocation occurs and any subsequent taxable years.~~ 511

(F) Projects that consist solely of point-of-final-purchase 512  
retail facilities are not eligible for a tax credit under this 513  
section. If a project consists of both point-of-final-purchase 514  
retail facilities and nonretail facilities, only the portion of 515  
the project consisting of the nonretail facilities is eligible for 516  
a tax credit and only the new income tax revenue from new 517  
employees of the nonretail facilities shall be considered when 518  
computing the amount of the tax credit. If a warehouse facility is 519  
part of a point-of-final-purchase retail facility and supplies 520  
only that facility, the warehouse facility is not eligible for a 521  
tax credit. Catalog distribution centers are not considered 522  
point-of-final-purchase retail facilities for the purposes of this 523  
division, and are eligible for tax credits under this section. 524

(G) Financial statements and other information submitted to 525  
the department of development or the tax credit authority by an 526  
applicant or recipient of a tax credit under this section, and any 527  
information taken for any purpose from such statements or 528  
information, are not public records subject to section 149.43 of 529  
the Revised Code. However, the chairperson of the authority may 530  
make use of the statements and other information for purposes of 531  
issuing public reports or in connection with court proceedings 532  
concerning tax credit agreements under this section. Upon the 533  
request of the tax commissioner, the chairperson of the authority 534  
shall provide to the commissioner any statement or information 535  
submitted by an applicant or recipient of a tax credit in 536  
connection with the credit. The commissioner shall preserve the 537  
confidentiality of the statement or information. 538

(H) A taxpayer claiming a credit under this section shall 539

submit to the tax commissioner a copy of the director of 540  
development's certificate of verification under division (D)(7) of 541  
this section for the taxable year. However, failure to submit a 542  
copy of the certificate does not invalidate a claim for a credit. 543

(I) The director of development, after consultation with the 544  
tax commissioner and in accordance with Chapter 119. of the 545  
Revised Code, shall adopt rules necessary to implement this 546  
section. The rules may provide for recipients of tax credits under 547  
this section to be charged fees to cover administrative costs of 548  
the tax credit program. At the time the director gives public 549  
notice under division (A) of section 119.03 of the Revised Code of 550  
the adoption of the rules, the director shall submit copies of the 551  
proposed rules to the chairpersons of the standing committees on 552  
economic development in the senate and the house of 553  
representatives. 554

(J) For the purposes of this section, a taxpayer may include 555  
a partnership, a corporation that has made an election under 556  
subchapter S of chapter one of subtitle A of the Internal Revenue 557  
Code, or any other business entity through which income flows as a 558  
distributive share to its owners. A credit received under this 559  
section by a partnership, S-corporation, or other such business 560  
entity shall be apportioned among the persons to whom the income 561  
or profit of the partnership, S-corporation, or other entity is 562  
distributed, in the same proportions as those in which the income 563  
or profit is distributed. 564

(K) If the director of development determines that a taxpayer 565  
who has received a credit under this section is not complying with 566  
the requirement under division (D)(3) of this section, the 567  
director shall notify the tax credit authority of the 568  
noncompliance. After receiving such a notice, and after giving the 569  
taxpayer an opportunity to explain the noncompliance, the tax 570  
credit authority may require the taxpayer to refund to this state 571

a portion of the credit in accordance with the following: 572

(1) If the taxpayer maintained operations at the project 573  
location for at least one and one-half times the number of years 574  
of the term of the tax credit, an amount not exceeding twenty-five 575  
per cent of the sum of any previously allowed credits under this 576  
section; 577

(2) If the taxpayer maintained operations at the project 578  
location for at least the number of years of the term of the tax 579  
credit, an amount not exceeding fifty per cent of the sum of any 580  
previously allowed credits under this section; 581

(3) If the taxpayer maintained operations at the project 582  
location for less than the number of years of the term of the tax 583  
credit, an amount not exceeding one hundred per cent of the sum of 584  
any previously allowed credits under this section. 585

In determining the portion of the tax credit to be refunded 586  
to this state, the tax credit authority shall consider the effect 587  
of market conditions on the taxpayer's project and whether the 588  
taxpayer continues to maintain other operations in this state. 589  
After making the determination, the authority shall certify the 590  
amount to be refunded to the tax commissioner. The commissioner 591  
shall make an assessment for that amount against the taxpayer 592  
under Chapter 5733. ~~or 5747.~~ of the Revised Code. The time 593  
limitations on assessments under Chapter 5733. ~~or 5747.~~ of the 594  
Revised Code do not apply to an assessment under this division, 595  
but the commissioner shall make the assessment within one year 596  
after the date the authority certifies to the commissioner the 597  
amount to be refunded. 598

(L) On or before the thirty-first day of March each year, the 599  
director of development shall submit a report to the governor, the 600  
president of the senate, and the speaker of the house of 601  
representatives on the tax credit program under this section. The 602

report shall include information on the number of agreements that 603  
were entered into under this section during the preceding calendar 604  
year, a description of the project that is the subject of each 605  
such agreement, and an update on the status of projects under 606  
agreements entered into before the preceding calendar year. 607

During the fifth year of the tax credit program, the director 608  
of development in conjunction with the director of budget and 609  
management shall conduct an evaluation of it. The evaluation shall 610  
include assessments of the effectiveness of the program in 611  
creating new jobs in this state and of the revenue impact of the 612  
program, and may include a review of the practices and experiences 613  
of other states with similar programs. The director of development 614  
shall submit a report on the evaluation to the governor, the 615  
president of the senate, and the speaker of the house of 616  
representatives on or before January 1, 1998. 617

(M) There is hereby created the tax credit authority, which 618  
consists of the director of development and four other members 619  
appointed as follows: the governor, the president of the senate, 620  
and the speaker of the house of representatives each shall appoint 621  
one member who shall be a specialist in economic development; the 622  
governor also shall appoint a member who is a specialist in 623  
taxation. Of the initial appointees, the members appointed by the 624  
governor shall serve a term of two years; the members appointed by 625  
the president of the senate and the speaker of the house of 626  
representatives shall serve a term of four years. Thereafter, 627  
terms of office shall be for four years. Initial appointments to 628  
the authority shall be made within thirty days after January 13, 629  
1993. Each member shall serve on the authority until the end of 630  
the term for which the member was appointed. Vacancies shall be 631  
filled in the same manner provided for original appointments. Any 632  
member appointed to fill a vacancy occurring prior to the 633  
expiration of the term for which the member's predecessor was 634

appointed shall hold office for the remainder of that term. 635  
Members may be reappointed to the authority. Members of the 636  
authority shall receive their necessary and actual expenses while 637  
engaged in the business of the authority. The director of 638  
development shall serve as chairperson of the authority, and the 639  
members annually shall elect a vice-chairperson from among 640  
themselves. Three members of the authority constitute a quorum to 641  
transact and vote on the business of the authority. The majority 642  
vote of the membership of the authority is necessary to approve 643  
any such business, including the election of the vice-chairperson. 644

The director of development may appoint a professional 645  
employee of the department of development to serve as the 646  
director's substitute at a meeting of the authority. The director 647  
shall make the appointment in writing. In the absence of the 648  
director from a meeting of the authority, the appointed substitute 649  
shall serve as chairperson. In the absence of both the director 650  
and the director's substitute from a meeting, the vice-chairperson 651  
shall serve as chairperson. 652

**Sec. 122.171.** (A) As used in this section: 653

(1) "Capital investment project" means a plan of investment 654  
at a project site for the acquisition, construction, renovation, 655  
or repair of buildings, machinery, or equipment, or for 656  
capitalized costs of basic research and new product development 657  
determined in accordance with generally accepted accounting 658  
principles, but does not include any of the following: 659

(a) Payments made for the acquisition of personal property 660  
through operating leases; 661

(b) Project costs paid before January 1, 2002, or after 662  
December 31, 2006; 663

(c) Payments made to a related member as defined in section 664

5733.042 of the Revised Code. 665

(2) "Eligible business" means a business with Ohio operations 666  
satisfying all of the following: 667

(a) Employed an average of at least one thousand employees in 668  
full-time employment positions at a project site during each of 669  
the twelve months preceding the application for a tax credit under 670  
this section; and 671

(b) On or after January 1, 2002, has made payments for the 672  
capital investment project of either of the following: 673

(i) At least two hundred million dollars in the aggregate at 674  
the project site during a period of three consecutive calendar 675  
years including the calendar year that includes a day of the 676  
taxpayer's taxable year with respect to which the credit is 677  
granted; 678

(ii) If the average wage of all full-time employment 679  
positions at the project site is greater than four hundred per 680  
cent of the federal minimum wage, at least one hundred million 681  
dollars in the aggregate at the project site during a period of 682  
three consecutive calendar years including the calendar year that 683  
includes a day of the taxpayer's taxable year with respect to 684  
which the credit is granted. 685

(c) Is engaged at the project site primarily as a 686  
manufacturer or is providing significant corporate administrative 687  
functions; 688

(d) Has had a capital investment project reviewed and 689  
approved by the tax credit authority as provided in divisions (C), 690  
(D), and (E) of this section. 691

(3) "Full-time employment position" means a position of 692  
employment for consideration for at least thirty-five hours a week 693  
that has been filled for at least one hundred eighty days 694

immediately preceding the filing of an application under this 695  
section and for at least one hundred eighty days during each 696  
taxable year with respect to which the credit is granted. 697

(4) "Manufacturer" has the same meaning as in section 698  
5739.011 of the Revised Code. 699

(5) "Project site" means an integrated complex of facilities 700  
in this state, as specified by the tax credit authority under this 701  
section, within a fifteen-mile radius where a taxpayer is 702  
primarily operating as an eligible business. 703

(B) The tax credit authority created under section 122.17 of 704  
the Revised Code may grant tax credits under this section for the 705  
purpose of fostering job retention in this state. Upon application 706  
by an eligible business and upon consideration of the 707  
recommendation of the director of budget and management, tax 708  
commissioner, and director of development under division (C) of 709  
this section, the tax credit authority may grant to an eligible 710  
business a nonrefundable credit against the tax imposed by section 711  
5733.06 ~~or 5747.02~~ of the Revised Code for a period up to ten 712  
taxable years. The credit shall be in an amount not exceeding 713  
seventy-five per cent of the Ohio income tax withheld from the 714  
employees of the eligible business occupying full-time employment 715  
positions at the project site during the calendar year that 716  
includes the last day of such business' taxable year with respect 717  
to which the credit is granted. The amount of the credit shall not 718  
be based on the Ohio income tax withheld from full-time employees 719  
for a calendar year prior to the calendar year in which the 720  
minimum investment requirement referred to in division (A)(2)(b) 721  
of this section is completed. The credit shall be claimed only for 722  
the taxable years specified in the eligible business' agreement 723  
with the tax credit authority under division (E) of this section, 724  
but in no event shall the credit be claimed for a taxable year 725  
terminating before the date specified in the agreement. 726



Any unused portion of a tax credit may be carried forward for 727  
not more than three additional years after the year for which the 728  
credit is granted. 729

(C) A taxpayer that proposes a capital investment project to 730  
retain jobs in this state may apply to the tax credit authority to 731  
enter into an agreement for a tax credit under this section. The 732  
director of development shall prescribe the form of the 733  
application. After receipt of an application, the authority shall 734  
forward copies of the application to the director of budget and 735  
management, the tax commissioner, and the director of development, 736  
each of whom shall review the application to determine the 737  
economic impact the proposed project would have on the state and 738  
the affected political subdivisions and shall submit a summary of 739  
their determinations and recommendations to the authority. The 740  
authority shall make no agreements under this section after June 741  
30, 2007. 742

(D) Upon review of the determinations and recommendations 743  
described in division (C) of this section, the tax credit 744  
authority may enter into an agreement with the taxpayer for a 745  
credit under this section if the authority determines all of the 746  
following: 747

(1) The taxpayer's capital investment project will result in 748  
the retention of full-time employment positions in this state. 749

(2) The taxpayer is economically sound and has the ability to 750  
complete the proposed capital investment project. 751

(3) The taxpayer intends to and has the ability to maintain 752  
operations at the project site for at least twice the term of the 753  
credit. 754

(4) Receiving the credit is a major factor in the taxpayer's 755  
decision to begin, continue with, or complete the project. 756

(5) The political subdivisions in which the project is 757  
located have agreed to provide substantial financial support to 758  
the project. 759

(E) An agreement under this section shall include all of the 760  
following: 761

(1) A detailed description of the project that is the subject 762  
of the agreement, including the amount of the investment, the 763  
period over which the investment has been or is being made, and 764  
the number of full-time employment positions at the project site. 765

(2) The method of calculating the number of full-time 766  
employment positions as specified in division (A)(3) of this 767  
section. 768

(3) The term and percentage of the tax credit, and the first 769  
year for which the credit may be claimed. 770

(4) A requirement that the taxpayer maintain operations at 771  
the project site for at least twice the number of years as the 772  
term of the credit. 773

(5) A requirement that the taxpayer retain a specified number 774  
of full-time employment positions at the project site and within 775  
this state for the term of the credit, including a requirement 776  
that the taxpayer continue to employ at least one thousand 777  
employees in full-time employment positions at the project site 778  
during the entire term of any agreement, subject to division 779  
(E)(7) of this section. 780

(6) A requirement that the taxpayer annually report to the 781  
director of development the number of full-time employment 782  
positions subject to the credit, the amount of tax withheld from 783  
employees in those positions, the amount of the payments made for 784  
the capital investment project, and any other information the 785  
director needs to perform the director's duties under this 786

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(7) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(6) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year. The director shall not issue a certificate for any year in which the total number of filled full-time employment positions for each day of the calendar year divided by three hundred sixty-five is less than ninety per cent of the full-time employment positions specified in division (E)(5) of this section. In determining the number of full-time employment positions, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (E)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the credit.

(b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township, 818  
or municipal corporation from which the employment positions would 819  
be relocated has been notified of the relocation. 820

For purposes of this section, the movement of an employment 821  
position from one political subdivision to another political 822  
subdivision shall be considered a relocation of an employment 823  
position unless the movement is confined to the project site. The 824  
transfer of an individual employee from one political subdivision 825  
to another political subdivision shall not be considered a 826  
relocation of an employment position as long as the individual's 827  
employment position in the first political subdivision is 828  
refilled. 829

(9) A waiver by the taxpayer of any limitations periods 830  
relating to assessments or adjustments resulting from the 831  
taxpayer's failure to comply with the agreement. 832

(F) If a taxpayer fails to meet or comply with any condition 833  
or requirement set forth in a tax credit agreement, the tax credit 834  
authority may amend the agreement to reduce the percentage or term 835  
of the credit. The reduction of the percentage or term shall take 836  
effect in the taxable year immediately following the taxable year 837  
in which the authority amends the agreement. If the taxpayer 838  
relocates employment positions in violation of the provision 839  
required under division (D)(8)(a) of this section, the taxpayer 840  
shall not claim the tax credit under section 5733.0610 of the 841  
Revised Code for any tax years following the calendar year in 842  
which the relocation occurs, ~~or shall not claim the tax credit~~ 843  
~~under section 5747.058 of the Revised Code for the taxable year in~~ 844  
~~which the relocation occurs and any subsequent taxable years.~~ 845

(G) Financial statements and other information submitted to 846  
the department of development or the tax credit authority by an 847  
applicant for or recipient of a tax credit under this section, and 848

any information taken for any purpose from such statements or 849  
information, are not public records subject to section 149.43 of 850  
the Revised Code. However, the chairperson of the authority may 851  
make use of the statements and other information for purposes of 852  
issuing public reports or in connection with court proceedings 853  
concerning tax credit agreements under this section. Upon the 854  
request of the tax commissioner, the chairperson of the authority 855  
shall provide to the commissioner any statement or other 856  
information submitted by an applicant for or recipient of a tax 857  
credit in connection with the credit. The commissioner shall 858  
preserve the confidentiality of the statement or other 859  
information. 860

(H) A taxpayer claiming a tax credit under this section shall 861  
submit to the tax commissioner a copy of the director of 862  
development's certificate of verification under division (E)(7) of 863  
this section for the taxable year. However, failure to submit a 864  
copy of the certificate does not invalidate a claim for a credit. 865

(I) For the purposes of this section, a taxpayer may include 866  
a partnership, a corporation that has made an election under 867  
subchapter S of chapter one of subtitle A of the Internal Revenue 868  
Code, or any other business entity through which income flows as a 869  
distributive share to its owners. A tax credit received under this 870  
section by a partnership, S-corporation, or other such business 871  
entity shall be apportioned among the persons to whom the income 872  
or profit of the partnership, S-corporation, or other entity is 873  
distributed, in the same proportions as those in which the income 874  
or profit is distributed. 875

(J) If the director of development determines that a taxpayer 876  
that received a tax credit under this section is not complying 877  
with the requirement under division (E)(4) of this section, the 878  
director shall notify the tax credit authority of the 879  
noncompliance. After receiving such a notice, and after giving the 880

taxpayer an opportunity to explain the noncompliance, the 881  
authority may terminate the agreement and require the taxpayer to 882  
refund to the state all or a portion of the credit claimed in 883  
previous years, as follows: 884

(1) If the taxpayer maintained operations at the project site 885  
for less than the term of the credit, the amount required to be 886  
refunded shall not exceed the amount of any tax credits previously 887  
allowed and received under this section. 888

(2) If the taxpayer maintained operations at the project site 889  
longer than the term of the credit but less than one and one-half 890  
times the term of the credit, the amount required to be refunded 891  
shall not exceed fifty per cent of the sum of any tax credits 892  
previously allowed and received under this section. 893

(3) If the taxpayer maintained operations at the project site 894  
for at least one and one-half times the term of the credit but 895  
less than twice the term of the credit, the amount required to be 896  
refunded shall not exceed twenty-five per cent of the sum of any 897  
tax credits previously allowed and received under this section. 898

In determining the portion of the credit to be refunded to 899  
this state, the authority shall consider the effect of market 900  
conditions on the taxpayer's project and whether the taxpayer 901  
continues to maintain other operations in this state. After making 902  
the determination, the authority shall certify the amount to be 903  
refunded to the tax commissioner. The commissioner shall make an 904  
assessment for that amount against the taxpayer under Chapter 905  
5733. ~~or 5747.~~ of the Revised Code. The time limitations on 906  
assessments under Chapter 5733. ~~or 5747.~~ of the Revised Code do 907  
not apply to an assessment under this division, but the 908  
commissioner shall make the assessment within one year after the 909  
date the authority certifies to the commissioner the amount to be 910  
refunded. 911

If the director of development determines that a taxpayer 912  
that received a tax credit under this section has reduced the 913  
number of employees agreed to under division (E)(5) of this 914  
section by more than ten per cent, the director shall notify the 915  
tax credit authority of the noncompliance. After receiving such 916  
notice, and after providing the taxpayer an opportunity to explain 917  
the noncompliance, the authority may amend the agreement to reduce 918  
the percentage or term of the tax credit. The reduction in the 919  
percentage or term shall take effect in the taxable year in which 920  
the authority amends the agreement. 921

(K) The director of development, after consultation with the 922  
tax commissioner and in accordance with Chapter 119. of the 923  
Revised Code, shall adopt rules necessary to implement this 924  
section. The rules may provide for recipients of tax credits under 925  
this section to be charged fees to cover administrative costs of 926  
the tax credit program. At the time the director gives public 927  
notice under division (A) of section 119.03 of the Revised Code of 928  
the adoption of the rules, the director shall submit copies of the 929  
proposed rules to the chairpersons of the standing committees on 930  
economic development in the senate and the house of 931  
representatives. 932

(L) On or before the thirty-first day of March of each year, 933  
the director of development shall submit a report to the governor, 934  
the president of the senate, and the speaker of the house of 935  
representatives on the tax credit program under this section. The 936  
report shall include information on the number of agreements that 937  
were entered into under this section during the preceding calendar 938  
year, a description of the project that is the subject of each 939  
such agreement, and an update on the status of projects under 940  
agreements entered into before the preceding calendar year. 941

**Sec. 150.07.** (A) For the purpose stated in section 150.01 of 942

the Revised Code, the authority may authorize a lender to claim 943  
one of the tax credits allowed under section 5725.19, 5729.08, or 944  
5733.49, ~~or 5747.80~~ of the Revised Code. The credits shall be 945  
authorized by a written contract with the lender. The contract 946  
shall specify the terms under which the lender may claim the 947  
credit, including the amount of loss, if any, the lender must 948  
incur before the lender may claim the credit; specify that the 949  
credit shall not exceed the amount of the loss; and specify that 950  
the lender may claim the credit only for a loss certified by a 951  
program administrator to the authority under the procedures 952  
prescribed under division (B)(6) of section 150.05 of the Revised 953  
Code. 954

(B) Tax credits may be authorized at any time after the 955  
authority establishes the investment policy under section 150.03 956  
of the Revised Code, but a tax credit so authorized may not be 957  
claimed until the beginning of the fifth year after the authority 958  
establishes the investment policy. A tax credit may not be claimed 959  
after June 30, 2026. 960

(C) Upon receiving certification of a lender's loss from a 961  
program administrator pursuant to the procedures in the investment 962  
policy, the authority shall issue a tax credit certificate to the 963  
lender, except as otherwise provided in division (D) of this 964  
section. The authority shall not issue a certificate until the 965  
lender, in the manner prescribed by the authority, elects to 966  
receive a refundable or nonrefundable tax credit. The election, 967  
once made, is irrevocable. The certificate shall state the amount 968  
of the credit, whether the credit is refundable or nonrefundable, 969  
and the calendar year, under section 5725.19 or 5729.08, or the 970  
tax year, under section 5733.49, ~~or the taxable year under section~~ 971  
~~5747.80~~ of the Revised Code, for which the credit may be claimed. 972  
The authority, in conjunction with the tax commissioner, shall 973  
develop a system for issuing tax credit certificates for the 974



pose of verifying that any credit claimed is a credit issued under 975  
this section and is properly taken in the year specified in the 976  
certificate and in compliance with division (B) of this section. 977

978

(D) The authority shall not, in any fiscal year, issue tax 979  
credit certificates in a total amount exceeding twenty million 980  
dollars. 981

**Sec. 150.10.** (A) On the first day of January of the second 982  
year after the date of entering into an agreement under section 983  
150.05 of the Revised Code and of each ensuing year, the authority 984  
shall file with the clerk of the house of representatives, the 985  
clerk of the senate, and the chairpersons of the house and senate 986  
standing committees predominantly concerned with economic 987  
development a written report on the Ohio venture capital program. 988  
The report shall include all the following: 989

(1) A description of the details of the investment policy 990  
established or modified in accordance with sections 150.03 and 991  
150.04 of the Revised Code; 992

(2) The authority's assessment of the program's achievement 993  
of its purpose stated in section 150.01 of the Revised Code; 994

(3) The value of tax credit certificates issued by the 995  
authority under section 150.07 of the Revised Code in each fiscal 996  
year ending on or before the preceding thirtieth day of June; 997

(4) The amount of tax credits claimed pursuant to section 998  
5725.19, 5729.08, or 5733.49, ~~or 5747.80~~ of the Revised Code, as 999  
to the respective taxes involved; 1000

(5) The financial status of the Ohio venture capital fund; 1001

(6) The names of venture capital funds in which money from 1002  
the program fund has been invested and the locations of their 1003  
principal offices, and the names of the enterprises in which each 1004

of those venture capital funds has invested such money and the 1005  
locations of those enterprises' principal offices; 1006

(7) Any recommendations for modifying the program to better 1007  
achieve the purpose stated in section 150.01 of the Revised Code. 1008

(B) During each year that a report is issued under division 1009  
(A) of this section, the chairperson of the authority, or another 1010  
member of the authority designated by the chairperson as the 1011  
authority's representative, shall be required to appear in person 1012  
before the standing committees of the house and senate 1013  
predominantly concerned with economic development to give 1014  
testimony concerning the status of the Ohio venture capital 1015  
program. 1016

**Sec. 901.13.** (A) As used in this section: 1017

(1) "Ethanol" has the same meaning as in section 5733.46 of 1018  
the Revised Code. 1019

(2) "Facility" means an ethanol production plant that will be 1020  
located in this state. 1021

(B) There is hereby created the ethanol incentive board. The 1022  
board shall consist of the following five members: the director of 1023  
agriculture, who shall serve as chairperson of the board, the 1024  
director of development, the executive director of the Ohio air 1025  
quality development authority, one member appointed by the speaker 1026  
of the house of representatives, and one member appointed by the 1027  
president of the senate. Initial appointments to the board shall 1028  
be made within thirty days of ~~the effective date of this section~~ 1029  
March 21, 2002. Vacancies shall be filled in the same manner 1030  
provided for original appointments. Members of the board shall 1031  
serve without compensation. The board shall meet and conduct its 1032  
business as directed by the chairperson. The board shall cease to 1033  
exist January 1, 2014. 1034

(C) The board's sole duty is to review any application that 1035  
is submitted to it under this section. The board shall approve an 1036  
application only if it determines, by the affirmative vote of all 1037  
members of the board, that the applicant's business plan for a 1038  
facility meets the requirements established by division (D) of 1039  
this section. 1040

(D) The owner of a facility may apply to the board, on an 1041  
application provided by the director of agriculture, for approval 1042  
of the facility's business plan under this section. Within sixty 1043  
days of receipt of an application, the board shall determine 1044  
whether the applicant's business plan meets the following 1045  
requirements: 1046

(1) The business plan is for the construction and operation 1047  
of a facility. 1048

(2) The business plan contains detailed information 1049  
regarding: 1050

(a) The availability and price of corn in the area where the 1051  
facility will be located; 1052

(b) The availability and cost of energy needed for operation 1053  
of the facility; 1054

(c) The availability of water and waste disposal systems in 1055  
the area where the facility will be located; 1056

(d) The availability of labor and a qualified site manager 1057  
for the facility. 1058

(3) The business plan analyzes any proposed marketing 1059  
agreements for the products produced by the facility. 1060

(4) The facility to be constructed and operated under the 1061  
business plan is majority-owned by Ohio farmers or will be prior 1062  
to the first day the facility commences production. 1063

(5) The business plan meets any other requirements 1064

ished by the board under rules adopted in accordance with division 1065  
(G) of this section. 1066

The board shall issue a certificate of approval for each 1067  
application approved under this section, and any taxpayer that 1068  
invests money in the facility for which a business plan has been 1069  
approved may claim a tax credit for such investment under section 1070  
5733.46 ~~or 5747.75~~ of the Revised Code. 1071

(E) Any business plan submitted to the board under this 1072  
section is not a public record subject to section 149.43 of the 1073  
Revised Code. 1074

(F) The board shall notify the tax commissioner of any 1075  
certificate of approval issued under this section, within ten days 1076  
of its issuance. 1077

(G) The director of agriculture, in consultation with the 1078  
director of development and in accordance with Chapter 119. of the 1079  
Revised Code, shall adopt rules necessary to implement this 1080  
section, including rules prescribing procedures and forms for 1081  
administering this section. 1082

(H) The ethanol incentive board created by this section is 1083  
not an agency for purposes of ~~section~~ sections 101.82 to 101.87 of 1084  
the Revised Code. 1085

**Sec. 3924.66.** ~~(A) In determining Ohio adjusted gross income 1086  
under Chapter 5747. of the Revised Code, an account holder may 1087  
deduct an amount equaling the total of the deposits that the 1088  
account holder, the account holder's spouse, or the account 1089  
holder's employer made to the account during the taxable year, to 1090  
the extent that the funds for the deposits have not otherwise been 1091  
deducted or excluded in determining the account holder's federal 1092  
adjusted gross income. The amount deducted by an account holder 1093  
for a taxable year shall not exceed three thousand dollars. If two 1094~~

~~married persons each have an account, each spouse may claim the deduction described in this section, and the amount deducted by each spouse shall not exceed three thousand dollars, whether the spouses file returns jointly or separately.~~

~~(B) The maximum deduction allowed under division (A) of this section shall be adjusted annually by the department of taxation to reflect increases in the consumer price index for all items for all urban consumers for the midwest region, as determined by the United States bureau of labor statistics for the period of the first day of January of the preceding calendar year to the last day of December of the preceding calendar year. The department of taxation shall determine in September of each tax year the adjustment that will be effective for the succeeding tax year. The department shall not make the adjustment in any tax year in which the maximum deduction resulting from the adjustment is less than the maximum deduction allowed for the previous tax year.~~

~~(C) In determining Ohio adjusted gross income under Chapter 5747. of the Revised Code, an account holder may deduct the investment earnings of a medical savings account from the account holder's federal adjusted gross income, to the extent that these earnings have been included in the account holder's federal adjusted gross income.~~

~~(D) In determining Ohio adjusted gross income under Chapter 5747. of the Revised Code, an account holder shall add to the account holder's federal adjusted gross income an amount equal to the sum of the amounts described in divisions (D)(1) and (2) of this section to the extent that those amounts were included in the account holder's federal adjusted gross income and previously deducted in determining the account holder's Ohio adjusted gross income. In determining the extent to which amounts withdrawn from the account shall be included in the account holder's Ohio~~

~~adjusted gross income, the tax commissioner shall be guided by sections 72 and 408 of the Internal Revenue Code governing the determination of the amount of withdrawals from an individual retirement account to be included in federal gross income.~~

~~(1) Amounts withdrawn from the account during the taxable year used for any purpose other than to reimburse the account holder for, or to pay, the eligible medical expenses of the account holder or the account holder's spouse or dependents;~~

~~(2) Investment earnings during the taxable year on amounts withdrawn from the account that are described in division (D)(1) of this section.~~

~~(E) Amounts withdrawn from a medical savings account to reimburse the account holder for, or to pay, the account holder's eligible medical expenses, or the eligible medical expenses of the account holder's spouse or dependents, shall not be included in the account holder's Ohio adjusted gross income in determining taxes due under Chapter 5747. of the Revised Code.~~

~~(F) If a dependent of an account holder becomes ineligible to continue to participate in the account holder's policy, plan, or contract of health coverage, the account holder may withdraw funds from the account holder's account and use those funds to pay the premium for the first year of a policy, plan, or contract of health coverage for the dependent and to pay any deductible for the first year of that policy, plan, or contract. Funds withdrawn and used for that purpose shall not be included in the account holder's Ohio adjusted gross income in determining taxes due under Chapter 5747. of the Revised Code.~~

**Sec. 3924.68.** (A) If an account holder, whose medical savings account has been opened by the account holder's employer, later ceases to be employed by that employer, the account holder may,

within sixty days of the account holder's final date of 1156  
employment, request in writing to the administrator of the account 1157  
that the administrator continue to administer the account. 1158

(1) If the administrator agrees to continue to administer the 1159  
account, funds in the account may continue to be used to pay the 1160  
eligible medical expenses of the account holder and the account 1161  
holder's spouse and dependents, pursuant to sections 3924.61 to 1162  
3924.74 of the Revised Code. 1163

If the account holder later becomes employed by a new 1164  
employer that opens a new medical savings account on the account 1165  
holder's behalf, the account holder may transfer any funds 1166  
remaining in the account opened by the account holder's former 1167  
employer to the account opened by the account holder's new 1168  
employer. ~~For purposes of determining taxes due under Chapter~~ 1169  
~~5747. of the Revised Code, this transfer of funds shall not be~~ 1170  
~~considered a withdrawal of funds from a medical savings account,~~ 1171  
~~nor shall it be considered a deposit to a medical savings account.~~ 1172

(2) If the administrator does not agree to continue to 1173  
administer the account, or if the account holder requests that the 1174  
account be closed, the administrator shall close the account and 1175  
mail a check or other negotiable instrument in the amount of the 1176  
account balance as of that date to the account holder. ~~The amount~~ 1177  
~~distributed shall be included in the account holder's Ohio~~ 1178  
~~adjusted gross income in determining taxes due under Chapter 5747.~~ 1179  
~~of the Revised Code.~~ 1180

(B) Within sixty days of the account holder's final date of 1181  
employment, the account holder may transfer any funds remaining in 1182  
the account opened by the account holder's former employer to 1183  
another medical savings account owned by the account holder. ~~For~~ 1184  
~~purposes of determining taxes due under Chapter 5747. of the~~ 1185  
~~Revised Code, this transfer of funds shall not be considered a~~ 1186

~~withdrawal of funds from a medical savings account, nor shall it~~ 1187  
~~be considered a deposit to a medical savings account.~~ 1188

(C) An administrator of an account opened by an employer 1189  
shall not close an account without the permission of the account 1190  
holder until at least sixty-one days after the account holder's 1191  
final date of employment. The employer shall notify the 1192  
administrator of the employee's final date of employment. 1193

**Sec. 5703.05.** All powers, duties, and functions of the 1194  
department of taxation are vested in and shall be performed by the 1195  
tax commissioner, which powers, duties, and functions shall 1196  
include, but shall not be limited to, the following: 1197

(A) Prescribing all blank forms which the department is 1198  
authorized to prescribe, and to provide such forms and distribute 1199  
the same as required by law and the rules of the department. The 1200  
tax commissioner shall include a mail-in registration form 1201  
prescribed in section 3503.14 of the Revised Code within the 1202  
return and instructions for the tax levied in odd-numbered years 1203  
under section 5747.02 of the Revised Code, beginning with the tax 1204  
levied for 1995. The secretary of state shall bear all costs for 1205  
the inclusion of the mail-in registration form. That form shall be 1206  
addressed for return to the office of the secretary of state. 1207

(B) Exercising the authority provided by law, including 1208  
orders from bankruptcy courts, relative to remitting or refunding 1209  
taxes or assessments, including penalties and interest thereon, 1210  
illegally or erroneously assessed or collected, or for any other 1211  
reason overpaid, and in addition, the commissioner may on written 1212  
application of any person, firm, or corporation claiming to have 1213  
overpaid to the treasurer of state at any time within five years 1214  
prior to the making of such application any tax payable under any 1215  
law which the department of taxation is required to administer 1216  
which does not contain any provision for refund, or on the 1217



commissioner's own motion investigate the facts and make in 1218  
triplicate a written statement of the commissioner's findings, 1219  
and, if the commissioner finds that there has been an overpayment, 1220  
issue in triplicate a certificate of abatement payable to the 1221  
taxpayer, the taxpayer's assigns, or legal representative which 1222  
shows the amount of the overpayment and the kind of tax overpaid. 1223  
One copy of such statement shall be entered on the journal of the 1224  
commissioner, one shall be certified to the attorney general, and 1225  
one certified copy shall be delivered to the taxpayer. All copies 1226  
of the certificate of abatement shall be transmitted to the 1227  
attorney general, and if the attorney general finds it to be 1228  
correct the attorney general shall so certify on each copy, and 1229  
deliver one copy to the taxpayer, one copy to the commissioner, 1230  
and the third copy to the treasurer of state. Except as provided 1231  
in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's 1232  
copy of any certificates of abatement may be tendered by the payee 1233  
or transferee thereof to the treasurer of state as payment, to the 1234  
extent of the amount thereof, of any tax payable to the treasurer 1235  
of state. 1236

(C) Exercising the authority provided by law relative to 1237  
consenting to the compromise and settlement of tax claims; 1238

(D) Exercising the authority provided by law relative to the 1239  
use of alternative tax bases by taxpayers in the making of 1240  
personal property tax returns; 1241

(E) Exercising the authority provided by law relative to 1242  
authorizing the prepayment of taxes on retail sales of tangible 1243  
personal property or on the storage, use, or consumption of 1244  
personal property, and waiving the collection of such taxes from 1245  
the consumers; 1246

(F) Exercising the authority provided by law to revoke 1247  
licenses; 1248

(G) Maintaining a continuous study of the practical operation 1249  
of all taxation and revenue laws of the state, the manner in which 1250  
and extent to which such laws provide revenues for the support of 1251  
the state and its political subdivisions, the probable effect upon 1252  
such revenue of possible changes in existing laws, and the 1253  
possible enactment of measures providing for other forms of 1254  
taxation. For this purpose the commissioner may establish and 1255  
maintain a division of research and statistics, and may appoint 1256  
necessary employees who shall be in the unclassified civil 1257  
service; the results of such study shall be available to the 1258  
members of the general assembly and the public. 1259

(H) Making all tax assessments, valuations, findings, 1260  
determinations, computations, and orders the department of 1261  
taxation is by law authorized and required to make and, pursuant 1262  
to time limitations provided by law, on the commissioner's own 1263  
motion, reviewing, redetermining, or correcting any tax 1264  
assessments, valuations, findings, determinations, computations, 1265  
or orders the commissioner has made, but the commissioner shall 1266  
not review, redetermine, or correct any tax assessment, valuation, 1267  
finding, determination, computation, or order which the 1268  
commissioner has made as to which an appeal or application for 1269  
rehearing, review, redetermination, or correction has been filed 1270  
with the board of tax appeals, unless such appeal or application 1271  
is withdrawn by the appellant or applicant or dismissed; 1272

(I) Appointing not more than five deputy tax commissioners, 1273  
who, under such regulations as the rules of the department of 1274  
taxation prescribe, may act for the commissioner in the 1275  
performance of such duties as the commissioner prescribes in the 1276  
administration of the laws which the commissioner is authorized 1277  
and required to administer, and who shall serve in the 1278  
unclassified civil service at the pleasure of the commissioner, 1279  
but if a person who holds a position in the classified service is 1280

appointed, it shall not affect the civil service status of such 1281  
person. The commissioner may designate not more than two of the 1282  
deputy commissioners to act as commissioner in case of the 1283  
absence, disability, or recusal of the commissioner or vacancy in 1284  
the office of commissioner. The commissioner may adopt rules 1285  
relating to the order of precedence of such designated deputy 1286  
commissioners and to their assumption and administration of the 1287  
office of commissioner. 1288

(J) Appointing and prescribing the duties of all other 1289  
employees of the department of taxation necessary in the 1290  
performance of the work of the department which the tax 1291  
commissioner is by law authorized and required to perform, and 1292  
creating such divisions or sections of employees as, in the 1293  
commissioner's judgment, is proper; 1294

(K) Organizing the work of the department, which the 1295  
commissioner is by law authorized and required to perform, so 1296  
that, in the commissioner's judgment, an efficient and economical 1297  
administration of the laws will result; 1298

(L) Maintaining a journal, which is open to public 1299  
inspection, in which the tax commissioner shall keep a record of 1300  
all final determinations of the commissioner; 1301

(M) Adopting and promulgating, in the manner provided by 1302  
section 5703.14 of the Revised Code, all rules of the department, 1303  
including rules for the administration of sections 3517.16, and 1304  
3517.17, ~~and 5747.081~~ of the Revised Code; 1305

(N) Destroying any or all returns or assessment certificates 1306  
in the manner authorized by law; 1307

(O) Adopting rules, in accordance with division (B) of 1308  
section 325.31 of the Revised Code, governing the expenditure of 1309  
moneys from the real estate assessment fund under that division. 1310

Sec. 5709.65. (A) An enterprise issued a certificate under 1311  
section 5709.64 of the Revised Code shall be entitled to the 1312  
following tax incentives: 1313

(1) With the exception of improvements to land or tangible 1314  
personal property constituting or used in the retail portion, if 1315  
any, of a facility, any improvement to land or tangible personal 1316  
property at a facility for which a certificate is issued, first 1317  
used in business at the facility as the result of a project, shall 1318  
not be considered an asset of a corporate enterprise in 1319  
determining the value of its issued and outstanding stock under 1320  
division (A) of section 5733.05 of the Revised Code at the end of 1321  
the taxable year that includes the certificate's date of issuance. 1322

(2) With the exception of the original cost of improvements 1323  
to land or tangible personal property constituting or used in the 1324  
retail portion, if any, of a facility, the original cost of any 1325  
improvement to land or tangible personal property at the facility 1326  
for which the certificate is issued, first used in business at the 1327  
facility as a result of a project, shall be excluded from the 1328  
numerator upon computation of the property factor of a corporate 1329  
enterprise under division (B)(2)(a) of section 5733.05 of the 1330  
Revised Code, ~~or of a noncorporate enterprise under division (A)~~ 1331  
~~of section 5747.21 of the Revised Code,~~ for the taxable year that 1332  
includes the certificate's date of issuance. 1333

As used in divisions (A)(1) and (2) of this section, the 1334  
"retail portion" of a facility is that part of a facility used 1335  
primarily for making retail sales as defined in division (O) of 1336  
section 5739.01 of the Revised Code. 1337

(3) Compensation paid to new employees described under 1338  
divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code 1339  
at the facility for which the certificate is issued, who are hired 1340  
as a result of a project, shall be excluded from the numerator 1341

upon computation of the payroll factor of a corporate enterprise 1342  
under division (B)(2)(b) of section 5733.05 of the Revised Code, 1343  
~~or of a noncorporate enterprise under division (B) of section~~ 1344  
~~5747.21 of the Revised Code,~~ for the taxable year that includes 1345  
the certificate's date of issuance. 1346

(4) An enterprise that reimburses its new employees described 1347  
under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised 1348  
Code for all or part of the cost of day-care services necessary to 1349  
enable them to be employed at a facility for which a certificate 1350  
is issued shall be entitled to a credit equal to the amounts so 1351  
reimbursed, up to a maximum of three hundred dollars for each 1352  
child or dependent receiving the services, for the taxable year in 1353  
which reimbursement is made, against the tax imposed by section 1354  
5733.06 of the Revised Code on a corporate enterprise, ~~or by~~ 1355  
~~section 5747.02 of the Revised Code on the owners of a~~ 1356  
~~noncorporate enterprise,~~ for the taxable year that includes the 1357  
certificate's date of issuance. Only reimbursements of amounts 1358  
paid by new employees to day-care centers licensed by the 1359  
department of job and family services for day-care services 1360  
provided during the first twenty-four months of employment as a 1361  
new employee may be applied toward the credit provided under this 1362  
division. Any enterprise claiming this credit shall maintain 1363  
records verifying that the credit is claimed only for 1364  
reimbursement of amounts expended by new employees for such 1365  
services. 1366

(5) For each new employee described in divisions (A)(2)(a) to 1367  
(e) of section 5709.64 of the Revised Code who completes a 1368  
training program and is subsequently employed by an enterprise for 1369  
at least ninety days, if the enterprise pays or reimburses all or 1370  
part of the cost of the employee's participation in the training 1371  
program, it may claim a credit equal to the amount paid or 1372  
reimbursed or one thousand dollars, whichever is less, in the 1373

ble year in which the employee completes the ninety days of 1374  
subsequent employment, against the tax imposed on a corporate 1375  
enterprise by section 5733.06 of the Revised Code, ~~or on the~~ 1376  
~~owners of a noncorporate enterprise by section 5747.02 of the~~ 1377  
~~Revised Code.~~ Only one credit shall be allowed with respect to any 1378  
individual. Attendance at a qualified training program under this 1379  
section does not bar an otherwise eligible individual from receipt 1380  
of benefits under Chapter 4141. of the Revised Code. 1381

(B) None of the items set forth in divisions (A)(2) and (3) 1382  
of this section shall be considered in making any allocation or 1383  
apportionment under division (B)(2)(d) of section 5733.05 ~~or~~ 1384  
~~division (D) of section 5747.21~~ of the Revised Code. 1385

(C) ~~All credits provided under this section to a noncorporate~~ 1386  
~~enterprise shall be divided pro rata among the owners of the~~ 1387  
~~enterprise subject to the tax imposed by section 5747.02 of the~~ 1388  
~~Revised Code, based upon their proportionate ownership interests~~ 1389  
~~in the enterprise. The enterprise shall file with the tax~~ 1390  
~~commissioner, on a form prescribed by the commissioner, a~~ 1391  
~~statement showing the total available credit and the portion~~ 1392  
~~thereof attributed to each owner. The statement shall identify~~ 1393  
~~each owner by name and social security number and shall be filed~~ 1394  
~~with the tax commissioner by the date prescribed by the~~ 1395  
~~commissioner, which shall be no earlier than the fifteenth day of~~ 1396  
~~the month following the close of the enterprise's taxable year for~~ 1397  
~~which the credit is claimed.~~ 1398

~~(D)~~ All state income tax or corporation franchise tax credits 1399  
provided under this section shall be claimed in the order required 1400  
under section 5733.98 ~~or 5747.98~~ of the Revised Code. The credits, 1401  
to the extent they exceed the taxpayer's tax liability for the 1402  
taxable year after allowance for any other credits that precede 1403  
the credits under this section in that order, shall be carried 1404  
forward to the next succeeding taxable year or years until fully 1405

utilized. 1406

**Sec. 5709.66.** (A) If an enterprise has been granted an 1407  
incentive for the current calendar year under an agreement entered 1408  
into pursuant to section 5709.62 or 5709.63 of the Revised Code 1409  
and satisfies both of the requirements described in divisions 1410  
(A)(1) and (2) of this section at the time of application, it may 1411  
apply to the director of development, on a form prescribed by the 1412  
director, for the employee tax credit certificate under division 1413  
(B) of this section. 1414

(1) The enterprise has established, expanded, renovated, or 1415  
occupied a facility pursuant to an agreement under section 5709.62 1416  
or 5709.63 of the Revised Code in a zone that is certified by the 1417  
director of development as having one of the characteristics 1418  
described in divisions (A)(1)(a) or (b) and at least one of the 1419  
characteristics described in divisions (A)(1)(c) to (h) of section 1420  
5709.61 of the Revised Code. 1421

(2) The enterprise or any predecessor enterprise has not 1422  
closed or reduced employment at any place of business in this 1423  
state within the twelve months preceding application unless the 1424  
enterprise, since the date the agreement was formally approved by 1425  
the legislative authority, has hired new employees equal in number 1426  
to not less than fifty per cent of the total number of employees 1427  
employed by the enterprise at other locations in this state on 1428  
that date. The legislative authority of any municipal corporation 1429  
or county that concludes that an enterprise or any predecessor 1430  
enterprise has closed or reduced employment at a place of business 1431  
in that municipal corporation or county may appeal to the director 1432  
to determine whether the enterprise or any predecessor enterprise 1433  
has done so. Upon receiving such an appeal, the director shall 1434  
investigate the allegations and determine whether the enterprise 1435  
satisfies the requirement of division (A)(2) of this section 1436

re proceeding under division (B) of this section. 1437

Within sixty days after receiving an application under this 1438  
section, the director shall review, investigate, and verify the 1439  
application and determine whether the enterprise is eligible for 1440  
the employee tax credit certificate under division (B) of this 1441  
section. The application shall contain such information and 1442  
documents as the director requires, by rule, to ascertain whether 1443  
the enterprise is eligible for the certificate. On finding that 1444  
the enterprise is eligible, the director shall proceed under 1445  
division (B) of this section. 1446

On determining that an enterprise is not eligible for the 1447  
certificate under division (B) of this section, the director shall 1448  
send notice of this determination, specifying the reasons for it, 1449  
by certified mail, to the applicant, the board of county 1450  
commissioners, and the chief executive of the municipal 1451  
corporation in which the facility to which the certificate would 1452  
have been given is located. Within thirty days after receiving 1453  
such a notice, an enterprise may request, in writing, a hearing 1454  
before the director for the purpose of reviewing the application 1455  
and the reasons for the determination. Within sixty days after 1456  
receiving a request for a hearing, the director shall afford one 1457  
and, within thirty days after the hearing, shall issue a 1458  
redetermination of the enterprise's eligibility for the 1459  
incentives. If the enterprise is found to be eligible, the 1460  
director shall proceed under division (B) of this section. If the 1461  
enterprise is found to be ineligible, the director shall send 1462  
notice of this finding, by certified mail, to the applicant, the 1463  
board of commissioners of the county or the chief executive of the 1464  
municipal corporation in which the facility to which the 1465  
certificate would have been given is located. The director's 1466  
redetermination that an enterprise is ineligible may be appealed 1467  
to the board of tax appeals under section 5717.02 of the Revised 1468



Code. 1469

(B) If the director determines an enterprise to be eligible 1470  
under division (A) of this section, the director shall determine 1471  
if the enterprise is entitled to an employee tax credit 1472  
certificate. An enterprise is entitled to an employee tax credit 1473  
certificate for each eligible employee the enterprise hires. A 1474  
taxpayer who is issued an employee tax credit certificate under 1475  
this section may claim a nonrefundable credit of one thousand 1476  
dollars against the tax imposed by section 5733.06 ~~or 5747.02~~ of 1477  
the Revised Code for each taxable year of the agreement entered 1478  
into under section 5709.62 or 5709.63 of the Revised Code in which 1479  
an eligible employee is employed for the taxpayer's full taxable 1480  
year. If the eligible employee is employed for less than the 1481  
taxpayer's full taxable year, the taxpayer may claim a reduced 1482  
credit against the tax imposed by section 5733.06 ~~or 5747.02~~ of 1483  
the Revised Code. The reduced credit shall be computed by dividing 1484  
the total number of days in the taxable year into one thousand 1485  
dollars and multiplying the quotient by the number of days the 1486  
eligible employee was employed in the taxable year. For purposes 1487  
of the computation, the eligible employee shall be deemed to have 1488  
been employed for each day of the taxable year commencing on the 1489  
date of employment or ending on the date of termination of 1490  
employment. 1491

~~The credit provided under this division to a noncorporate enterprise or an enterprise that is an S corporation as defined in section 1361 of the Internal Revenue Code shall be divided pro rata among the owners or shareholders of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based on their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the tax commissioner, a statement showing the total available credit and the portion of that credit attributed to each owner or shareholder. The statement shall identify each owner or shareholder by name and social security number and shall be filed with the tax commissioner by the date prescribed by the tax commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.~~

The taxpayer shall claim the credit in the order required under section 5733.98 ~~or 5747.98~~ of the Revised Code. If the credit provided under this division exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, the credit may be carried forward for the next three succeeding taxable years, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the succeeding taxable year.

(2) As used in this division:

(a) "Eligible employee" means a new employee at a facility who, at the time the employee was hired to work at the facility, was a participant of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or a recipient of general assistance under former Chapter 5113. of the Revised Code and resided for at least one year in the county in

ich the facility is located. "Eligible employee" does not include 1524  
any employee of the enterprise who is a new employee, as defined 1525  
under section 122.17 of the Revised Code, on the basis of whom the 1526  
enterprise has claimed a credit under that section. 1527

(b) "Taxable year" has the same meaning as in section 5733.04 1528  
~~or 5747.01~~ of the Revised Code, as applicable to the enterprise 1529  
claiming the credit. 1530

**Sec. 5733.33.** (A) As used in this section: 1531

(1) "Manufacturing machinery and equipment" means engines and 1532  
machinery, and tools and implements, of every kind used, or 1533  
designed to be used, in refining and manufacturing. "Manufacturing 1534  
machinery and equipment" does not include property acquired after 1535  
December 31, 1999, that is used: 1536

(a) For the transmission and distribution of electricity; 1537

(b) For the generation of electricity, if fifty per cent or 1538  
more of the electricity that the property generates is consumed, 1539  
during the one-hundred-twenty-month period commencing with the 1540  
date the property is placed in service, by persons that are not 1541  
related members to the person who generates the electricity. 1542

(2) "New manufacturing machinery and equipment" means 1543  
manufacturing machinery and equipment, the original use in this 1544  
state of which commences with the taxpayer or with a partnership 1545  
of which the taxpayer is a partner. "New manufacturing machinery 1546  
and equipment" does not include property acquired after December 1547  
31, 1999, that is used: 1548

(a) For the transmission and distribution of electricity; 1549

(b) For the generation of electricity, if fifty per cent or 1550  
more of the electricity that the property generates is consumed, 1551  
during the one-hundred-twenty-month period commencing with the 1552  
date the property is placed in service, by persons that are not 1553

related members to the person who generates the electricity. 1554

(3)(a) "Purchase" has the same meaning as in section 1555  
179(d)(2) of the Internal Revenue Code. 1556

(b) For purposes of this section, any property that is not 1557  
manufactured or assembled primarily by the taxpayer is considered 1558  
purchased at the time the agreement to acquire the property 1559  
becomes binding. Any property that is manufactured or assembled 1560  
primarily by the taxpayer is considered purchased at the time the 1561  
taxpayer places the property in service in the county for which 1562  
the taxpayer will calculate the county excess amount. 1563

(c) Notwithstanding section 179(d) of the Internal Revenue 1564  
Code, a taxpayer's direct or indirect acquisition of new 1565  
manufacturing machinery and equipment is not purchased on or after 1566  
July 1, 1995, if the taxpayer, or a person whose relationship to 1567  
the taxpayer is described in subparagraphs (A), (B), or (C) of 1568  
section 179(d)(2) of the Internal Revenue Code, had directly or 1569  
indirectly entered into a binding agreement to acquire the 1570  
property at any time prior to July 1, 1995. 1571

(4) "Qualifying period" means the period that begins July 1, 1572  
1995, and ends December 31, 2005. 1573

(5) "County average new manufacturing machinery and equipment 1574  
investment" means either of the following: 1575

(a) The average annual cost of new manufacturing machinery 1576  
and equipment purchased for use in the county during baseline 1577  
years, in the case of a taxpayer that was in existence for more 1578  
than one year during baseline years. 1579

(b) Zero, in the case of a taxpayer that was not in existence 1580  
for more than one year during baseline years. 1581

(6) "Partnership" includes a limited liability company formed 1582  
under Chapter 1705. of the Revised Code or under the laws of any 1583

other state, provided that the company is not classified for 1584  
federal income tax purposes as an association taxable as a 1585  
corporation. 1586

(7) "Partner" includes a member of a limited liability 1587  
company formed under Chapter 1705. of the Revised Code or under 1588  
the laws of any other state, provided that the company is not 1589  
classified for federal income tax purposes as an association 1590  
taxable as a corporation. 1591

(8) "Distressed area" means either a municipal corporation 1592  
that has a population of at least fifty thousand or a county that 1593  
meets two of the following criteria of economic distress, or a 1594  
municipal corporation the majority of the population of which is 1595  
situated in such a county: 1596

(a) Its average rate of unemployment, during the most recent 1597  
five-year period for which data are available, is equal to at 1598  
least one hundred twenty-five per cent of the average rate of 1599  
unemployment for the United States for the same period; 1600

(b) It has a per capita income equal to or below eighty per 1601  
cent of the median county per capita income of the United States 1602  
as determined by the most recently available figures from the 1603  
United States census bureau; 1604

(c)(i) In the case of a municipal corporation, at least 1605  
twenty per cent of the residents have a total income for the most 1606  
recent census year that is below the official poverty line; 1607

(ii) In the case of a county, in intercensal years, the 1608  
county has a ratio of transfer payment income to total county 1609  
income equal to or greater than twenty-five per cent. 1610

(9) "Eligible area" means a distressed area, a labor surplus 1611  
area, an inner city area, or a situational distress area. 1612

(10) "Inner city area" means, in a municipal corporation that 1613

has a population of at least one hundred thousand and does not 1614  
meet the criteria of a labor surplus area or a distressed area, 1615  
targeted investment areas established by the municipal corporation 1616  
within its boundaries that are comprised of the most recent census 1617  
block tracts that individually have at least twenty per cent of 1618  
their population at or below the state poverty level or other 1619  
census block tracts contiguous to such census block tracts. 1620

(11) "Labor surplus area" means an area designated as a labor 1621  
surplus area by the United States department of labor. 1622

(12) "Official poverty line" has the same meaning as in 1623  
division (A) of section 3923.51 of the Revised Code. 1624

(13) "Situational distress area" means a county or a 1625  
municipal corporation that has experienced or is experiencing a 1626  
closing or downsizing of a major employer, that will adversely 1627  
affect the county's or municipal corporation's economy. In order 1628  
to be designated as a situational distress area for a period not 1629  
to exceed thirty-six months, the county or municipal corporation 1630  
may petition the director of development. The petition shall 1631  
include written documentation that demonstrates all of the 1632  
following adverse effects on the local economy: 1633

(a) The number of jobs lost by the closing or downsizing; 1634

(b) The impact that the job loss has on the county's or 1635  
municipal corporation's unemployment rate as measured by the state 1636  
director of job and family services; 1637

(c) The annual payroll associated with the job loss; 1638

(d) The amount of state and local taxes associated with the 1639  
job loss; 1640

(e) The impact that the closing or downsizing has on the 1641  
suppliers located in the county or municipal corporation. 1642

(14) "Cost" has the same meaning and limitation as in section 1643

179(d)(3) of the Internal Revenue Code.	1644
(15) "Baseline years" means:	1645
(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;	1646 1647 1648
(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;	1649 1650 1651
(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;	1652 1653 1654
(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;	1655 1656 1657
(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;	1658 1659 1660
(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	1661 1662 1663
(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	1664 1665 1666
(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 of new manufacturing machinery and equipment;	1667 1668 1669
(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	1670 1671
(B)(1) Subject to division (I) of this section, a nonrefundable credit is allowed against the tax imposed by section	1672 1673

5733.06 of the Revised Code for a taxpayer that purchases new 1674  
manufacturing machinery and equipment during the qualifying 1675  
period, provided that the new manufacturing machinery and 1676  
equipment are installed in this state no later than December 31, 1677  
2006. 1678

(2)(a) Except as otherwise provided in division (B)(2)(b) of 1679  
this section, a credit may be claimed under this section in excess 1680  
of one million dollars only if the cost of all manufacturing 1681  
machinery and equipment owned in this state by the taxpayer 1682  
claiming the credit on the last day of the calendar year exceeds 1683  
the cost of all manufacturing machinery and equipment owned in 1684  
this state by the taxpayer on the first day of that calendar year. 1685

As used in division (B)(2)(a) of this section, "calendar 1686  
year" means the calendar year in which the machinery and equipment 1687  
for which the credit is claimed was purchased. 1688

(b) Division (B)(2)(a) of this section does not apply if the 1689  
taxpayer claiming the credit applies for and is issued a waiver of 1690  
the requirement of that division. A taxpayer may apply to the 1691  
director of development for such a waiver in the manner prescribed 1692  
by the director, and the director may issue such a waiver if the 1693  
director determines that granting the credit is necessary to 1694  
increase or retain employees in this state, and that the credit 1695  
has not caused relocation of manufacturing machinery and equipment 1696  
among counties within this state for the primary purpose of 1697  
qualifying for the credit. 1698

(C)(1) Except as otherwise provided in division (C)(2) and 1699  
division (I) of this section, the credit amount is equal to seven 1700  
and one-half per cent of the excess of the cost of the new 1701  
manufacturing machinery and equipment purchased during the 1702  
calendar year for use in a county over the county average new 1703  
manufacturing machinery and equipment investment for that county. 1704



(2) Subject to division (I) of this section, as used in 1705  
division (C)(2) of this section "county excess" means the 1706  
taxpayer's excess cost for a county as computed under division 1707  
(C)(1) of this section. 1708

Subject to division (I) of this section, a taxpayer with a 1709  
county excess, whose purchases included purchases for use in any 1710  
eligible area in the county, the credit amount is equal to 1711  
thirteen and one-half per cent of the cost of the new 1712  
manufacturing machinery and equipment purchased during the 1713  
calendar year for use in the eligible areas in the county, 1714  
provided that the cost subject to the thirteen and one-half per 1715  
cent rate shall not exceed the county excess. If the county excess 1716  
is greater than the cost of the new manufacturing machinery and 1717  
equipment purchased during the calendar year for use in eligible 1718  
areas in the county, the credit amount also shall include an 1719  
amount equal to seven and one-half per cent of the amount of the 1720  
difference. 1721

(3) If a taxpayer is allowed a credit for purchases of new 1722  
manufacturing machinery and equipment in more than one county or 1723  
eligible area, it shall aggregate the amount of those credits each 1724  
year. 1725

(4) The taxpayer shall claim one-seventh of the credit amount 1726  
for the tax year immediately following the calendar year in which 1727  
the new manufacturing machinery and equipment is purchased for use 1728  
in the county by the taxpayer or partnership. One-seventh of the 1729  
taxpayer credit amount is allowed for each of the six ensuing tax 1730  
years. Except for carried-forward amounts, the taxpayer is not 1731  
allowed any credit amount remaining if the new manufacturing 1732  
machinery and equipment is sold by the taxpayer or partnership or 1733  
is transferred by the taxpayer or partnership out of the county 1734  
before the end of the seven-year period unless, at the time of the 1735  
sale or transfer, the new manufacturing machinery and equipment 1736

has been fully depreciated for federal income tax purposes. 1737

(5)(a) A taxpayer that acquires manufacturing machinery and 1738  
equipment as a result of a merger with the taxpayer with whom 1739  
commenced the original use in this state of the manufacturing 1740  
machinery and equipment, or with a taxpayer that was a partner in 1741  
a partnership with whom commenced the original use in this state 1742  
of the manufacturing machinery and equipment, is entitled to any 1743  
remaining or carried-forward credit amounts to which the taxpayer 1744  
was entitled. 1745

(b) A taxpayer that enters into an agreement under division 1746  
(C)(3) of section 5709.62 of the Revised Code and that acquires 1747  
manufacturing machinery or equipment as a result of purchasing a 1748  
large manufacturing facility, as defined in section 5709.61 of the 1749  
Revised Code, from another taxpayer with whom commenced the 1750  
original use in this state of the manufacturing machinery or 1751  
equipment, and that operates the large manufacturing facility so 1752  
purchased, is entitled to any remaining or carried-forward credit 1753  
amounts to which the other taxpayer who sold the facility would 1754  
have been entitled under this section had the other taxpayer not 1755  
sold the manufacturing facility or equipment. 1756

(c) New manufacturing machinery and equipment is not 1757  
considered sold if a pass-through entity transfers to another 1758  
pass-through entity substantially all of its assets as part of a 1759  
plan of reorganization under which substantially all gain and loss 1760  
is not recognized by the pass-through entity that is transferring 1761  
the new manufacturing machinery and equipment to the transferee 1762  
and under which the transferee's basis in the new manufacturing 1763  
machinery and equipment is determined, in whole or in part, by 1764  
reference to the basis of the pass-through entity which 1765  
transferred the new manufacturing machinery and equipment to the 1766  
transferee. 1767

(d) Division (C)(5) of this section shall apply only if the 1768

acquiring taxpayer or transferee does not sell the new 1769  
manufacturing machinery and equipment or transfer the new 1770  
manufacturing machinery and equipment out of the county before the 1771  
end of the seven-year period to which division (C)(4) of this 1772  
section refers. 1773

(e) Division (C)(5)(b) of this section applies only to the 1774  
extent that the taxpayer that sold the manufacturing machinery or 1775  
equipment, upon request, timely provides to the tax commissioner 1776  
any information that the tax commissioner considers to be 1777  
necessary to ascertain any remaining or carried-forward amounts to 1778  
which the taxpayer that sold the facility would have been entitled 1779  
under this section had the taxpayer not sold the manufacturing 1780  
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 1781  
this section shall be construed to allow a taxpayer to claim any 1782  
credit amount with respect to the acquired manufacturing machinery 1783  
or equipment that is greater than the amount that would have been 1784  
available to the other taxpayer that sold the manufacturing 1785  
machinery or equipment had the other taxpayer not sold the 1786  
manufacturing machinery or equipment. 1787

(D) The taxpayer shall claim the credit in the order required 1788  
under section 5733.98 of the Revised Code. Each year, any credit 1789  
amount in excess of the tax due under section 5733.06 of the 1790  
Revised Code after allowing for any other credits that precede the 1791  
credit under this section in that order may be carried forward for 1792  
three tax years. 1793

(E) A taxpayer purchasing new manufacturing machinery and 1794  
equipment and intending to claim the credit shall file, with the 1795  
department of development, a notice of intent to claim the credit 1796  
on a form prescribed by the department of development. The 1797  
department of development shall inform the tax commissioner of the 1798  
notice of intent to claim the credit. 1799

(F) The director of development shall annually certify, by 1800

the first day of January of each year during the qualifying 1801  
period, the eligible areas for the tax credit for the calendar 1802  
year that includes that first day of January. The director shall 1803  
send a copy of the certification to the tax commissioner. 1804

(G) New manufacturing machinery and equipment for which a 1805  
taxpayer claims the credit under section 5733.31~~7~~ or 5733.311~~7~~ 1806  
~~5747.26, or 5747.261~~ of the Revised Code shall not be considered 1807  
new manufacturing machinery and equipment for purposes of the 1808  
credit under this section. 1809

(H)(1) Notwithstanding ~~sections~~ section 5733.11 ~~and 5747.13~~ 1810  
of the Revised Code, but subject to division (H)(2) of this 1811  
section, the tax commissioner may issue an assessment against a 1812  
person with respect to a credit claimed under this section for new 1813  
manufacturing machinery and equipment described in division 1814  
(A)(1)(b) or (2)(b) of this section, if the machinery or equipment 1815  
subsequently does not qualify for the credit. 1816

(2) Division (H)(1) of this section shall not apply after the 1817  
twenty-fourth month following the last day of the period described 1818  
in divisions (A)(1)(b) and (2)(b) of this section. 1819

(I) Notwithstanding any other provision of this section to 1820  
the contrary, in the case of a qualifying controlled group, the 1821  
credit available under this section to a taxpayer or taxpayers in 1822  
the qualifying controlled group shall be computed as if all 1823  
corporations in the group were a single corporation. The credit 1824  
shall be allocated to such a taxpayer or taxpayers in the group in 1825  
any amount elected for the taxable year by the group. Such 1826  
election shall be revocable and amendable during the period 1827  
described in division (B) of section 5733.12 of the Revised Code. 1828

This division applies to all purchases of new manufacturing 1829  
machinery and equipment made on or after January 1, 2001, and to 1830  
all baseline years used to compute any credit attributable to such 1831

purchases; provided, that this division may be applied solely at 1832  
the election of the qualifying controlled group with respect to 1833  
all purchases of new manufacturing machinery and equipment made 1834  
before that date, and to all baseline years used to compute any 1835  
credit attributable to such purchases. The qualifying controlled 1836  
group at any time may elect to apply this division to purchases 1837  
made prior to January 1, 2001, subject to the following: 1838

(1) The election is irrevocable; 1839

(2) The election need not accompany a timely filed report, 1840  
but the election may accompany a subsequently filed but timely 1841  
application for refund, a subsequently filed but timely amended 1842  
report, or a subsequently filed but timely petition for 1843  
reassessment. 1844

**Sec. 5733.40.** As used in sections 5733.40 and 5733.41 and 1845  
Chapter 5747. of the Revised Code: 1846

(A)(1) "Adjusted qualifying amount" means either of the 1847  
following: 1848

(a) The sum of a qualifying investor's distributive share of 1849  
the income, gain, expense, or loss of a qualifying pass-through 1850  
entity for the qualifying taxable year of the qualifying 1851  
pass-through entity multiplied by the apportionment fraction 1852  
defined in division (B) of this section, subject to section 1853  
5733.401 of the Revised Code and divisions (A)(2) to (7) of this 1854  
section; 1855

(b) The sum of a qualifying beneficiary's share of the 1856  
qualifying net income and qualifying net gain distributed by a 1857  
qualifying trust for the qualifying taxable year of the qualifying 1858  
trust multiplied by the apportionment fraction defined in division 1859  
(B) of this section, subject to section 5733.401 of the Revised 1860  
Code and divisions (A)(2) to (6) of this section. 1861

(2) The sum shall exclude any amount which, pursuant to the Constitution of the United States, the Constitution of Ohio, or any federal law is not subject to a tax on or measured by net income.

(3) The sum shall be increased by all amounts representing expenses other than amounts described in division (A)(7) of this section that the qualifying entity paid to or incurred with respect to direct or indirect transactions with one or more related members, excluding the cost of goods sold calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(3) of this section shall be construed to limit solely to this chapter the application of section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(4) The sum shall be increased by all recognized losses, other than losses from sales of inventory the cost of which is calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder, with respect to all direct or indirect transactions with one or more related members. Losses from the sales of such inventory shall be calculated in accordance with section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(4) of this section shall be construed to limit solely to this section the application of section 263A and section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(5) The sum shall be increased or decreased by an amount equal to the qualifying investor's or qualifying beneficiary's distributive or proportionate share of the amount that the qualifying entity would be required to add or deduct under

divisions (A)~~(20)~~(9) and ~~(21)~~(10) of section 5747.01 of the 1894  
Revised Code if the qualifying entity were a taxpayer for the 1895  
purposes of Chapter 5747. of the Revised Code. 1896

(6) The sum shall be computed without regard to section 1897  
5733.051 or division (D) of section 5733.052 of the Revised Code. 1898

(7) For the purposes of Chapters 5733. and 5747. of the 1899  
Revised Code, guaranteed payments or compensation paid to 1900  
investors by a qualifying entity that is not subject to the tax 1901  
imposed by section 5733.06 of the Revised Code shall be considered 1902  
a distributive share of income of the qualifying entity. Division 1903  
(A)(7) of this section applies only to such payments or such 1904  
compensation paid to an investor who at any time during the 1905  
qualifying entity's taxable year holds at least a twenty per cent 1906  
direct or indirect interest in the profits or capital of the 1907  
qualifying entity. 1908

(B) "Apportionment fraction" means: 1909

(1) With respect to a qualifying pass-through entity other 1910  
than a financial institution, the fraction calculated pursuant to 1911  
division (B)(2) of section 5733.05 of the Revised Code as if the 1912  
qualifying pass-through entity were a corporation subject to the 1913  
tax imposed by section 5733.06 of the Revised Code; 1914

(2) With respect to a qualifying pass-through entity that is 1915  
a financial institution, the fraction calculated pursuant to 1916  
division (C) of section 5733.056 of the Revised Code as if the 1917  
qualifying pass-through entity were a financial institution 1918  
subject to the tax imposed by section 5733.06 of the Revised Code. 1919

(3) With respect to a qualifying trust, the fraction 1920  
calculated pursuant to division (B)(2) of section 5733.05 of the 1921  
Revised Code as if the qualifying trust were a corporation subject 1922  
to the tax imposed by section 5733.06 of the Revised Code, except 1923  
that the property, payroll, and sales fractions shall be 1924

ted by including in the numerator and denominator of the fractions 1925  
only the property, payroll, and sales, respectively, directly 1926  
related to the production of income or gain from acquisition, 1927  
ownership, use, maintenance, management, or disposition of 1928  
tangible personal property located in this state at any time 1929  
during the qualifying trust's qualifying taxable year or of real 1930  
property located in this state. 1931

(C) "Qualifying beneficiary" means any individual that, 1932  
during the qualifying taxable year of a qualifying trust, is a 1933  
beneficiary of that trust, but does not include an individual who 1934  
is a resident taxpayer for the purposes of Chapter 5747. of the 1935  
Revised Code for the entire qualifying taxable year of the 1936  
qualifying trust. 1937

(D) "Fiscal year" means an accounting period ending on any 1938  
day other than the thirty-first day of December. 1939

(E) "Individual" means a natural person. 1940

(F) "Month" means a calendar month. 1941

(G) "Partnership" has the same meaning as in section 5747.01 1942  
of the Revised Code. 1943

(H) "Investor" means any person that, during any portion of a 1944  
taxable year of a qualifying pass-through entity, is a partner, 1945  
member, shareholder, or investor in that qualifying pass-through 1946  
entity. 1947

(I) Except as otherwise provided in section 5733.402 or 1948  
5747.401 of the Revised Code, "qualifying investor" means any 1949  
investor except those described in divisions (I)(1) to (9) of this 1950  
section. 1951

(1) An investor satisfying one of the descriptions under 1952  
section 501(a) or (c) of the Internal Revenue Code, a partnership 1953  
with equity securities registered with the United States 1954



securities and exchange commission under section 12 of the 1955  
"Securities Exchange Act of 1934," as amended, or an investor 1956  
described in division (F) of section 3334.01, or division (A) or 1957  
(C) of section 5733.09 of the Revised Code for the entire 1958  
qualifying taxable year of the qualifying pass-through entity. 1959

(2) An investor who is either an individual or an estate and 1960  
is a resident taxpayer for the purposes of section 5747.01 of the 1961  
Revised Code for the entire qualifying taxable year of the 1962  
qualifying pass-through entity. 1963

(3) An investor who is an individual for whom the qualifying 1964  
pass-through entity makes a good faith and reasonable effort to 1965  
comply fully and timely with the filing and payment requirements 1966  
set forth in division (D) of section 5747.08 of the Revised Code 1967  
and section 5747.09 of the Revised Code with respect to the 1968  
individual's adjusted qualifying amount for the entire qualifying 1969  
taxable year of the qualifying pass-through entity. 1970

(4) An investor that is another qualifying pass-through 1971  
entity having only investors described in division (I)(1), (2), 1972  
(3), or (6) of this section during the three-year period beginning 1973  
twelve months prior to the first day of the qualifying taxable 1974  
year of the qualifying pass-through entity. 1975

(5) An investor that is another pass-through entity having no 1976  
investors other than individuals and estates during the qualifying 1977  
taxable year of the qualifying pass-through entity in which it is 1978  
an investor, and that makes a good faith and reasonable effort to 1979  
comply fully and timely with the filing and payment requirements 1980  
set forth in division (D) of section 5747.08 of the Revised Code 1981  
and section 5747.09 of the Revised Code with respect to investors 1982  
that are not resident taxpayers of this state for the purposes of 1983  
Chapter 5747. of the Revised Code for the entire qualifying 1984  
taxable year of the qualifying pass-through entity in which it is 1985  
an investor. 1986

(6) An investor that is a financial institution required to calculate the tax in accordance with division (D) of section 5733.06 of the Revised Code on the first day of January of the calendar year immediately following the last day of the financial institution's calendar or fiscal year in which ends the taxpayer's taxable year.

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(7) An investor other than an individual that satisfies all the following:

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(a) The investor submits a written statement to the qualifying pass-through entity stating that the investor irrevocably agrees that the investor has nexus with this state under the Constitution of the United States and is subject to and liable for the tax calculated under division (B) of section 5733.06 of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. The statement is subject to the penalties of perjury, shall be retained by the qualifying pass-through entity for no fewer than seven years, and shall be delivered to the tax commissioner upon request.

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(b) The investor makes a good faith and reasonable effort to comply timely and fully with all the reporting and payment requirements set forth in Chapter 5733. of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

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(c) Neither the investor nor the qualifying pass-through entity in which it is an investor, before, during, or after the qualifying pass-through entity's qualifying taxable year, carries out any transaction or transactions with one or more related members of the investor or the qualifying pass-through entity resulting in a reduction or deferral of tax imposed by Chapter

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5733. of the Revised Code with respect to all or any portion of 2018  
the investor's adjusted qualifying amount for the qualifying 2019  
pass-through entity's taxable year, or that constitute a sham, 2020  
lack economic reality, or are part of a series of transactions the 2021  
form of which constitutes a step transaction or transactions or 2022  
does not reflect the substance of those transactions. 2023

(8) Any other investor that the tax commissioner may 2024  
designate by rule. The tax commissioner may adopt rules including 2025  
a rule defining "qualifying investor" or "qualifying beneficiary" 2026  
and governing the imposition of the withholding tax imposed by 2027  
section 5747.41 of the Revised Code with respect to an individual 2028  
who is a resident taxpayer for the purposes of Chapter 5747. of 2029  
the Revised Code for only a portion of the qualifying taxable year 2030  
of the qualifying entity. 2031

(9) An investor that is a trust or fund the beneficiaries of 2032  
which, during the qualifying taxable year of the qualifying 2033  
pass-through entity, are limited to the following: 2034

(a) A person that is or may be the beneficiary of a trust 2035  
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 2036  
Revenue Code. 2037

(b) A person that is or may be the beneficiary of or the 2038  
recipient of payments from a trust or fund that is a nuclear 2039  
decommissioning reserve fund, a designated settlement fund, or any 2040  
other trust or fund established to resolve and satisfy claims that 2041  
may otherwise be asserted by the beneficiary or a member of the 2042  
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 2043  
of the Internal Revenue Code apply to the determination of whether 2044  
such a person satisfies division (I)(9) of this section. 2045

(c) A person who is or may be the beneficiary of a trust 2046  
that, under its governing instrument, is not required to 2047  
distribute all of its income currently. Division (I)(9)(c) of this 2048

section applies only if the trust, prior to the due date for 2049  
filing the qualifying pass-through entity's return for taxes 2050  
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 2051  
Revised Code, irrevocably agrees in writing that for the taxable 2052  
year during or for which the trust distributes any of its income 2053  
to any of its beneficiaries, the trust is a qualifying trust and 2054  
will pay the estimated tax, and will withhold and pay the withheld 2055  
tax, as required under sections 5747.40 to 5747.453 of the Revised 2056  
Code. 2057

For the purposes of division (I)(9) of this section, a trust 2058  
or fund shall be considered to have a beneficiary other than 2059  
persons described under divisions (I)(9)(a) to (c) of this section 2060  
if a beneficiary would not qualify under those divisions under the 2061  
doctrines of "economic reality," "sham transaction," "step 2062  
doctrine," or "substance over form." A trust or fund described in 2063  
division (I)(9) of this section bears the burden of establishing 2064  
by a preponderance of the evidence that any transaction giving 2065  
rise to the tax benefits provided under division (I)(9) of this 2066  
section does not have as a principal purpose a claim of those tax 2067  
benefits. Nothing in this section shall be construed to limit 2068  
solely to this section the application of the doctrines referred 2069  
to in this paragraph. 2070

(J) "Qualifying net gain" means any recognized net gain with 2071  
respect to the acquisition, ownership, use, maintenance, 2072  
management, or disposition of tangible personal property located 2073  
in this state at any time during a trust's qualifying taxable year 2074  
or real property located in this state. 2075

(K) "Qualifying net income" means any recognized income, net 2076  
of related deductible expenses, other than distributions 2077  
deductions with respect to the acquisition, ownership, use, 2078  
maintenance, management, or disposition of tangible personal 2079  
property located in this state at any time during the trust's 2080

alifying taxable year or real property located in this state. 2081

(L) "Qualifying entity" means a qualifying pass-through 2082  
entity or a qualifying trust. 2083

(M) "Qualifying trust" means a trust subject to subchapter J 2084  
of the Internal Revenue Code that, during any portion of the 2085  
trust's qualifying taxable year, has income or gain from the 2086  
acquisition, management, ownership, use, or disposition of 2087  
tangible personal property located in this state at any time 2088  
during the trust's qualifying taxable year or real property 2089  
located in this state. "Qualifying trust" does not include a 2090  
person described in section 501(c) of the Internal Revenue Code or 2091  
a person described in division (C) of section 5733.09 of the 2092  
Revised Code. 2093

(N) "Qualifying pass-through entity" means a pass-through 2094  
entity as defined in section 5733.04 of the Revised Code, 2095  
excluding a person described in section 501(c) of the Internal 2096  
Revenue Code, a partnership with equity securities registered with 2097  
the United States securities and exchange commission under section 2098  
12 of the Securities Exchange Act of 1934, as amended, or a person 2099  
described in division (C) of section 5733.09 of the Revised Code. 2100

(O) "Quarter" means the first three months, the second three 2101  
months, the third three months, or the last three months of a 2102  
qualifying entity's qualifying taxable year. 2103

(P) "Related member" has the same meaning as in division 2104  
(A)(6) of section 5733.042 of the Revised Code without regard to 2105  
division (B) of that section. However, for the purposes of 2106  
divisions (A)(3) and (4) of this section only, "related member" 2107  
has the same meaning as in division (A)(6) of section 5733.042 of 2108  
the Revised Code without regard to division (B) of that section, 2109  
but shall be applied by substituting "forty per cent" for "twenty 2110  
per cent" wherever "twenty per cent" appears in division (A) of 2111

that section. 2112

(Q) "Return" or "report" means the notifications and reports 2113  
required to be filed pursuant to sections 5747.42 to 5747.45 of 2114  
the Revised Code for the purpose of reporting the tax imposed 2115  
under section 5733.41 or 5747.41 of the Revised Code, and included 2116  
declarations of estimated tax when so required. 2117

(R) "Qualifying taxable year" means the calendar year or the 2118  
qualifying entity's fiscal year ending during the calendar year, 2119  
or fractional part thereof, for which the adjusted qualifying 2120  
amount is calculated pursuant to sections 5733.40 and 5733.41 or 2121  
sections 5747.40 to 5747.453 of the Revised Code. 2122

(S) "Distributive share" includes the sum of the income, 2123  
gain, expense, or loss of a disregarded entity. 2124

**Sec. 5733.42.** (A) As used in this section: 2125

(1) "Eligible training program" means a program to provide 2126  
job skills to eligible employees who are unable effectively to 2127  
function on the job due to skill deficiencies or who would 2128  
otherwise be displaced because of their skill deficiencies or 2129  
inability to use new technology, or to provide job skills to 2130  
eligible employees that enable them to perform other job duties 2131  
for the taxpayer. Eligible training programs do not include 2132  
executive, management, or personal enrichment training programs, 2133  
or training programs intended exclusively for personal career 2134  
development. 2135

(2) "Eligible employee" means an individual who is employed 2136  
in this state by a taxpayer and has been so employed by the same 2137  
taxpayer for at least one hundred eighty consecutive days before 2138  
the day an application for the credit is filed under this section. 2139  
"Eligible employee" does not include any employee for which a 2140  
credit is claimed pursuant to division (A)(5) of section 5709.65 2141

of the Revised Code for all or any part of the same year, an 2142  
employee who is not a full-time employee, or executive or 2143  
managerial personnel except for the immediate supervisors of 2144  
nonexecutive, nonmanagerial personnel. 2145

(3) "Eligible training costs" means: 2146

(a) Direct instructional costs, such as instructor salaries, 2147  
materials and supplies, textbooks and manuals, videotapes, and 2148  
other instructional media and training equipment used exclusively 2149  
for the purpose of training eligible employees; 2150

(b) Wages paid to eligible employees for time devoted 2151  
exclusively to an eligible training program during normal paid 2152  
working hours. 2153

(4) "Full-time employee" means an individual who is employed 2154  
for consideration for at least thirty-five hours per week, or who 2155  
renders any other standard of service generally accepted by custom 2156  
or specified by contract as full-time employment. 2157

(5) "Partnership" includes a limited liability company formed 2158  
under Chapter 1705. of the Revised Code or under the laws of 2159  
another state, provided that the company is not classified for 2160  
federal income tax purposes as an association taxable as a 2161  
corporation. 2162

(B) There is hereby allowed a nonrefundable credit against 2163  
the tax imposed by section 5733.06 of the Revised Code for 2164  
taxpayers for which a tax credit certificate is issued under 2165  
division (C) of this section. The credit may be claimed for tax 2166  
years 2004, 2005, and 2006. The amount of the credit for tax year 2167  
2004 shall equal one-half of the average of the eligible training 2168  
costs paid or incurred by the taxpayer during calendar years 1999, 2169  
2000, and 2001, not to exceed one thousand dollars for each 2170  
eligible employee on account of whom eligible training costs were 2171  
paid or incurred by the taxpayer during those calendar years. The 2172

amount of the credit for tax year 2005 shall equal one-half of the 2173  
average of the eligible training costs paid or incurred by the 2174  
taxpayer during calendar years 2002, 2003, and 2004, not to exceed 2175  
one thousand dollars for each eligible employee on account of whom 2176  
eligible training costs were paid or incurred by the taxpayer 2177  
during those calendar years. The amount of the credit for tax year 2178  
2006 shall equal one-half of the average of the eligible training 2179  
costs paid or incurred by the taxpayer during calendar years 2003, 2180  
2004, and 2005, not to exceed one thousand dollars for each 2181  
eligible employee on account of whom eligible training costs were 2182  
paid or incurred by the taxpayer during those calendar years. The 2183  
credit claimed by a taxpayer each tax year shall not exceed one 2184  
hundred thousand dollars. 2185

(C) A taxpayer who proposes to conduct an eligible training 2186  
program may apply to the director of job and family services for a 2187  
tax credit certificate under this section. The taxpayer may apply 2188  
for such a certificate for tax years 2004, 2005, and 2006, subject 2189  
to division (L) of this section. The director shall prescribe the 2190  
form of the application, which shall require a detailed 2191  
description of the proposed training program. The director may 2192  
require applicants to remit an application fee with each 2193  
application filed with the director. The fee shall not exceed the 2194  
reasonable and necessary expenses incurred by the director in 2195  
receiving, reviewing, and approving such applications and issuing 2196  
tax credit certificates. Proceeds from fees shall be used solely 2197  
for the purpose of receiving, reviewing, and approving such 2198  
applications and issuing such certificates. 2199

After receipt of an application, the director shall authorize 2200  
a credit under this section by issuing a tax credit certificate, 2201  
in the form prescribed by the director, if the director determines 2202  
all of the following: 2203

(1) The proposed training program is an eligible training 2204



program under this section; 2205

(2) The proposed training program is economically sound and 2206  
will benefit the people of this state by improving workforce 2207  
skills and strengthening the economy of this state; 2208

(3) Receiving the tax credit is a major factor in the 2209  
taxpayer's decision to go forward with the training program; 2210

(4) Authorization of the credit is consistent with division 2211  
(H) of this section. 2212

The credit also is allowed for a taxpayer that is a partner 2213  
in a partnership that pays or incurs eligible training costs. Such 2214  
a taxpayer shall determine the taxpayer's credit amount in the 2215  
manner prescribed by division (K) of this section. 2216

(D) If the director of job and family services denies an 2217  
application for a tax credit certificate, the director shall send 2218  
notice of the denial and the reason for denial to the applicant by 2219  
certified mail, return receipt requested. If the director 2220  
determines that an authorized training program, as actually 2221  
conducted, fails to meet the requirements of this section or to 2222  
comply with any condition set forth in the authorization, the 2223  
director may reduce the amount of the tax credit previously 2224  
granted. If the director reduces a tax credit, the director shall 2225  
send notice of the reduction and the reason for the reduction to 2226  
the taxpayer by certified mail, return receipt requested, and 2227  
shall certify the reduction to the tax commissioner or, in the 2228  
case of the reduction of a credit claimed by an insurance company, 2229  
the superintendent of insurance. The tax commissioner or 2230  
superintendent of insurance shall reduce the credit that may be 2231  
claimed by the taxpayer accordingly. Within sixty days after 2232  
receiving a notice of denial or notice of reduction of the tax 2233  
credit, an applicant or taxpayer may request, in writing, a 2234  
hearing before the director to review the denial or reduction. 2235

Within sixty days after receiving a request that is filed within 2236  
the prescribed time, the director shall hold such a hearing at a 2237  
location to be determined by the director. Within thirty days 2238  
after the hearing is adjourned, the director shall issue a 2239  
redetermination affirming, reversing, or modifying the denial or 2240  
reduction of the tax credit and send notice of the redetermination 2241  
to the applicant or taxpayer by certified mail, return receipt 2242  
requested, and shall issue a notice of the redetermination to the 2243  
tax commissioner or superintendent of insurance. If an applicant 2244  
or taxpayer is aggrieved by the director's redetermination, the 2245  
applicant or taxpayer may appeal the redetermination to the board 2246  
of tax appeals in the manner prescribed by section 5717.02 of the 2247  
Revised Code. 2248

(E) A taxpayer to which a tax credit certificate is issued 2249  
shall retain records indicating the eligible training costs it 2250  
pays or incurs for the eligible training program for which the 2251  
certificate is issued for four years following the end of the tax 2252  
year for which the credit is claimed. Such records shall be open 2253  
to inspection by the director of job and family services upon the 2254  
director's request during business hours. 2255

Financial statements and other information submitted by an 2256  
applicant to the director of job and family services for a tax 2257  
credit under this section, and any information taken for any 2258  
purpose from such statements or information, are not public 2259  
records subject to section 149.43 of the Revised Code. However, 2260  
the director of job and family services, the tax commissioner, or 2261  
superintendent of insurance may make use of the statements and 2262  
other information for purposes of issuing public reports or in 2263  
connection with court proceedings concerning tax credits allowed 2264  
under this section and sections 5725.31, and 5729.07, ~~and 5747.39~~ 2265  
of the Revised Code. 2266

(F) The director of job and family services, in accordance 2267

with Chapter 119. of the Revised Code, shall adopt rules necessary 2268  
to implement this section and sections 5725.31, and 5729.07, ~~and~~ 2269  
~~5747.39~~ of the Revised Code. The rules shall be adopted after 2270  
consultation with the tax commissioner and the superintendent of 2271  
insurance. At the time the director gives public notice under 2272  
division (A) of section 119.03 of the Revised Code of the adoption 2273  
of the rules, the director shall submit copies of the proposed 2274  
rules to the chairpersons and ranking minority members of the 2275  
standing committees in the senate and the house of representatives 2276  
to which legislation on economic development matters are 2277  
customarily referred. 2278

(G) On or before the thirtieth day of September of 2001, 2279  
2003, 2004, 2005, and 2006, the director of job and family 2280  
services shall submit a report to the governor, the president of 2281  
the senate, and the speaker of the house of representatives on the 2282  
tax credit program under this section and sections 5725.31, and 2283  
5729.07, ~~and 5747.39~~ of the Revised Code. The report shall include 2284  
information on the number of training programs that were 2285  
authorized under those sections during the preceding calendar 2286  
year, a description of each authorized training program, the 2287  
dollar amounts of the credits granted, and an estimate of the 2288  
impact of the credits on the economy of this state. 2289

(H) The aggregate amount of credits authorized under this 2290  
section and sections 5725.31, and 5729.07, ~~and 5747.39~~ of the 2291  
Revised Code shall not exceed twenty million dollars per calendar 2292  
year. No more than ten million dollars in credits per calendar 2293  
year shall be authorized for persons engaged primarily in 2294  
manufacturing. No less than five million dollars in credits per 2295  
calendar year shall be set aside for persons engaged primarily in 2296  
activities other than manufacturing and having fewer than five 2297  
hundred employees. Subject to such limits, credits shall be 2298  
authorized for applicants meeting the requirements of this section 2299

in the order in which they submit complete and accurate applications. 2300  
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(I) A nonrefundable credit allowed under this section shall be claimed in the order required under section 5733.98 of the Revised Code. 2302  
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(J) The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is first claimed under this section. 2305  
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(K) A taxpayer that is a partner in a partnership on the last day of the third calendar year of the three-year period during which the partnership pays or incurs eligible training costs may claim a credit under this section for the tax year immediately following that calendar year. The amount of a partner's credit equals the partner's interest in the partnership on the last day of such calendar year multiplied by the credit available to the partnership as computed by the partnership. 2311  
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(L) The director of job and family services shall not authorize any credits under this section and sections 5725.31~~7~~ and 5729.07~~7~~, ~~and 5747.39~~ of the Revised Code for eligible training costs paid or incurred after December 31, 2005. 2319  
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**Sec. 5747.01.** Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes. 2323  
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As used in this chapter: 2328

(A) "Adjusted gross income" or "Ohio adjusted gross income" 2329

means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

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

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

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

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

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

~~(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 or after 2004, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, 2003, or 2004.~~

~~"Undistributed net income of a trust" means the taxable income of  
the trust increased by (a)(i) the additions to adjusted gross  
income required under division (A) of this section and (ii) the  
personal exemptions allowed to the trust pursuant to section  
642(b) of the Internal Revenue Code, and decreased by (b)(i) the  
deductions to adjusted gross income required under division (A) of  
this section, (ii) the amount of federal income taxes attributable  
to such income, and (iii) the amount of taxable income that has  
been included in the adjusted gross income of a beneficiary by  
reason of a prior accumulation distribution. Any undistributed net  
income included in the adjusted gross income of a beneficiary  
shall reduce the undistributed net income of the trust commencing  
with the earliest years of the accumulation period.~~

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

~~(8) Deduct any interest or interest equivalent on public  
obligations and purchase obligations issued on or before the  
effective date of this amendment, to the extent that the interest  
or interest equivalent is included in federal adjusted gross  
income.~~

~~(9)(5) Add any loss or deduct any gain resulting from the  
sale, exchange, or other disposition of public obligations issued  
on or before the effective date of this amendment, to the extent  
that the loss has been deducted or the gain has been included in  
computing federal adjusted gross income.~~

~~(10) Deduct or add amounts, as provided under section 5747.70 2390  
of the Revised Code, related to contributions to variable college 2391  
savings program accounts made or tuition credits purchased 2392  
pursuant to Chapter 3334. of the Revised Code. 2393~~

~~(11)(a) Deduct, to the extent not otherwise allowable as a 2394  
deduction or exclusion in computing federal or Ohio adjusted gross 2395  
income for the taxable year, the amount the taxpayer paid during 2396  
the taxable year for medical care insurance and qualified 2397  
long term care insurance for the taxpayer, the taxpayer's spouse, 2398  
and dependents. No deduction for medical care insurance under 2399  
division (A)(11) of this section shall be allowed either to any 2400  
taxpayer who is eligible to participate in any subsidized health 2401  
plan maintained by any employer of the taxpayer or of the 2402  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 2403  
application would be entitled to, benefits under part A of Title 2404  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 2405  
301, as amended. For the purposes of division (A)(11)(a) of this 2406  
section, "subsidized health plan" means a health plan for which 2407  
the employer pays any portion of the plan's cost. The deduction 2408  
allowed under division (A)(11)(a) of this section shall be the net 2409  
of any related premium refunds, related premium reimbursements, or 2410  
related insurance premium dividends received during the taxable 2411  
year. 2412~~

~~(b) Deduct, to the extent not otherwise deducted or excluded 2413  
in computing federal or Ohio adjusted gross income during the 2414  
taxable year, the amount the taxpayer paid during the taxable 2415  
year, not compensated for by any insurance or otherwise, for 2416  
medical care of the taxpayer, the taxpayer's spouse, and 2417  
dependents, to the extent the expenses exceed seven and one half 2418  
per cent of the taxpayer's federal adjusted gross income. 2419~~

~~(c) For purposes of division (A)(11) of this section, 2420  
"medical care" has the meaning given in section 213 of the 2421~~

~~Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.~~

~~(12)(6)(a)~~ Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)~~(12)(6)(a)~~ of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

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

~~(13)(7)~~ Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

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

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

~~(14)~~ Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised



Code. The deduction allowed by division (A)(14) of this section 2453  
does not apply to medical savings account deposits and earnings 2454  
otherwise deducted or excluded for the current or any other 2455  
taxable year from the taxpayer's federal adjusted gross income. 2456

~~(15)(a) Add an amount equal to the funds withdrawn from a 2457  
medical savings account during the taxable year, and the net 2458  
investment earnings on those funds, when the funds withdrawn 2459  
were used for any purpose other than to reimburse an account holder 2460  
for, or to pay, eligible medical expenses, in accordance with 2461  
section 3924.66 of the Revised Code; 2462~~

~~(b) Add the amounts distributed from a medical savings 2463  
account under division (A)(2) of section 3924.68 of the Revised 2464  
Code during the taxable year. 2465~~

~~(16)(8) Add any amount claimed as a credit under section 2466  
5747.059 of the Revised Code to the extent that such amount 2467  
satisfies either of the following: 2468~~

~~(a) The amount was deducted or excluded from the computation 2469  
of the taxpayer's federal adjusted gross income as required to be 2470  
reported for the taxpayer's taxable year under the Internal 2471  
Revenue Code; 2472~~

~~(b) The amount resulted in a reduction of the taxpayer's 2473  
federal adjusted gross income as required to be reported for any 2474  
of the taxpayer's taxable years under the Internal Revenue Code. 2475~~

~~(17) Deduct the amount contributed by the taxpayer to an 2476  
individual development account program established by a county 2477  
department of job and family services pursuant to sections 329.11 2478  
to 329.14 of the Revised Code for the purpose of matching funds 2479  
deposited by program participants. On request of the tax 2480  
commissioner, the taxpayer shall provide any information that, in 2481  
the tax commissioner's opinion, is necessary to establish the 2482  
amount deducted under division (A)(17) of this section. 2483~~

~~(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.~~

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

~~(20)(9)(a) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest. The tax commissioner, under procedures established by the commissioner, may waive the add-back related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.~~

(b) Nothing in division (A)~~(20)(9)~~ of this section shall be

construed to adjust or modify the adjusted basis of any asset. 2516

(c) To the extent the add-back required under division 2517  
(A)~~(20)~~(9)(a) of this section is attributable to property 2518  
generating nonbusiness income or loss allocated under section 2519  
5747.20 of the Revised Code, the add-back shall be sitused to the 2520  
same location as the nonbusiness income or loss generated by the 2521  
property for the purpose of determining the credit under division 2522  
(A) of section 5747.05 of the Revised Code. Otherwise, the 2523  
add-back shall be apportioned, subject to one or more of the four 2524  
alternative methods of apportionment enumerated in section 5747.21 2525  
of the Revised Code. 2526

~~(21)~~(10)(a) If the taxpayer was required to add an amount 2527  
under division (A)~~(20)~~(9)(a) of this section for a taxable year, 2528  
deduct one-fifth of the amount so added for each of the five 2529  
succeeding taxable years. 2530

(b) If the amount deducted under division (A)~~(21)~~(10)(a) of 2531  
this section is attributable to an add-back allocated under 2532  
division (A)~~(20)~~(9)(c) of this section, the amount deducted shall 2533  
be sitused to the same location. Otherwise, the add-back shall be 2534  
apportioned using the apportionment factors for the taxable year 2535  
in which the deduction is taken, subject to one or more of the 2536  
four alternative methods of apportionment enumerated in section 2537  
5747.21 of the Revised Code. 2538

(B) "Business income" means income, including gain or loss, 2539  
arising from transactions, activities, and sources in the regular 2540  
course of a trade or business and includes income, gain, or loss 2541  
from real property, tangible property, and intangible property if 2542  
the acquisition, rental, management, and disposition of the 2543  
property constitute integral parts of the regular course of a 2544  
trade or business operation. "Business income" includes income, 2545  
including gain or loss, from a partial or complete liquidation of 2546  
a business, including, but not limited to, gain or loss from the 2547

sale or other disposition of goodwill.	2548
(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.	2549 2550 2551 2552 2553
(D) "Compensation" means any form of remuneration paid to an employee for personal services.	2554 2555
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	2556 2557 2558
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	2559 2560
(G) "Individual" means any natural person.	2561
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	2562 2563
(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004:	2564 2565 2566
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	2567 2568
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.	2569 2570 2571 2572 2573
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	2574 2575 2576
For the purposes of division (I)(3) of this section:	2577

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

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

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

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year.

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

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

ciary" excludes a person or a governmental entity or 2609  
instrumentality to any of which a contribution would qualify for 2610  
the charitable deduction under section 170 of the Internal Revenue 2611  
Code. 2612

(d) For the purposes of division (I)(3)(a) of this section, 2613  
the extent to which a trust consists directly or indirectly, in 2614  
whole or in part, of assets, net of any related liabilities, that 2615  
were transferred directly or indirectly, in whole or part, to the 2616  
trust by any of the sources enumerated in that division shall be 2617  
ascertained by multiplying the fair market value of the trust's 2618  
assets, net of related liabilities, by the qualifying ratio, which 2619  
shall be computed as follows: 2620

(i) The first time the trust receives assets, the numerator 2621  
of the qualifying ratio is the fair market value of those assets 2622  
at that time, net of any related liabilities, from sources 2623  
enumerated in division (I)(3)(a) of this section. The denominator 2624  
of the qualifying ratio is the fair market value of all the 2625  
trust's assets at that time, net of any related liabilities. 2626

(ii) Each subsequent time the trust receives assets, a 2627  
revised qualifying ratio shall be computed. The numerator of the 2628  
revised qualifying ratio is the sum of (1) the fair market value 2629  
of the trust's assets immediately prior to the subsequent 2630  
transfer, net of any related liabilities, multiplied by the 2631  
qualifying ratio last computed without regard to the subsequent 2632  
transfer, and (2) the fair market value of the subsequently 2633  
transferred assets at the time transferred, net of any related 2634  
liabilities, from sources enumerated in division (I)(3)(a) of this 2635  
section. The denominator of the revised qualifying ratio is the 2636  
fair market value of all the trust's assets immediately after the 2637  
subsequent transfer, net of any related liabilities. 2638

(e) For the purposes of division (I)(3)(a)(i) of this 2639  
section: 2640

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

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

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

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

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

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the

transferor and either the decedent or the estate of the decedent 2672  
at any time prior to the date of the decedent's death, and the 2673  
decedent was domiciled in this state at the time of death for 2674  
purposes of the taxes levied under Chapter 5731. of the Revised 2675  
Code. 2676

(iv) The transfer is made to a trust on account of a 2677  
contractual relationship existing directly or indirectly between 2678  
the transferor and another person who at the time of the 2679  
decedent's death was domiciled in this state for purposes of this 2680  
chapter. 2681

(v) The transfer is made to a trust on account of the will of 2682  
a testator. 2683

(vi) The transfer is made to a trust created by or caused to 2684  
be created by a court, and the trust was directly or indirectly 2685  
created in connection with or as a result of the death of an 2686  
individual who, for purposes of the taxes levied under Chapter 2687  
5731. of the Revised Code, was domiciled in this state at the time 2688  
of the individual's death. 2689

(g) The tax commissioner may adopt rules to ascertain the 2690  
part of a trust residing in this state. 2691

(J) "Nonresident" means an individual or estate that is not a 2692  
resident. An individual who is a resident for only part of a 2693  
taxable year is a nonresident for the remainder of that taxable 2694  
year. 2695

(K) "Pass-through entity" has the same meaning as in section 2696  
5733.04 of the Revised Code. 2697

(L) "Return" means the notifications and reports required to 2698  
be filed pursuant to this chapter for the purpose of reporting the 2699  
tax due and includes declarations of estimated tax when so 2700  
required. 2701



(M) "Taxable year" means the calendar year or the taxpayer's 2702  
fiscal year ending during the calendar year, or fractional part 2703  
thereof, upon which the adjusted gross income is calculated 2704  
pursuant to this chapter. 2705

(N) "Taxpayer" means any person subject to the tax imposed by 2706  
section 5747.02 of the Revised Code or any pass-through entity 2707  
that makes the election under division (D) of section 5747.08 of 2708  
the Revised Code. 2709

(O) "Dependents" means dependents as defined in the Internal 2710  
Revenue Code and as claimed in the taxpayer's federal income tax 2711  
return for the taxable year or which the taxpayer would have been 2712  
permitted to claim had the taxpayer filed a federal income tax 2713  
return. 2714

(P) "Principal county of employment" means, in the case of a 2715  
nonresident, the county within the state in which a taxpayer 2716  
performs services for an employer or, if those services are 2717  
performed in more than one county, the county in which the major 2718  
portion of the services are performed. 2719

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2720  
Code: 2721

(1) "Subdivision" means any county, municipal corporation, 2722  
park district, or township. 2723

(2) "Essential local government purposes" includes all 2724  
functions that any subdivision is required by general law to 2725  
exercise, including like functions that are exercised under a 2726  
charter adopted pursuant to the Ohio Constitution. 2727

(R) "Overpayment" means any amount already paid that exceeds 2728  
the figure determined to be the correct amount of the tax. 2729

(S) "Taxable income" or "Ohio taxable income" applies only to 2730  
estates and trusts, and means federal taxable income, as defined 2731

and used in the Internal Revenue Code, adjusted as follows:	2732
(1) Add interest or dividends, net of ordinary, necessary,	2733
and reasonable expenses not deducted in computing federal taxable	2734
income, on obligations or securities of any state or of any	2735
political subdivision or authority of any state, other than this	2736
state and its subdivisions and authorities, but only to the extent	2737
that such net amount is not otherwise includible in Ohio taxable	2738
income and is described in either division (S)(1)(a) or (b) of	2739
this section:	2740
(a) The net amount is not attributable to the S portion of an	2741
electing small business trust and has not been distributed to	2742
beneficiaries for the taxable year;	2743
(b) The net amount is attributable to the S portion of an	2744
electing small business trust for the taxable year.	2745
(2) Add interest or dividends, net of ordinary, necessary,	2746
and reasonable expenses not deducted in computing federal taxable	2747
income, on obligations of any authority, commission,	2748
instrumentality, territory, or possession of the United States to	2749
the extent that the interest or dividends are exempt from federal	2750
income taxes but not from state income taxes, but only to the	2751
extent that such net amount is not otherwise includible in Ohio	2752
taxable income and is described in either division (S)(1)(a) or	2753
(b) of this section;	2754
(3) Add the amount of personal exemption allowed to the	2755
estate pursuant to section 642(b) of the Internal Revenue Code;	2756
(4) Deduct interest or dividends, net of related expenses	2757
deducted in computing federal taxable income, on obligations of	2758
the United States and its territories and possessions or of any	2759
authority, commission, or instrumentality of the United States to	2760
the extent that the interest or dividends are exempt from state	2761
taxes under the laws of the United States, but only to the extent	2762

that such amount is included in federal taxable income and is 2763  
described in either division (S)(1)(a) or (b) of this section; 2764

~~(5) Deduct the amount of wages and salaries, if any, not 2765  
otherwise allowable as a deduction but that would have been 2766  
allowable as a deduction in computing federal taxable income for 2767  
the taxable year, had the targeted jobs credit allowed under 2768  
sections 38, 51, and 52 of the Internal Revenue Code not been in 2769  
effect, but only to the extent such amount relates either to 2770  
income included in federal taxable income for the taxable year or 2771  
to income of the S portion of an electing small business trust for 2772  
the taxable year; 2773~~

~~(6) Deduct any interest or interest equivalent, net of 2774  
related expenses deducted in computing federal taxable income, on 2775  
public obligations and purchase obligations issued on or before 2776  
the effective date of this amendment, but only to the extent that 2777  
such net amount relates either to income included in federal 2778  
taxable income for the taxable year or to income of the S portion 2779  
of an electing small business trust for the taxable year; 2780~~

~~(7)(6) Add any loss or deduct any gain resulting from sale, 2781  
exchange, or other disposition of public obligations issued on or 2782  
before the effective date of this amendment, to the extent that 2783  
such loss has been deducted or such gain has been included in 2784  
computing either federal taxable income or income of the S portion 2785  
of an electing small business trust for the taxable year; 2786~~

~~(8)(7) Except in the case of the final return of an estate, 2787  
add any amount deducted by the taxpayer on both its Ohio estate 2788  
tax return pursuant to section 5731.14 of the Revised Code, and on 2789  
its federal income tax return in determining federal taxable 2790  
income; 2791~~

~~(9)(8)(a) Deduct any amount included in federal taxable 2792  
income solely because the amount represents a reimbursement or 2793~~

refund of expenses that in a previous year the decedent had 2794  
deducted as an itemized deduction pursuant to section 63 of the 2795  
Internal Revenue Code and applicable treasury regulations. The 2796  
deduction otherwise allowed under division (S)~~(9)~~(8)(a) of this 2797  
section shall be reduced to the extent the reimbursement is 2798  
attributable to an amount the taxpayer or decedent deducted under 2799  
this section in any taxable year. 2800

(b) Add any amount not otherwise included in Ohio taxable 2801  
income for any taxable year to the extent that the amount is 2802  
attributable to the recovery during the taxable year of any amount 2803  
deducted or excluded in computing federal or Ohio taxable income 2804  
in any taxable year, but only to the extent such amount has not 2805  
been distributed to beneficiaries for the taxable year. 2806

~~(10)~~(9) Deduct any portion of the deduction described in 2807  
section 1341(a)(2) of the Internal Revenue Code, for repaying 2808  
previously reported income received under a claim of right, that 2809  
meets both of the following requirements: 2810

(a) It is allowable for repayment of an item that was 2811  
included in the taxpayer's taxable income or the decedent's 2812  
adjusted gross income for a prior taxable year and did not qualify 2813  
for a credit under division (A) or (B) of section 5747.05 of the 2814  
Revised Code for that year. 2815

(b) It does not otherwise reduce the taxpayer's taxable 2816  
income or the decedent's adjusted gross income for the current or 2817  
any other taxable year. 2818

~~(11)~~(10) Add any amount claimed as a credit under section 2819  
5747.059 of the Revised Code to the extent that the amount 2820  
satisfies either of the following: 2821

(a) The amount was deducted or excluded from the computation 2822  
of the taxpayer's federal taxable income as required to be 2823  
reported for the taxpayer's taxable year under the Internal 2824

Revenue Code;	2825
(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	2826 2827 2828
<del>(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass through entity's farm income.</del>	2829 2830 2831 2832 2833 2834 2835 2836 2837 2838 2839 2840
<del>Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.</del>	2841 2842 2843 2844 2845 2846
<del>(13)(11) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.</del>	2847 2848 2849
<del>(14)(12) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20)(9) or (21)(10) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14)(12) of this section applies only to any of the trust's</del>	2850 2851 2852 2853 2854 2855

taxable years beginning in 2002, 2003, or 2004.	2856
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	2857 2858
(U) As used in divisions (A) <del>(8)</del> <u>(4)</u> , (A) <del>(9)</del> <u>(5)</u> , (S) <del>(6)</del> <u>(5)</u> , and (S) <del>(7)</del> <u>(6)</u> 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.	2859 2860 2861 2862
(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.	2863 2864 2865
(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.	2866 2867 2868 2869
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	2870 2871
(Y) "Month" means a calendar month.	2872
(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.	2873 2874 2875
<del>(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 Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.</del>	2876 2877 2878 2879 2880 2881 2882 2883 2884
<del>(2) "Qualified tuition and fees" means tuition and fees</del>	2885

~~imposed by an eligible institution as a condition of enrollment or~~ 2886  
~~attendance, not exceeding two thousand five hundred dollars in~~ 2887  
~~each of the individual's first two years of post secondary~~ 2888  
~~education. If the individual is a part time student, "qualified~~ 2889  
~~tuition and fees" includes tuition and fees paid for the academic~~ 2890  
~~equivalent of the first two years of post secondary education~~ 2891  
~~during a maximum of five taxable years, not exceeding a total of~~ 2892  
~~five thousand dollars. "Qualified tuition and fees" does not~~ 2893  
~~include:~~ 2894

~~(a) Expenses for any course or activity involving sports,~~ 2895  
~~games, or hobbies unless the course or activity is part of the~~ 2896  
~~individual's degree or diploma program;~~ 2897

~~(b) The cost of books, room and board, student activity fees,~~ 2898  
~~athletic fees, insurance expenses, or other expenses unrelated to~~ 2899  
~~the individual's academic course of instruction;~~ 2900

~~(c) Tuition, fees, or other expenses paid or reimbursed~~ 2901  
~~through an employer, scholarship, grant in aid, or other~~ 2902  
~~educational benefit program.~~ 2903

~~(BB)(1) "Modified business income" means the business income~~ 2904  
~~included in a trust's Ohio taxable income after such taxable~~ 2905  
~~income is first reduced by the qualifying trust amount, if any.~~ 2906

~~(2) "Qualifying trust amount" of a trust means capital gains~~ 2907  
~~and losses from the sale, exchange, or other disposition of equity~~ 2908  
~~or ownership interests in, or debt obligations of, a qualifying~~ 2909  
~~investee to the extent included in the trust's Ohio taxable~~ 2910  
~~income, but only if the following requirements are satisfied:~~ 2911

~~(a) The book value of the qualifying investee's physical~~ 2912  
~~assets in this state and everywhere, as of the last day of the~~ 2913  
~~qualifying investee's fiscal or calendar year ending immediately~~ 2914  
~~prior to the date on which the trust recognizes the gain or loss,~~ 2915  
~~is available to the trust.~~ 2916

(b) The requirements of section 5747.011 of the Revised Code 2917  
are satisfied for the trust's taxable year in which the trust 2918  
recognizes the gain or loss. 2919

Any gain or loss that is not a qualifying trust amount is 2920  
modified business income, qualifying investment income, or 2921  
modified nonbusiness income, as the case may be. 2922

(3) "Modified nonbusiness income" means a trust's Ohio 2923  
taxable income other than modified business income, other than the 2924  
qualifying trust amount, and other than qualifying investment 2925  
income, as defined in section 5747.012 of the Revised Code, to the 2926  
extent such qualifying investment income is not otherwise part of 2927  
modified business income. 2928

(4) "Modified Ohio taxable income" applies only to trusts, 2929  
and means the sum of the amounts described in divisions 2930  
~~(BB)~~(AA)(4)(a) to (c) of this section: 2931

(a) The fraction, calculated under division (B)(2) of section 2932  
5733.05, and applying section 5733.057 of the Revised Code, as if 2933  
the trust were a corporation subject to the tax imposed by section 2934  
5733.06 of the Revised Code, multiplied by the sum of the 2935  
following amounts: 2936

(i) The trust's modified business income; 2937

(ii) The trust's qualifying investment income, as defined in 2938  
section 5747.012 of the Revised Code, but only to the extent the 2939  
qualifying investment income does not otherwise constitute 2940  
modified business income and does not otherwise constitute a 2941  
qualifying trust amount. 2942

(b) The qualifying trust amount multiplied by a fraction, the 2943  
numerator of which is the sum of the book value of the qualifying 2944  
investee's physical assets in this state on the last day of the 2945  
qualifying investee's fiscal or calendar year ending immediately 2946



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

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

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

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

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

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

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

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's

physical assets that the lower level pass-through entity directly 3010  
or indirectly owns on the last day of the lower level pass-through 3011  
entity's calendar or fiscal year ending within or with the last 3012  
day of the upper level pass-through entity's fiscal or calendar 3013  
year. If the upper level pass-through entity directly and 3014  
indirectly owns less than fifty per cent of the equity of the 3015  
lower level pass-through entity on each day of the upper level 3016  
pass-through entity's calendar or fiscal year in which or with 3017  
which ends the calendar or fiscal year of the lower level 3018  
pass-through entity and if, based upon clear and convincing 3019  
evidence, complete information about the location and cost of the 3020  
physical assets of the lower pass-through entity is not available 3021  
to the upper level pass-through entity, then solely for purposes 3022  
of ascertaining if a gain or loss constitutes a qualifying trust 3023  
amount, the upper level pass-through entity shall be deemed as 3024  
owning no equity of the lower level pass-through entity for each 3025  
day during the upper level pass-through entity's calendar or 3026  
fiscal year in which or with which ends the lower level 3027  
pass-through entity's calendar or fiscal year. Nothing in division 3028  
~~(BB)~~(AA)(5)(a)(iii) of this section shall be construed to provide 3029  
for any deduction or exclusion in computing any trust's Ohio 3030  
taxable income. 3031

(b) With respect to a trust that is not a resident for the 3032  
taxable year and with respect to a part of a trust that is not a 3033  
resident for the taxable year, "qualifying investee" for that 3034  
taxable year does not include a C corporation if both of the 3035  
following apply: 3036

(i) During the taxable year the trust or part of the trust 3037  
recognizes a gain or loss from the sale, exchange, or other 3038  
disposition of equity or ownership interests in, or debt 3039  
obligations of, the C corporation. 3040

(ii) Such gain or loss constitutes nonbusiness income. 3041

(6) "Available" means information is such that a person is 3042  
able to learn of the information by the due date plus extensions, 3043  
if any, for filing the return for the taxable year in which the 3044  
trust recognizes the gain or loss. 3045

~~(CC)~~(BB) "Qualifying controlled group" has the same meaning 3046  
as in section 5733.04 of the Revised Code. 3047

~~(DD)~~(CC) "Related member" has the same meaning as in section 3048  
5733.042 of the Revised Code. 3049

~~(EE)~~(DD) Any term used in this chapter that is not otherwise 3050  
defined in this section and that is not used in a comparable 3051  
context in the Internal Revenue Code and other statutes of the 3052  
United States relating to federal income taxes has the same 3053  
meaning as in section 5733.40 of the Revised Code. 3054

**Sec. 5747.02.** (A) For the purpose of providing revenue for 3055  
the support of schools and local government functions, to provide 3056  
relief to property taxpayers, to provide revenue for the general 3057  
revenue fund, and to meet the expenses of administering the tax 3058  
levied by this chapter, there is hereby levied on every 3059  
individual, trust, and estate residing in or earning or receiving 3060  
income in this state, on every individual, trust, and estate 3061  
earning or receiving lottery winnings, prizes, or awards pursuant 3062  
to Chapter 3770. of the Revised Code, and on every individual, 3063  
trust, and estate otherwise having nexus with or in this state 3064  
under the Constitution of the United States, an annual tax 3065  
~~measured in.~~ 3066

In the case of individuals, the tax is measured by Ohio 3067  
adjusted gross income less an exemption for the taxpayer, the 3068  
taxpayer's spouse, and each dependent as provided in section 3069  
5747.025 of the Revised Code; measured in of the taxpayer's 3070  
dependents and, for each return under section 5747.08 of the 3071

<u>Revised Code, an exemption equal to one of the following amounts:</u>	3072	
<u>(1) Thirty thousand dollars in the case of a joint return; or</u>	3073	
<u>(2) Fifteen thousand dollars in the case of any return other</u>	3074	
<u>than a joint return.</u>	3075	
<u>In the case of trusts, the tax is measured</u> by modified Ohio	3076	
taxable income under division (D) of this section; and measured in	3077	
the case of estates by Ohio taxable income. The tax imposed by	3078	
this section on the balance thus obtained is hereby levied as	3079	
follows:	3080	
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	3081	
<del>EXEMPTIONS (INDIVIDUALS)</del>		
OR	3082	
<del>MODIFIED OHIO</del>	3083	
<del>TAXABLE INCOME (TRUSTS)</del>	3084	
OR	3085	
<del>OHIO TAXABLE INCOME (ESTATES)</del>		
	<del>TAX</del>	
<del>\$5,000 or less</del>	<del>.743%</del>	3087
<del>More than \$5,000 but not more</del>	<del>\$37.15 plus 1.486% of the amount</del>	3088
<del>than \$10,000</del>	<del>in excess of \$5,000</del>	
<del>More than \$10,000 but not more</del>	<del>\$111.45 plus 2.972% of the</del>	3089
<del>than \$15,000</del>	<del>amount in excess of \$10,000</del>	
<del>More than \$15,000 but not more</del>	<del>\$260.05 plus 3.715% of the</del>	3090
<del>than \$20,000</del>	<del>amount in excess of \$15,000</del>	
<del>More than \$20,000 but not more</del>	<del>\$445.80 plus 4.457% of the</del>	3091
<del>than \$40,000</del>	<del>amount in excess of \$20,000</del>	
<del>More than \$40,000 but not more</del>	<del>\$1,337.20 plus 5.201% of the</del>	3092
<del>than \$80,000</del>	<del>amount in excess of \$40,000</del>	
<del>More than \$80,000 but not more</del>	<del>\$3,417.60 plus 5.943% of the</del>	3093
<del>than \$100,000</del>	<del>amount in excess of \$80,000</del>	
<del>More than \$100,000 but not more</del>	<del>\$4,606.20 plus 6.9% of the</del>	3094
<del>than \$200,000</del>	<del>amount in excess of \$100,000</del>	
<del>More than \$200,000</del>	<del>\$11,506.20 plus 7.5% of the</del>	3095

~~amount in excess of \$200,000~~

at a rate of three and one-half per cent. 3096

In July of each year, beginning in 2005, the tax commissioner 3097  
shall adjust the ~~income~~ exemption amounts prescribed in this 3098  
division by multiplying the percentage increase in the gross 3099  
domestic product deflator computed that year under section 3100  
5747.025 of the Revised Code by each of the ~~income~~ exemption 3101  
amounts resulting from the adjustment under this division in the 3102  
preceding year, adding the resulting product to the corresponding 3103  
~~income~~ exemption amount resulting from the adjustment in the 3104  
preceding year, and rounding the resulting sum to the nearest 3105  
multiple of fifty dollars. ~~The tax commissioner also shall~~ 3106  
~~recompute each of the tax dollar amounts to the extent necessary~~ 3107  
~~to reflect the adjustment of the income amounts.~~ The ~~rates~~ rate of 3108  
taxation shall not be adjusted. 3109

The adjusted amounts apply to taxable years beginning in the 3110  
calendar year in which the adjustments are made. The tax 3111  
commissioner shall not make such adjustments in any year in which 3112  
the amount resulting from the adjustment would be less than the 3113  
amount resulting from the adjustment in the preceding year. 3114

(B) If the director of budget and management makes a 3115  
certification to the tax commissioner under division (B) of 3116  
section 131.44 of the Revised Code, the amount of tax as 3117  
determined under division (A) of this section shall be reduced by 3118  
the percentage prescribed in that certification for taxable years 3119  
beginning in the calendar year in which that certification is 3120  
made. 3121

(C) The levy of this tax on income does not prevent a 3122  
municipal corporation, a joint economic development zone created 3123  
under section 715.691, or a joint economic development district 3124  
created under section 715.70 or 715.71 or sections 715.72 to 3125

715.81 of the Revised Code from levying a tax on income. 3126

(D) This division applies only to taxable years of a trust 3127  
beginning in 2002, 2003, or 2004. 3128

(1) The tax imposed by this section on a trust shall be 3129  
computed by multiplying the Ohio modified taxable income of the 3130  
trust by the ~~rates~~ rate prescribed by division (A) of this 3131  
section. 3132

(2) A credit is allowed against the tax computed under 3133  
division (D) of this section equal to the lesser of (1) the tax 3134  
paid to another state or the District of Columbia on the trust's 3135  
modified nonbusiness income, other than the portion of the trust's 3136  
nonbusiness income that is qualifying investment income as defined 3137  
in section 5747.012 of the Revised Code, or (2) the effective tax 3138  
rate, based on modified Ohio taxable income, multiplied by the 3139  
trust's modified nonbusiness income other than the portion of 3140  
trust's nonbusiness income that is qualifying investment income. 3141  
The credit applies before any other applicable credits. 3142

(3) The credits enumerated in divisions (A)~~(1) to (13)~~ and 3143  
(B) of section ~~5747.98~~ 5747.05 of the Revised Code do not apply to 3144  
a trust subject to this division. ~~Any credits enumerated in other~~ 3145  
~~divisions of section 5747.98 of the Revised Code apply to a trust~~ 3146  
~~subject to this division.~~ To the extent that the trust distributes 3147  
income for the taxable year for which a credit is available to the 3148  
trust, the credit shall be shared by the trust and its 3149  
beneficiaries. The tax commissioner and the trust shall be guided 3150  
by applicable regulations of the United States treasury regarding 3151  
the sharing of credits. 3152

(E) For the purposes of this section, "trust" means any trust 3153  
described in Subchapter J of Chapter 1 of the Internal Revenue 3154  
Code, excluding trusts that are not irrevocable as defined in 3155  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 3156

have no modified Ohio taxable income for the taxable year, 3157  
charitable remainder trusts, qualified funeral trusts, endowment 3158  
and perpetual care trusts, qualified settlement trusts and funds, 3159  
designated settlement trusts and funds, and trusts exempted from 3160  
taxation under section 501(a) of the Internal Revenue Code. 3161

**Sec. 5747.05.** As used in this section, "income tax" includes 3162  
both a tax on net income and a tax measured by net income. 3163

The following credits shall be allowed against the income tax 3164  
imposed by section 5747.02 of the Revised Code on individuals and 3165  
estates: 3166

(A)(1) The amount of tax otherwise due under section 5747.02 3167  
of the Revised Code on such portion of the adjusted gross income 3168  
of any nonresident taxpayer that is not allocable to this state 3169  
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 3170

(2) The credit provided under this division shall not exceed 3171  
the portion of the total tax due under section 5747.02 of the 3172  
Revised Code that the amount of the nonresident taxpayer's 3173  
adjusted gross income not allocated to this state pursuant to 3174  
sections 5747.20 to 5747.23 of the Revised Code bears to the total 3175  
adjusted gross income of the nonresident taxpayer derived from all 3176  
sources everywhere. 3177

(3) The tax commissioner may enter into an agreement with the 3178  
taxing authorities of any state or of the District of Columbia 3179  
that imposes an income tax to provide that compensation paid in 3180  
this state to a nonresident taxpayer shall not be subject to the 3181  
tax levied in section 5747.02 of the Revised Code so long as 3182  
compensation paid in such other state or in the District of 3183  
Columbia to a resident taxpayer shall likewise not be subject to 3184  
the income tax of such other state or of the District of Columbia. 3185

(B) The lesser of division (B)(1) or (2) of this section: 3186



(1) The amount of tax otherwise due under section 5747.02 of 3187  
the Revised Code on such portion of the adjusted gross income of a 3188  
resident taxpayer that in another state or in the District of 3189  
Columbia is subjected to an income tax. The credit provided under 3190  
division (B)(1) of this section shall not exceed the portion of 3191  
the total tax due under section 5747.02 of the Revised Code that 3192  
the amount of the resident taxpayer's adjusted gross income 3193  
subjected to an income tax in the other state or in the District 3194  
of Columbia bears to the total adjusted gross income of the 3195  
resident taxpayer derived from all sources everywhere. 3196

(2) The amount of income tax liability to another state or 3197  
the District of Columbia on the portion of the adjusted gross 3198  
income of a resident taxpayer that in another state or in the 3199  
District of Columbia is subjected to an income tax. The credit 3200  
provided under division (B)(2) of this section shall not exceed 3201  
the amount of tax otherwise due under section 5747.02 of the 3202  
Revised Code. 3203

(3) If the credit provided under division (B) of this section 3204  
is affected by a change in either the portion of adjusted gross 3205  
income of a resident taxpayer subjected to an income tax in 3206  
another state or the District of Columbia or the amount of income 3207  
tax liability that has been paid to another state or the District 3208  
of Columbia, the taxpayer shall report the change to the tax 3209  
commissioner within sixty days of the change in such form as the 3210  
commissioner requires. 3211

(a) In the case of an underpayment, the report shall be 3212  
accompanied by payment of any additional tax due as a result of 3213  
the reduction in credit together with interest on the additional 3214  
tax and is a return subject to assessment under section 5747.13 of 3215  
the Revised Code solely for the purpose of assessing any 3216  
additional tax due under this division, together with any 3217  
applicable penalty and interest. It shall not reopen the 3218

computation of the taxpayer's tax liability under this chapter 3219  
from a previously filed return no longer subject to assessment 3220  
except to the extent that such liability is affected by an 3221  
adjustment to the credit allowed by division (B) of this section. 3222

(b) In the case of an overpayment, an application for refund 3223  
may be filed under this division within the sixty day period 3224  
prescribed for filing the report even if it is beyond the period 3225  
prescribed in section 5747.11 of the Revised Code if it otherwise 3226  
conforms to the requirements of such section. An application filed 3227  
under this division shall only claim refund of overpayments 3228  
resulting from an adjustment to the credit allowed by division (B) 3229  
of this section unless it is also filed within the time prescribed 3230  
in section 5747.11 of the Revised Code. It shall not reopen the 3231  
computation of the taxpayer's tax liability except to the extent 3232  
that such liability is affected by an adjustment to the credit 3233  
allowed by division (B) of this section. 3234

~~(C) For a taxpayer sixty five years of age or older during 3235  
the taxable year, a credit for such year equal to fifty dollars 3236  
for each return required to be filed under section 5747.08 of the 3237  
Revised Code. 3238~~

~~(D) A taxpayer sixty five years of age or older during the taxable year who has received a lump sum distribution from a pension, retirement, or profit sharing plan in the taxable year may elect to receive a credit under this division in lieu of the credit to which the taxpayer is entitled under division (C) of this section. A taxpayer making such election shall receive a credit for the taxable year equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under division (C) of this section in subsequent taxable years except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one half the credit authorized under such division in subsequent taxable years but may not make another election under this division.~~

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~~(E) A taxpayer who is not sixty five years of age or older 3256  
during the taxable year who has received a lump sum distribution 3257  
from a pension, retirement, or profit sharing plan in a taxable 3258  
year ending on or before July 31, 1991, may elect to take a credit 3259  
against the tax otherwise due under this chapter for such year 3260  
equal to fifty dollars times the expected remaining life of a 3261  
taxpayer sixty five years of age as shown by annuity tables issued 3262  
under the provisions of the Internal Revenue Code and in effect 3263  
for the calendar year which includes the last day of the taxable 3264  
year. A taxpayer making an election under this division is not 3265  
entitled to a credit under division (C) or (D) of this section in 3266  
any subsequent year except that if such election was made prior to 3267  
July 1, 1983, the taxpayer is entitled to one half the credit 3268  
authorized under division (C) of this section in subsequent years 3269  
but may not make another election under this division. No taxpayer 3270  
may make an election under this division for a taxable year ending 3271  
on or after August 1, 1991. 3272~~

~~(F) A taxpayer making an election under either division (D) 3273  
or (E) of this section may make only one such election in the 3274  
taxpayer's lifetime. 3275~~

~~(G)(1) On a joint return filed by a husband and wife, each of 3276  
whom had adjusted gross income of at least five hundred dollars, 3277  
exclusive of interest, dividends and distributions, royalties, 3278  
rent, and capital gains, a credit equal to the percentage shown in 3279  
the table contained in this division of the amount of tax due 3280  
after allowing for any other credit that precedes the credit under 3281  
this division in the order required under section 5747.98 of the 3282  
Revised Code. 3283~~

~~(2) The credit to which a taxpayer is entitled under this 3284  
division in any taxable year is the percentage shown in column B 3285  
that corresponds with the taxpayer's adjusted gross income, less 3286  
exemptions for the taxable year. 3287~~

<del>A.</del>	<del>B.</del>	
<del>IF THE ADJUSTED GROSS INCOME,</del>	<del>THE CREDIT FOR THE TAXABLE</del>	3288
<del>LESS EXEMPTIONS, FOR THE TAX YEAR</del>	<del>YEAR IS:</del>	3289
<del>IS:</del>		
<del>\$25,000 or less</del>	<del>20%</del>	3290
<del>More than \$25,000 but not more</del>	<del>15%</del>	3291
<del>than \$50,000</del>		
<del>More than \$50,000 but not more</del>	<del>10%</del>	3292
<del>than \$75,000</del>		
<del>More than \$75,000</del>	<del>5%</del>	3293
<del>(3) The credit allowed under this division shall not exceed</del>		3294
<del>six hundred fifty dollars in any taxable year.</del>		3295
<del>(H) No claim for credit under this section shall be allowed</del>		3296
<del>unless the claimant furnishes such supporting information as the</del>		3297
<del>tax commissioner prescribes by rules. Each credit under this</del>		3298
<del>section shall be claimed in the order required under section</del>		3299
<del>5747.98 of the Revised Code.</del>		3300
<del>(I)(D) An individual who is a resident for part of a taxable</del>		3301
<del>year and a nonresident for the remainder of the taxable year is</del>		3302
<del>allowed the credits under divisions (A) and (B) of this section in</del>		3303
<del>accordance with rules prescribed by the tax commissioner. In no</del>		3304
<del>event shall the same income be subject to both credits.</del>		3305
<del>(J)(E) The credit allowed under <u>division</u> <u>divisions</u> (A) <u>and</u></del>		3306
<del>(B) of this section shall be calculated based upon the amount of</del>		3307
<del>tax due under section 5747.02 of the Revised Code <u>after</u></del>		3308
<del>subtracting any other credits that precede the credit under that</del>		3309
<del>division in the order required under section 5747.98 of the</del>		3310
<del>Revised Code. The credit allowed under <u>division</u> (B) of this</del>		3311
<del>section shall be calculated based upon the amount of tax due under</del>		3312
<del>section 5747.02 of the Revised Code after subtracting any other</del>		3313
<del>credits that precede the credit under that division in the order</del>		3314
<del>required under section 5747.98 of the Revised Code.</del>		3315

~~(K)~~(F) No credit shall be allowed under division (B) of this 3316  
section unless the taxpayer furnishes such proof as the tax 3317  
commissioner shall require that the income tax liability has been 3318  
paid to another state or the District of Columbia. 3319

~~(L)~~(G) No credit shall be allowed under division (B) of this 3320  
section for compensation that is not subject to the income tax of 3321  
another state or the District of Columbia as the result of an 3322  
agreement entered into by the tax commissioner under division 3323  
(A)(3) of this section. 3324

**Sec. 5747.059.** (A) This section applies only to reduce the 3325  
tax imposed by section 5747.02 of the Revised Code. 3326

(B) There is hereby allowed a refundable credit against the 3327  
tax imposed under section 5747.02 of the Revised Code. This credit 3328  
shall be equal to the taxpayer's proportionate share of the lesser 3329  
of either the tax due or the tax paid under section 5733.41 or 3330  
5747.41 of the Revised Code by any qualifying entity as defined in 3331  
section 5733.40 of the Revised Code for the qualifying taxable 3332  
year of the qualifying entity which ends in the taxable year of 3333  
the taxpayer. 3334

(C) The taxpayer shall claim the credit for the taxpayer's 3335  
taxable year in which ends the qualifying entity's qualifying 3336  
taxable year. For purposes of making tax payments under this 3337  
chapter, taxes equal to the amount of the credit shall be 3338  
considered to be paid by the taxpayer to this state on the day 3339  
that the qualifying entity pays to the treasurer of state the 3340  
amount due pursuant to section 5733.41 and sections 5747.41 to 3341  
5747.453 of the Revised Code with respect to and for the taxpayer. 3342

(D) In claiming the credit and determining the taxpayer's 3343  
proportionate share of the tax due and the tax paid by any 3344  
qualifying entity, the taxpayer shall follow the concepts set 3345

forth in subchapters J and K of the Internal Revenue Code. 3346

~~(E) The credit shall be claimed in the order required under 3347~~  
~~section 5747.98 of the Revised Code. If the amount of the credit 3348~~  
under this section exceeds the amount of tax otherwise due under 3349  
section 5747.02 of the Revised Code ~~after deduction of all other 3350~~  
~~credits in that order~~, the taxpayer is entitled to a refund of the 3351  
excess. 3352

**Sec. 5747.062.** As used in this section, "transferee" has the 3353  
same meaning as in section 3770.10 of the Revised Code, and 3354  
"recipient" includes a transferee. 3355

(A)(1) The state lottery commission shall deduct and withhold 3356  
from each lottery prize award payment that exceeds five thousand 3357  
dollars an amount equal to three and one-half per cent of the 3358  
payment, prior to making any other reduction required by Chapter 3359  
3770. of the Revised Code. 3360

(2) On or before the tenth banking day of each month, the 3361  
state lottery commission, and each transferee required to deduct 3362  
and withhold amounts pursuant to section 3770.072 of the Revised 3363  
Code, shall file a return and remit to the tax commissioner all 3364  
amounts deducted and withheld pursuant to this section during the 3365  
preceding month. 3366

(3) On or before the thirty-first day of January of each 3367  
year, the state lottery commission, and each transferee required 3368  
to deduct and withhold amounts pursuant to section 3770.072 of the 3369  
Revised Code, shall file with the commissioner an annual return, 3370  
in the form prescribed by the tax commissioner, indicating the 3371  
total amount deducted and withheld pursuant to this section during 3372  
the preceding calendar year. At the time of filing that return, 3373  
the state lottery commission or transferee shall remit any amount 3374  
deducted and withheld during the preceding calendar year that was 3375  
not previously remitted. 3376

(4) The state lottery commission, and each transferee  
required to deduct and withhold amounts pursuant to section  
3770.072 of the Revised Code, shall issue to each person with  
respect to whom tax has been deducted and withheld by the  
commission or transferee pursuant to this section during the  
preceding calendar year, an information return in the form  
prescribed by the commissioner.

(B)(1) Division (B)(1) of this section does not apply to  
persons classified for federal income tax purposes as associations  
taxable as corporations.

Amounts withheld pursuant to this section shall be treated as  
a credit against the tax imposed pursuant to section 5747.02 of  
the Revised Code upon the lottery prize award recipient, upon a  
beneficiary of such a recipient, or upon any investor in such a  
recipient if the recipient is a pass-through entity or disregarded  
entity, and shall be treated as paid by the recipient,  
beneficiary, or investor on the date on which those amounts are  
deducted and withheld. The credit is a refundable credit ~~and shall~~  
~~be claimed in the order required under section 5747.98 of the~~  
~~Revised Code.~~ The credit is available to the recipient,  
beneficiary, or investor even if the commission or transferee does  
not remit to the tax commissioner the amount withheld.

(2) Division (B)(2) of this section applies only to persons  
classified for federal income tax purposes as associations taxable  
as corporations.

~~Amount~~ Amounts withheld pursuant to this section shall be  
treated as a credit against the tax imposed pursuant to section  
5733.06 of the Revised Code for the tax year immediately following  
the date on which those amounts are deducted and withheld, upon  
the lottery prize award recipient, upon a beneficiary of such a  
recipient, or upon an investor in such a recipient if the



recipient is a pass-through entity or disregarded entity, and 3408  
shall be treated as paid by the recipient, beneficiary, or 3409  
investor on the date on which those amounts are deducted and 3410  
withheld. The credit is a refundable credit and shall be claimed 3411  
in the order required under section 5733.98 of the Revised Code. 3412  
The credit is available to the recipient, beneficiary, or investor 3413  
even if the commission or transferee does not remit to the tax 3414  
commissioner the amount withheld. 3415

(3) Nothing in division (B)(1) or (2) of this section shall 3416  
be construed to allow more than one person to claim the credit for 3417  
any portion of each amount deducted and withheld. 3418

(C) Failure of the commission or any transferee to deduct and 3419  
withhold the required amounts from lottery prize awards or to 3420  
remit amounts withheld as required by this section and section 3421  
3770.072 of the Revised Code shall not relieve a taxpayer 3422  
described in division (B) of this section from liability for the 3423  
tax imposed by section 5733.06 or 5747.02 of the Revised Code. 3424

**Sec. 5747.08.** An annual return with respect to the tax 3425  
imposed by section 5747.02 of the Revised Code and each tax 3426  
imposed under Chapter 5748. of the Revised Code shall be made by 3427  
every taxpayer for any taxable year for which the taxpayer is 3428  
liable for the tax imposed by that section or under that chapter, 3429  
unless the total ~~credits allowed under divisions (E), (F), and (G)~~ 3430  
~~of section 5747.05~~ exemptions to which the taxpayer is entitled 3431  
under division (A) of section 5747.02 of the Revised Code for the 3432  
year are equal to or exceed the tax imposed by section 5747.02 of 3433  
the Revised Code, in which case no return shall be required unless 3434  
the taxpayer is liable for a tax imposed pursuant to Chapter 5748. 3435  
of the Revised Code. 3436

(A) If an individual is deceased, any return or notice 3437  
required of that individual under this chapter shall be made and 3438

filed by that decedent's executor, administrator, or other person 3439  
charged with the property of that decedent. 3440

(B) If an individual is unable to make a return or notice 3441  
required by this chapter, the return or notice required of that 3442  
individual shall be made and filed by the individual's duly 3443  
authorized agent, guardian, conservator, fiduciary, or other 3444  
person charged with the care of the person or property of that 3445  
individual. 3446

(C) Returns or notices required of an estate or a trust shall 3447  
be made and filed by the fiduciary of the estate or trust. 3448

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 3449  
of this section, any pass-through entity may file a single return 3450  
on behalf of one or more of the entity's investors other than an 3451  
investor that is a person subject to the tax imposed under section 3452  
5733.06 of the Revised Code. The single return shall set forth the 3453  
name, address, and social security number or other identifying 3454  
number of each of those pass-through entity investors and shall 3455  
indicate the distributive share of each of those pass-through 3456  
entity investor's income taxable in this state in accordance with 3457  
sections 5747.20 to 5747.231 of the Revised Code. Such 3458  
pass-through entity investors for whom the pass-through entity 3459  
elects to file a single return are not entitled to the ~~exemption~~ 3460  
~~exemptions~~ or credit provided for by ~~sections~~ section 5747.02 and 3461  
~~5747.022~~ of the Revised Code; shall calculate the tax before 3462  
business credits at the ~~highest~~ rate of tax set forth in section 3463  
5747.02 of the Revised Code for the taxable year for which the 3464  
return is filed; and are entitled to only their distributive share 3465  
of the business credits as defined in division (D)(2) of this 3466  
section. A single check drawn by the pass-through entity shall 3467  
accompany the return in full payment of the tax due, as shown on 3468  
the single return, for such investors, other than investors who 3469  
are persons subject to the tax imposed under section 5733.06 of 3470

the Revised Code. 3471

(b)(i) A pass-through entity shall not include in such a 3472  
single return any investor that is a trust to the extent that any 3473  
direct or indirect current, future, or contingent beneficiary of 3474  
the trust is a person subject to the tax imposed under section 3475  
5733.06 of the Revised Code. 3476

(ii) A pass-through entity shall not include in such a single 3477  
return any investor that is itself a pass-through entity to the 3478  
extent that any direct or indirect investor in the second 3479  
pass-through entity is a person subject to the tax imposed under 3480  
section 5733.06 of the Revised Code. 3481

(c) Nothing in division (D) of this section precludes the tax 3482  
commissioner from requiring such investors to file the return and 3483  
make the payment of taxes and related interest, penalty, and 3484  
interest penalty required by this section or section 5747.02, 3485  
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 3486  
of this section shall be construed to provide to such an investor 3487  
or pass-through entity any additional deduction or credit, other 3488  
than the credit provided by division (J) of this section, solely 3489  
on account of the entity's filing a return in accordance with this 3490  
section. Such a pass-through entity also shall make the filing and 3491  
payment of estimated taxes on behalf of the pass-through entity 3492  
investors other than an investor that is a person subject to the 3493  
tax imposed under section 5733.06 of the Revised Code. 3494

(2) For the purposes of this section, "business credits" 3495  
~~means the credits listed in section 5747.98 of the Revised Code~~ 3496  
~~excluding~~ the following credits: 3497

~~(a) The retirement credit under division (B) of section~~ 3498  
~~5747.055 of the Revised Code;~~ 3499

~~(b) The senior citizen credit under division (C) of section~~ 3500  
~~5747.05 of the Revised Code;~~ 3501

<del>(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;</del>	3502 3503
<del>(d) The dependent care credit under section 5747.054 of the Revised Code;</del>	3504 3505
<del>(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;</del>	3506 3507
<del>(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;</del>	3508 3509
<del>(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;</del>	3510 3511
<del>(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;</del>	3512 3513
<del>(i) The twenty dollar personal exemption credit under section 5747.022 of the Revised Code;</del>	3514 3515
<del>(j) The joint filing credit under division (C) of section 5747.05 of the Revised Code;</del>	3516 3517
<del>(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;</del>	3518 3519
<del>(l) The credit for a resident's out of state income under division (B) of section 5747.05 of the Revised Code</del>	3520 3521
<u>(a) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;</u>	3522 3523
<u>(b) The refundable credit for tax withheld under section 5747.062 of the Revised Code;</u>	3524 3525
<u>(c) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of this section.</u>	3526 3527
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner	3528 3529 3530

provides otherwise, this election, once made, is binding and 3531  
irrevocable for the taxable year for which the election is made. 3532  
Nothing in this division shall be construed to provide for any 3533  
deduction or credit that would not be allowable if a nonresident 3534  
pass-through entity investor were to file an annual return. 3535

(4) If a pass-through entity makes the election provided for 3536  
under division (D) of this section, the pass-through entity shall 3537  
be liable for any additional taxes, interest, interest penalty, or 3538  
penalties imposed by this chapter if the commissioner finds that 3539  
the single return does not reflect the correct tax due by the 3540  
pass-through entity investors covered by that return. Nothing in 3541  
this division shall be construed to limit or alter the liability, 3542  
if any, imposed on pass-through entity investors for unpaid or 3543  
underpaid taxes, interest, interest penalty, or penalties as a 3544  
result of the pass-through entity's making the election provided 3545  
for under division (D) of this section. For the purposes of 3546  
division (D) of this section, "correct tax due" means the tax that 3547  
would have been paid by the pass-through entity had the single 3548  
return been filed in a manner reflecting the commissioner's 3549  
findings. Nothing in division (D) of this section shall be 3550  
construed to make or hold a pass-through entity liable for tax 3551  
attributable to a pass-through entity investor's income from a 3552  
source other than the pass-through entity electing to file the 3553  
single return. 3554

~~(E) If a husband and wife file a joint federal income tax 3555  
return for a taxable year, they shall file a joint return under 3556  
this section for that taxable year, and their liabilities are 3557  
joint and several, but, if the federal income tax liability of 3558  
either spouse is determined on a separate federal income tax 3559  
return, they shall file separate returns under this section. 3560~~

~~If either spouse is not required to file a federal income tax 3561  
return and either or both are required to file a return pursuant 3562~~

~~to this chapter, they~~ may elect to file separate or joint returns, 3563  
and, pursuant to that election, their liabilities are separate or 3564  
joint and several. If a husband and wife file separate returns 3565  
pursuant to this chapter, each must claim the taxpayer's own 3566  
exemption, but not both, as authorized under section 5747.02 of 3567  
the Revised Code on the taxpayer's own return. 3568

(F) Each return or notice required to be filed under this 3569  
section shall contain the signature of the taxpayer or the 3570  
taxpayer's duly authorized agent and of the person who prepared 3571  
the return for the taxpayer, and shall include the taxpayer's 3572  
social security number. Each return shall be verified by a 3573  
declaration under the penalties of perjury. The tax commissioner 3574  
shall prescribe the form that the signature and declaration shall 3575  
take. 3576

(G) Each return or notice required to be filed under this 3577  
section shall be made and filed as required by section 5747.04 of 3578  
the Revised Code, on or before the fifteenth day of April of each 3579  
year, on forms that the tax commissioner shall prescribe, together 3580  
with remittance made payable to the treasurer of state in the 3581  
combined amount of the state and all school district income taxes 3582  
shown to be due on the form, unless the combined amount shown to 3583  
be due is one dollar or less, in which case that amount need not 3584  
be remitted. 3585

Upon good cause shown, the commissioner may extend the period 3586  
for filing any notice or return required to be filed under this 3587  
section and may adopt rules relating to extensions. If the 3588  
extension results in an extension of time for the payment of any 3589  
state or school district income tax liability with respect to 3590  
which the return is filed, the taxpayer shall pay at the time the 3591  
tax liability is paid an amount of interest computed at the rate 3592  
per annum prescribed by section 5703.47 of the Revised Code on 3593  
that liability from the time that payment is due without extension 3594

to the time of actual payment. Except as provided in section 3595  
5747.132 of the Revised Code, in addition to all other interest 3596  
charges and penalties, all taxes imposed under this chapter or 3597  
Chapter 5748. of the Revised Code and remaining unpaid after they 3598  
become due, except combined amounts due of one dollar or less, 3599  
bear interest at the rate per annum prescribed by section 5703.47 3600  
of the Revised Code until paid or until the day an assessment is 3601  
issued under section 5747.13 of the Revised Code, whichever occurs 3602  
first. 3603

If the commissioner considers it necessary in order to ensure 3604  
the payment of the tax imposed by section 5747.02 of the Revised 3605  
Code or any tax imposed under Chapter 5748. of the Revised Code, 3606  
the commissioner may require returns and payments to be made 3607  
otherwise than as provided in this section. 3608

(H) If any report, claim, statement, or other document 3609  
required to be filed, or any payment required to be made, within a 3610  
prescribed period or on or before a prescribed date under this 3611  
chapter is delivered after that period or that date by United 3612  
States mail to the agency, officer, or office with which the 3613  
report, claim, statement, or other document is required to be 3614  
filed, or to which the payment is required to be made, the date of 3615  
the postmark stamped on the cover in which the report, claim, 3616  
statement, or other document, or payment is mailed shall be deemed 3617  
to be the date of delivery or the date of payment. 3618

If a payment is required to be made by electronic funds 3619  
transfer pursuant to section 5747.072 of the Revised Code, the 3620  
payment is considered to be made when the payment is received by 3621  
the treasurer of state or credited to an account designated by the 3622  
treasurer of state for the receipt of tax payments. 3623

"The date of the postmark" means, in the event there is more 3624  
than one date on the cover, the earliest date imprinted on the 3625  
cover by the United States postal service. 3626

(I) The amounts withheld by the employer pursuant to section 3627  
5747.06 of the Revised Code shall be allowed to the recipient of 3628  
the compensation as credits against payment of the appropriate 3629  
taxes imposed on the recipient by section 5747.02 and under 3630  
Chapter 5748. of the Revised Code. 3631

(J) If, in accordance with division (D) of this section, a 3632  
pass-through entity elects to file a single return and if any 3633  
investor is required to file the return and make the payment of 3634  
taxes required by this chapter on account of the investor's other 3635  
income that is not included in a single return filed by a 3636  
pass-through entity, the investor is entitled to a refundable 3637  
credit equal to the investor's proportionate share of the tax paid 3638  
by the pass-through entity on behalf of the investor. The investor 3639  
shall claim the credit for the investor's taxable year in which or 3640  
with which ends the taxable year of the pass-through entity. 3641  
Nothing in this chapter shall be construed to allow any credit 3642  
provided in this chapter to be claimed more than once. For the 3643  
purposes of computing any interest, penalty, or interest penalty, 3644  
the investor shall be deemed to have paid the refundable credit 3645  
provided by this division on the day that the pass-through entity 3646  
paid the estimated tax or the tax giving rise to the credit. 3647

**Sec. 5747.11.** (A) The tax commissioner shall refund to 3648  
employers, qualifying entities, or taxpayers, with respect to any 3649  
tax imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 3650  
5748. of the Revised Code: 3651

(1) Overpayments of more than one dollar; 3652

(2) Amounts in excess of one dollar paid illegally or 3653  
erroneously; 3654

(3) Amounts in excess of one dollar paid on an illegal, 3655  
erroneous, or excessive assessment. 3656



(B) Except as otherwise provided under divisions (D) and (E) 3657  
of this section, applications for refund shall be filed with the 3658  
tax commissioner, on the form prescribed by the commissioner, 3659  
within four years from the date of the illegal, erroneous, or 3660  
excessive payment of the tax, or within any additional period 3661  
allowed by division (B)(3)(b) of section 5747.05, division (B) of 3662  
section 5747.10, division (A) of section 5747.13, or division (C) 3663  
of section 5747.45 of the Revised Code. 3664

On filing of the refund application, the commissioner shall 3665  
determine the amount of refund due and certify such amount to the 3666  
director of budget and management and treasurer of state for 3667  
payment from the tax refund fund created by section 5703.052 of 3668  
the Revised Code. Payment shall be made as provided in division 3669  
(C) of section 117.45 of the Revised Code. 3670

(C)(1) Interest shall be allowed and paid upon any illegal or 3671  
erroneous assessment in excess of one dollar in respect of the tax 3672  
imposed under section 5747.02 or Chapter 5748. of the Revised Code 3673  
at the rate per annum prescribed by section 5703.47 of the Revised 3674  
Code from the date of the payment of the illegal or erroneous 3675  
assessment until the date the refund of such amount is paid. If 3676  
such refund results from the filing of a return or report, or the 3677  
payment accompanying such return or report, by an employer or 3678  
taxpayer, rather than from an assessment by the commissioner, such 3679  
interest shall run from a period ninety days after the final 3680  
filing date of the annual return until the date the refund is 3681  
paid. 3682

(2) Interest shall be allowed and paid at the rate per annum 3683  
prescribed by section 5703.47 of the Revised Code upon any 3684  
overpayment in excess of one dollar in respect of the tax imposed 3685  
under section 5747.02 or Chapter 5748. of the Revised Code from 3686  
the date of the overpayment until the date of the refund of the 3687  
overpayment, except that if any overpayment is refunded within 3688

ninety days after the final filing date of the annual return or 3689  
ninety days after the return is filed, whichever is later, no 3690  
interest shall be allowed on such overpayment. If the overpayment 3691  
results from the carryback of a net operating loss or net capital 3692  
loss to a previous taxable year, the overpayment is deemed not to 3693  
have been made prior to the filing date, including any extension 3694  
thereof, for the taxable year in which the net operating loss or 3695  
net capital loss arises. For purposes of the payment of interest 3696  
on overpayments, no amount of tax, for any taxable year, shall be 3697  
treated as having been paid before the date on which the tax 3698  
return for that year was due without regard to any extension of 3699  
time for filing such return. 3700

(3) Interest shall be allowed at the rate per annum 3701  
prescribed by section 5703.47 of the Revised Code on amounts 3702  
refunded with respect to the taxes imposed under sections 5733.41 3703  
and 5747.41 of the Revised Code. The interest shall run from 3704  
whichever of the following days is the latest until the day the 3705  
refund is paid: the day the illegal, erroneous, or excessive 3706  
payment was made; the ninetieth day after the final day the annual 3707  
report was required to be filed under section 5747.42 of the 3708  
Revised Code; or the ninetieth day after the day that report was 3709  
filed. 3710

(D) "Ninety days" shall be substituted for "four years" in 3711  
division (B) of this section if the taxpayer satisfies both of the 3712  
following conditions: 3713

(1) The taxpayer has applied for a refund based in whole or 3714  
in part upon section 5747.059 of the Revised Code; 3715

(2) The taxpayer asserts that either the imposition or 3716  
collection of the tax imposed or charged by this chapter or any 3717  
portion of such tax violates the Constitution of the United States 3718  
or the Constitution of Ohio. 3719

(E)(1) Division (E)(2) of this section applies only if all of 3720  
the following conditions are satisfied: 3721

(a) A qualifying entity pays an amount of the tax imposed by 3722  
section 5733.41 or 5747.41 of the Revised Code; 3723

(b) The taxpayer is a qualifying investor as to that 3724  
qualifying entity; 3725

(c) The taxpayer did not claim the credit provided for in 3726  
section 5747.059 of the Revised Code as to the tax described in 3727  
division (E)(1)(a) of this section; 3728

(d) The four-year period described in division (B) of this 3729  
section has ended as to the taxable year for which the taxpayer 3730  
otherwise would have claimed that credit. 3731

(2) A taxpayer shall file an application for refund pursuant 3732  
to division (E) of this section within one year after the date the 3733  
payment described in division (E)(1)(a) of this section is made. 3734  
An application filed under division (E)(2) of this section shall 3735  
claim refund only of overpayments resulting from the taxpayer's 3736  
failure to claim the credit described in division (E)(1)(c) of 3737  
this section. Nothing in division (E) of this section shall be 3738  
construed to relieve a taxpayer from complying with division 3739  
(A)~~(16)~~(8) of section 5747.01 of the Revised Code. 3740

**Sec. 5747.21.** (A) This section applies solely for the 3741  
purposes of computing the credit allowed under division (A) of 3742  
section 5747.05 of the Revised Code, and computing income taxable 3743  
in this state under division (D) of section 5747.08 of the Revised 3744  
Code, ~~and computing the credit allowed under section 5747.057 of~~ 3745  
~~the Revised Code.~~ 3746

(B) Except as otherwise provided under sections 5747.211 and 3747  
5747.212 of the Revised Code, all items of business income and 3748  
business deduction shall be apportioned to this state by 3749

multiplying the adjusted gross income by the fraction calculated 3750  
under division (B)(2) of section 5733.05 and section 5733.057 of 3751  
the Revised Code as if the taxpayer's business were a corporation 3752  
subject to the tax imposed by section 5733.06 of the Revised Code. 3753

(C) If the allocation and apportionment provisions of 3754  
sections 5747.20 to 5747.23 of the Revised Code or of any rule 3755  
adopted by the tax commissioner, do not fairly represent the 3756  
extent of business activity in this state of a taxpayer or 3757  
pass-through entity, the taxpayer or pass-through entity may 3758  
request, which request must be in writing accompanying the return 3759  
or amended return, or the tax commissioner may require, in respect 3760  
of all or any part of the business activity, if reasonable, any 3761  
one or more of the following: 3762

(1) Separate accounting; 3763

(2) The exclusion of one or more factors; 3764

(3) The inclusion of one or more additional factors which 3765  
will fairly represent the business activity in this state; 3766

(4) The employment of any other method to effectuate an 3767  
equitable allocation of such business in this state. An 3768  
alternative method will be effective only with approval of the tax 3769  
commissioner. 3770

The tax commissioner may adopt rules in the manner provided 3771  
by sections 5703.14 and 5747.18 of the Revised Code providing for 3772  
alternative methods of calculating business income and nonbusiness 3773  
income applicable to all taxpayers and pass-through entities, to 3774  
classes of taxpayers and pass-through entities, or only to 3775  
taxpayers and pass-through entities within a certain industry. 3776

**Sec. 5747.211.** This section applies solely for the purpose of 3777  
computing the credit allowed under division (A) of section 5747.05 3778  
of the Revised Code, and computing income taxable in this state 3779

under division (D) of section 5747.08 of the Revised Code, ~~and~~ 3780  
~~computing the credit allowed under section 5747.057 of the Revised~~ 3781  
~~Code.~~ In lieu of sections 5747.20 and 5747.21 of the Revised Code, 3782  
all items of business income or business deductions earned by a 3783  
financial institution as defined in section 5725.01 of the Revised 3784  
Code shall be apportioned to this state as required under section 3785  
5733.056 of the Revised Code. 3786

**Sec. 5747.212.** This section applies solely for the purpose of 3787  
computing the credit allowed under division (A) of section 5747.05 3788  
of the Revised Code, and computing income taxable in this state 3789  
under division (D) of section 5747.08 of the Revised Code, ~~and~~ 3790  
~~computing the credit allowed under section 5747.057 of the Revised~~ 3791  
~~Code.~~ 3792

A pass-through entity investor that owns, directly or 3793  
indirectly, at least twenty per cent of the pass-through entity at 3794  
any time during the current taxable year or either of the two 3795  
preceding taxable years shall apportion any income, including gain 3796  
or loss, realized from the sale, exchange, or other disposition of 3797  
a debt or equity interest in the entity as prescribed in this 3798  
section. For such purposes, in lieu of using the method prescribed 3799  
by sections 5747.20 and 5747.21 of the Revised Code, the investor 3800  
shall apportion the income using the average of the pass-through 3801  
entity's apportionment fractions otherwise applicable under 3802  
section 5747.21 of the Revised Code for the current and two 3803  
preceding taxable years. If the pass-through entity was not in 3804  
business for one or more of those years, each year that the entity 3805  
was not in business shall be excluded in determining the average. 3806

**Section 2.** That existing sections 9.66, 122.152, 122.16, 3807  
122.17, 122.171, 150.07, 150.10, 901.13, 3924.66, 3924.68, 3808  
5703.05, 5709.65, 5709.66, 5733.33, 5733.40, 5733.42, 5747.01, 3809

5747.02, 5747.05, 5747.059, 5747.062, 5747.08, 5747.11, 5747.21, 3810  
5747.211, and 5747.212, and sections 3924.71, 5747.022, 5747.023, 3811  
5747.024, 5747.025, 5747.051, 5747.054, 5747.055, 5747.057, 3812  
5747.058, 5747.081, 5747.26, 5747.261, 5747.27, 5747.28, 5747.29, 3813  
5747.30, 5747.31, 5747.32, 5747.33, 5747.34, 5747.35, 5747.36, 3814  
5747.37, 5747.38, 5747.39, 5747.70, 5747.75, 5747.80, and 5747.98 3815  
of the Revised Code are hereby repealed. 3816

**Section 3.** Sections 1 and 2 of this act apply to taxable 3817  
years beginning on or after January 1, 2004. 3818

**Section 4.** Sections 1 and 2 of this act do not preclude 3819  
taxpayers from claiming any credit carry forward to which they are 3820  
entitled on December 31, 2003. 3821

**Section 5.** Section 122.171 of the Revised Code is presented 3822  
in this act as a composite of the section as amended by both H.B. 3823  
675 and Am. Sub. S.B. 180 of the 124th General Assembly. Section 3824  
5709.66 of the Revised Code is presented in this act as a 3825  
composite of the section as amended by both Am. Sub. H.B. 215 and 3826  
Sub. H.B. 408 of the 122nd General Assembly. Section 5747.01 of 3827  
the Revised Code is presented in this act as a composite of the 3828  
section as amended by both H.B. 675 and Am. Sub. S.B. 266 of the 3829  
124th General Assembly. The General Assembly, applying the 3830  
principle stated in division (B) of section 1.52 of the Revised 3831  
Code that amendments are to be harmonized if reasonably capable of 3832  
simultaneous operation, finds that the composites of those 3833  
sections are the resulting versions of those sections in effect 3834  
prior to the effective date of those sections as presented in this 3835  
act. 3836