

As Introduced

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Representative Wagner

**Cosponsors: Representatives Wachtmann, Peterson, Combs, Ujvagi, Seitz,
Yuko, Wagoner, Schindel, Garrison, Harwood, Uecker, Evans, Koziura, Dodd,
Fende, Latta, Brown, DeBose, Stewart, D., Huffman, Bacon, Stewart, J., Okey,
Webster, Gibbs, Collier, Aslanides**

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A B I L L

To amend sections 5747.01, 5747.08, and 5747.98 and 1
to enact section 5747.81 of the Revised Code to 2
create an income tax deduction for expenses 3
incurred by a taxpayer in making an organ donation 4
and to create an income tax credit for deceased 5
organ donors. 6

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

Section 1. That sections 5747.01, 5747.08, and 5747.98 be 7
amended and section 5747.81 of the Revised Code be enacted to read 8
as follows: 9

Sec. 5747.01. Except as otherwise expressly provided or 10
clearly appearing from the context, any term used in this chapter 11
that is not otherwise defined in this section has the same meaning 12
as when used in a comparable context in the laws of the United 13
States relating to federal income taxes or if not used in a 14
comparable context in those laws, has the same meaning as in 15
section 5733.40 of the Revised Code. Any reference in this chapter 16

to the Internal Revenue Code includes other laws of the United States relating to federal income taxes. 17
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As used in this chapter: 19

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section: 20
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(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. 23
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(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. 26
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(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. 31
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(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income. 37
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(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. 39
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(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, the portion, if any, of such 43
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distribution that does not exceed the undistributed net income of 47
the trust for the three taxable years preceding the taxable year 48
in which the distribution is made to the extent that the portion 49
was not included in the trust's taxable income for any of the 50
trust's taxable years beginning in 2002 or thereafter. 51

"Undistributed net income of a trust" means the taxable income of 52
the trust increased by (a)(i) the additions to adjusted gross 53
income required under division (A) of this section and (ii) the 54
personal exemptions allowed to the trust pursuant to section 55
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 56
deductions to adjusted gross income required under division (A) of 57
this section, (ii) the amount of federal income taxes attributable 58
to such income, and (iii) the amount of taxable income that has 59
been included in the adjusted gross income of a beneficiary by 60
reason of a prior accumulation distribution. Any undistributed net 61
income included in the adjusted gross income of a beneficiary 62
shall reduce the undistributed net income of the trust commencing 63
with the earliest years of the accumulation period. 64

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

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

(9) Add any loss or deduct any gain resulting from the sale, 75
exchange, or other disposition of public obligations to the extent 76
that the loss has been deducted or the gain has been included in 77
computing federal adjusted gross income. 78

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

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

(b) Deduct, to the extent not otherwise deducted or excluded 102
in computing federal or Ohio adjusted gross income during the 103
taxable year, the amount the taxpayer paid during the taxable 104
year, not compensated for by any insurance or otherwise, for 105
medical care of the taxpayer, the taxpayer's spouse, and 106
dependents, to the extent the expenses exceed seven and one-half 107
per cent of the taxpayer's federal adjusted gross income. 108

(c) For purposes of division (A)(11) of this section, 109
"medical care" has the meaning given in section 213 of the 110

Internal Revenue Code, subject to the special rules, limitations, 111
and exclusions set forth therein, and "qualified long-term care" 112
has the same meaning given in section 7702B(c) of the Internal 113
Revenue Code. 114

(12)(a) Deduct any amount included in federal adjusted gross 115
income solely because the amount represents a reimbursement or 116
refund of expenses that in any year the taxpayer had deducted as 117
an itemized deduction pursuant to section 63 of the Internal 118
Revenue Code and applicable United States department of the 119
treasury regulations. The deduction otherwise allowed under 120
division (A)(12)(a) of this section shall be reduced to the extent 121
the reimbursement is attributable to an amount the taxpayer 122
deducted under this section in any taxable year. 123

(b) Add any amount not otherwise included in Ohio adjusted 124
gross income for any taxable year to the extent that the amount is 125
attributable to the recovery during the taxable year of any amount 126
deducted or excluded in computing federal or Ohio adjusted gross 127
income in any taxable year. 128

(13) Deduct any portion of the deduction described in section 129
1341(a)(2) of the Internal Revenue Code, for repaying previously 130
reported income received under a claim of right, that meets both 131
of the following requirements: 132

(a) It is allowable for repayment of an item that was 133
included in the taxpayer's adjusted gross income for a prior 134
taxable year and did not qualify for a credit under division (A) 135
or (B) of section 5747.05 of the Revised Code for that year; 136

(b) It does not otherwise reduce the taxpayer's adjusted 137
gross income for the current or any other taxable year. 138

(14) Deduct an amount equal to the deposits made to, and net 139
investment earnings of, a medical savings account during the 140
taxable year, in accordance with section 3924.66 of the Revised 141

Code. The deduction allowed by division (A)(14) of this section 142
does not apply to medical savings account deposits and earnings 143
otherwise deducted or excluded for the current or any other 144
taxable year from the taxpayer's federal adjusted gross income. 145

(15)(a) Add an amount equal to the funds withdrawn from a 146
medical savings account during the taxable year, and the net 147
investment earnings on those funds, when the funds withdrawn were 148
used for any purpose other than to reimburse an account holder 149
for, or to pay, eligible medical expenses, in accordance with 150
section 3924.66 of the Revised Code; 151

(b) Add the amounts distributed from a medical savings 152
account under division (A)(2) of section 3924.68 of the Revised 153
Code during the taxable year. 154

(16) Add any amount claimed as a credit under section 155
5747.059 of the Revised Code to the extent that such amount 156
satisfies either of the following: 157

(a) The amount was deducted or excluded from the computation 158
of the taxpayer's federal adjusted gross income as required to be 159
reported for the taxpayer's taxable year under the Internal 160
Revenue Code; 161

(b) The amount resulted in a reduction of the taxpayer's 162
federal adjusted gross income as required to be reported for any 163
of the taxpayer's taxable years under the Internal Revenue Code. 164

(17) Deduct the amount contributed by the taxpayer to an 165
individual development account program established by a county 166
department of job and family services pursuant to sections 329.11 167
to 329.14 of the Revised Code for the purpose of matching funds 168
deposited by program participants. On request of the tax 169
commissioner, the taxpayer shall provide any information that, in 170
the tax commissioner's opinion, is necessary to establish the 171
amount deducted under division (A)(17) of this section. 172

(18) Beginning in taxable year 2001 but not for any taxable 173
year beginning after December 31, 2005, if the taxpayer is married 174
and files a joint return and the combined federal adjusted gross 175
income of the taxpayer and the taxpayer's spouse for the taxable 176
year does not exceed one hundred thousand dollars, or if the 177
taxpayer is single and has a federal adjusted gross income for the 178
taxable year not exceeding fifty thousand dollars, deduct amounts 179
paid during the taxable year for qualified tuition and fees paid 180
to an eligible institution for the taxpayer, the taxpayer's 181
spouse, or any dependent of the taxpayer, who is a resident of 182
this state and is enrolled in or attending a program that 183
culminates in a degree or diploma at an eligible institution. The 184
deduction may be claimed only to the extent that qualified tuition 185
and fees are not otherwise deducted or excluded for any taxable 186
year from federal or Ohio adjusted gross income. The deduction may 187
not be claimed for educational expenses for which the taxpayer 188
claims a credit under section 5747.27 of the Revised Code. 189

(19) Add any reimbursement received during the taxable year 190
of any amount the taxpayer deducted under division (A)(18) of this 191
section in any previous taxable year to the extent the amount is 192
not otherwise included in Ohio adjusted gross income. 193

(20)(a)(i) Add five-sixths of the amount of depreciation 194
expense allowed by subsection (k) of section 168 of the Internal 195
Revenue Code, including the taxpayer's proportionate or 196
distributive share of the amount of depreciation expense allowed 197
by that subsection to a pass-through entity in which the taxpayer 198
has a direct or indirect ownership interest. 199

(ii) Add five-sixths of the amount of qualifying section 179 200
depreciation expense, including a person's proportionate or 201
distributive share of the amount of qualifying section 179 202
depreciation expense allowed to any pass-through entity in which 203
the person has a direct or indirect ownership. For the purposes of 204

this division, "qualifying section 179 depreciation expense" means 205
the difference between (I) the amount of depreciation expense 206
directly or indirectly allowed to the taxpayer under section 179 207
of the Internal Revenue Code, and (II) the amount of depreciation 208
expense directly or indirectly allowed to the taxpayer under 209
section 179 of the Internal Revenue Code as that section existed 210
on December 31, 2002. 211

The tax commissioner, under procedures established by the 212
commissioner, may waive the add-backs related to a pass-through 213
entity if the taxpayer owns, directly or indirectly, less than 214
five per cent of the pass-through entity. 215

(b) Nothing in division (A)(20) of this section shall be 216
construed to adjust or modify the adjusted basis of any asset. 217

(c) To the extent the add-back required under division 218
(A)(20)(a) of this section is attributable to property generating 219
nonbusiness income or loss allocated under section 5747.20 of the 220
Revised Code, the add-back shall be situated to the same location 221
as the nonbusiness income or loss generated by the property for 222
the purpose of determining the credit under division (A) of 223
section 5747.05 of the Revised Code. Otherwise, the add-back shall 224
be apportioned, subject to one or more of the four alternative 225
methods of apportionment enumerated in section 5747.21 of the 226
Revised Code. 227

(d) For the purposes of division (A) of this section, net 228
operating loss carryback and carryforward shall not include 229
five-sixths of the allowance of any net operating loss deduction 230
carryback or carryforward to the taxable year to the extent such 231
loss resulted from depreciation allowed by section 168(k) of the 232
Internal Revenue Code and by the qualifying section 179 233
depreciation expense amount. 234

(21)(a) If the taxpayer was required to add an amount under 235

division (A)(20)(a) of this section for a taxable year, deduct 236
one-fifth of the amount so added for each of the five succeeding 237
taxable years. 238

(b) If the amount deducted under division (A)(21)(a) of this 239
section is attributable to an add-back allocated under division 240
(A)(20)(c) of this section, the amount deducted shall be sitused 241
to the same location. Otherwise, the add-back shall be apportioned 242
using the apportionment factors for the taxable year in which the 243
deduction is taken, subject to one or more of the four alternative 244
methods of apportionment enumerated in section 5747.21 of the 245
Revised Code. 246

(c) No deduction is available under division (A)(21)(a) of 247
this section with regard to any depreciation allowed by section 248
168(k) of the Internal Revenue Code and by the qualifying section 249
179 depreciation expense amount to the extent that such 250
depreciation resulted in or increased a federal net operating loss 251
carryback or carryforward to a taxable year to which division 252
(A)(20)(d) of this section does not apply. 253

(22) Deduct, to the extent not otherwise deducted or excluded 254
in computing federal or Ohio adjusted gross income for the taxable 255
year, the amount the taxpayer received during the taxable year as 256
reimbursement for life insurance premiums under section 5919.31 of 257
the Revised Code. 258

(23) Deduct, to the extent not otherwise deducted or excluded 259
in computing federal or Ohio adjusted gross income for the taxable 260
year, the amount the taxpayer received during the taxable year as 261
a death benefit paid by the adjutant general under section 5919.33 262
of the Revised Code. 263

(24) Deduct, to the extent not otherwise allowable as a 264
deduction or exclusion in computing federal or Ohio adjusted gross 265
income for the taxable year and not otherwise compensated for by 266

any other source, the amount of qualified organ donation expenses 267
incurred by the taxpayer during the taxable year, not to exceed 268
ten thousand dollars. A taxpayer may deduct qualified organ 269
donation expenses only once for all taxable years. 270

For the purposes of division (A)(24) of this section: 271

(a) "Human organ" means all or any portion of a human liver, 272
pancreas, kidney, intestine, or lung, and any portion of human 273
bone marrow. 274

(b) "Qualified organ donation expenses" means travel 275
expenses, lodging expenses, and wages and salary foregone by a 276
taxpayer in connection with the taxpayer's donation, while living, 277
of one or more of the taxpayer's human organs to another human 278
being. 279

(B) "Business income" means income, including gain or loss, 280
arising from transactions, activities, and sources in the regular 281
course of a trade or business and includes income, gain, or loss 282
from real property, tangible property, and intangible property if 283
the acquisition, rental, management, and disposition of the 284
property constitute integral parts of the regular course of a 285
trade or business operation. "Business income" includes income, 286
including gain or loss, from a partial or complete liquidation of 287
a business, including, but not limited to, gain or loss from the 288
sale or other disposition of goodwill. 289

(C) "Nonbusiness income" means all income other than business 290
income and may include, but is not limited to, compensation, rents 291
and royalties from real or tangible personal property, capital 292
gains, interest, dividends and distributions, patent or copyright 293
royalties, or lottery winnings, prizes, and awards. 294

(D) "Compensation" means any form of remuneration paid to an 295
employee for personal services. 296

(E) "Fiduciary" means a guardian, trustee, executor, 297

administrator, receiver, conservator, or any other person acting	298
in any fiduciary capacity for any individual, trust, or estate.	299
(F) "Fiscal year" means an accounting period of twelve months	300
ending on the last day of any month other than December.	301
(G) "Individual" means any natural person.	302
(H) "Internal Revenue Code" means the "Internal Revenue Code	303
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	304
(I) "Resident" means any of the following, provided that	305
division (I)(3) of this section applies only to taxable years of a	306
trust beginning in 2002 or thereafter:	307
(1) An individual who is domiciled in this state, subject to	308
section 5747.24 of the Revised Code;	309
(2) The estate of a decedent who at the time of death was	310
domiciled in this state. The domicile tests of section 5747.24 of	311
the Revised Code and any election under section 5747.25 of the	312
Revised Code are not controlling for purposes of division (I)(2)	313
of this section.	314
(3) A trust that, in whole or part, resides in this state. If	315
only part of a trust resides in this state, the trust is a	316
resident only with respect to that part.	317
For the purposes of division (I)(3) of this section:	318
(a) A trust resides in this state for the trust's current	319
taxable year to the extent, as described in division (I)(3)(d) of	320
this section, that the trust consists directly or indirectly, in	321
whole or in part, of assets, net of any related liabilities, that	322
were transferred, or caused to be transferred, directly or	323
indirectly, to the trust by any of the following:	324
(i) A person, a court, or a governmental entity or	325
instrumentality on account of the death of a decedent, but only if	326
the trust is described in division (I)(3)(e)(i) or (ii) of this	327

section; 328

(ii) A person who was domiciled in this state for the 329
purposes of this chapter when the person directly or indirectly 330
transferred assets to an irrevocable trust, but only if at least 331
one of the trust's qualifying beneficiaries is domiciled in this 332
state for the purposes of this chapter during all or some portion 333
of the trust's current taxable year; 334

(iii) A person who was domiciled in this state for the 335
purposes of this chapter when the trust document or instrument or 336
part of the trust document or instrument became irrevocable, but 337
only if at least one of the trust's qualifying beneficiaries is a 338
resident domiciled in this state for the purposes of this chapter 339
during all or some portion of the trust's current taxable year. If 340
a trust document or instrument became irrevocable upon the death 341
of a person who at the time of death was domiciled in this state 342
for purposes of this chapter, that person is a person described in 343
division (I)(3)(a)(iii) of this section. 344

(b) A trust is irrevocable to the extent that the transferor 345
is not considered to be the owner of the net assets of the trust 346
under sections 671 to 678 of the Internal Revenue Code. 347

(c) With respect to a trust other than a charitable lead 348
trust, "qualifying beneficiary" has the same meaning as "potential 349
current beneficiary" as defined in section 1361(e)(2) of the 350
Internal Revenue Code, and with respect to a charitable lead trust 351
"qualifying beneficiary" is any current, future, or contingent 352
beneficiary, but with respect to any trust "qualifying 353
beneficiary" excludes a person or a governmental entity or 354
instrumentality to any of which a contribution would qualify for 355
the charitable deduction under section 170 of the Internal Revenue 356
Code. 357

(d) For the purposes of division (I)(3)(a) of this section, 358

the extent to which a trust consists directly or indirectly, in 359
whole or in part, of assets, net of any related liabilities, that 360
were transferred directly or indirectly, in whole or part, to the 361
trust by any of the sources enumerated in that division shall be 362
ascertained by multiplying the fair market value of the trust's 363
assets, net of related liabilities, by the qualifying ratio, which 364
shall be computed as follows: 365

(i) The first time the trust receives assets, the numerator 366
of the qualifying ratio is the fair market value of those assets 367
at that time, net of any related liabilities, from sources 368
enumerated in division (I)(3)(a) of this section. The denominator 369
of the qualifying ratio is the fair market value of all the 370
trust's assets at that time, net of any related liabilities. 371

(ii) Each subsequent time the trust receives assets, a 372
revised qualifying ratio shall be computed. The numerator of the 373
revised qualifying ratio is the sum of (1) the fair market value 374
of the trust's assets immediately prior to the subsequent 375
transfer, net of any related liabilities, multiplied by the 376
qualifying ratio last computed without regard to the subsequent 377
transfer, and (2) the fair market value of the subsequently 378
transferred assets at the time transferred, net of any related 379
liabilities, from sources enumerated in division (I)(3)(a) of this 380
section. The denominator of the revised qualifying ratio is the 381
fair market value of all the trust's assets immediately after the 382
subsequent transfer, net of any related liabilities. 383

(iii) Whether a transfer to the trust is by or from any of 384
the sources enumerated in division (I)(3)(a) of this section shall 385
be ascertained without regard to the domicile of the trust's 386
beneficiaries. 387

(e) For the purposes of division (I)(3)(a)(i) of this 388
section: 389

(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 421
at any time prior to the date of the decedent's death, and the 422
decedent was domiciled in this state at the time of death for 423
purposes of the taxes levied under Chapter 5731. of the Revised 424
Code. 425

(iv) The transfer is made to a trust on account of a 426
contractual relationship existing directly or indirectly between 427
the transferor and another person who at the time of the 428
decedent's death was domiciled in this state for purposes of this 429
chapter. 430

(v) The transfer is made to a trust on account of the will of 431
a testator. 432

(vi) The transfer is made to a trust created by or caused to 433
be created by a court, and the trust was directly or indirectly 434
created in connection with or as a result of the death of an 435
individual who, for purposes of the taxes levied under Chapter 436
5731. of the Revised Code, was domiciled in this state at the time 437
of the individual's death. 438

(g) The tax commissioner may adopt rules to ascertain the 439
part of a trust residing in this state. 440

(J) "Nonresident" means an individual or estate that is not a 441
resident. An individual who is a resident for only part of a 442
taxable year is a nonresident for the remainder of that taxable 443
year. 444

(K) "Pass-through entity" has the same meaning as in section 445
5733.04 of the Revised Code. 446

(L) "Return" means the notifications and reports required to 447
be filed pursuant to this chapter for the purpose of reporting the 448
tax due and includes declarations of estimated tax when so 449
required. 450

(M) "Taxable year" means the calendar year or the taxpayer's 451
fiscal year ending during the calendar year, or fractional part 452
thereof, upon which the adjusted gross income is calculated 453
pursuant to this chapter. 454

(N) "Taxpayer" means any person subject to the tax imposed by 455
section 5747.02 of the Revised Code or any pass-through entity 456
that makes the election under division (D) of section 5747.08 of 457
the Revised Code. 458

(O) "Dependents" means dependents as defined in the Internal 459
Revenue Code and as claimed in the taxpayer's federal income tax 460
return for the taxable year or which the taxpayer would have been 461
permitted to claim had the taxpayer filed a federal income tax 462
return. 463

(P) "Principal county of employment" means, in the case of a 464
nonresident, the county within the state in which a taxpayer 465
performs services for an employer or, if those services are 466
performed in more than one county, the county in which the major 467
portion of the services are performed. 468

(Q) As used in sections 5747.50 to 5747.55 of the Revised 469
Code: 470

(1) "Subdivision" means any county, municipal corporation, 471
park district, or township. 472

(2) "Essential local government purposes" includes all 473
functions that any subdivision is required by general law to 474
exercise, including like functions that are exercised under a 475
charter adopted pursuant to the Ohio Constitution. 476

(R) "Overpayment" means any amount already paid that exceeds 477
the figure determined to be the correct amount of the tax. 478

(S) "Taxable income" or "Ohio taxable income" applies only to 479
estates and trusts, and means federal taxable income, as defined 480

and used in the Internal Revenue Code, adjusted as follows: 481

(1) Add interest or dividends, net of ordinary, necessary, 482
and reasonable expenses not deducted in computing federal taxable 483
income, on obligations or securities of any state or of any 484
political subdivision or authority of any state, other than this 485
state and its subdivisions and authorities, but only to the extent 486
that such net amount is not otherwise includible in Ohio taxable 487
income and is described in either division (S)(1)(a) or (b) of 488
this section: 489

(a) The net amount is not attributable to the S portion of an 490
electing small business trust and has not been distributed to 491
beneficiaries for the taxable year; 492

(b) The net amount is attributable to the S portion of an 493
electing small business trust for the taxable year. 494

(2) Add interest or dividends, net of ordinary, necessary, 495
and reasonable expenses not deducted in computing federal taxable 496
income, on obligations of any authority, commission, 497
instrumentality, territory, or possession of the United States to 498
the extent that the interest or dividends are exempt from federal 499
income taxes but not from state income taxes, but only to the 500
extent that such net amount is not otherwise includible in Ohio 501
taxable income and is described in either division (S)(1)(a) or 502
(b) of this section; 503

(3) Add the amount of personal exemption allowed to the 504
estate pursuant to section 642(b) of the Internal Revenue Code; 505

(4) Deduct interest or dividends, net of related expenses 506
deducted in computing federal taxable income, on obligations of 507
the United States and its territories and possessions or of any 508
authority, commission, or instrumentality of the United States to 509
the extent that the interest or dividends are exempt from state 510
taxes under the laws of the United States, but only to the extent 511

that such amount is included in federal taxable income and is 512
described in either division (S)(1)(a) or (b) of this section; 513

(5) Deduct the amount of wages and salaries, if any, not 514
otherwise allowable as a deduction but that would have been 515
allowable as a deduction in computing federal taxable income for 516
the taxable year, had the targeted jobs credit allowed under 517
sections 38, 51, and 52 of the Internal Revenue Code not been in 518
effect, but only to the extent such amount relates either to 519
income included in federal taxable income for the taxable year or 520
to income of the S portion of an electing small business trust for 521
the taxable year; 522

(6) Deduct any interest or interest equivalent, net of 523
related expenses deducted in computing federal taxable income, on 524
public obligations and purchase obligations, but only to the 525
extent that such net amount relates either to income included in 526
federal taxable income for the taxable year or to income of the S 527
portion of an electing small business trust for the taxable year; 528

(7) Add any loss or deduct any gain resulting from sale, 529
exchange, or other disposition of public obligations to the extent 530
that such loss has been deducted or such gain has been included in 531
computing either federal taxable income or income of the S portion 532
of an electing small business trust for the taxable year; 533

(8) Except in the case of the final return of an estate, add 534
any amount deducted by the taxpayer on both its Ohio estate tax 535
return pursuant to section 5731.14 of the Revised Code, and on its 536
federal income tax return in determining federal taxable income; 537

(9)(a) Deduct any amount included in federal taxable income 538
solely because the amount represents a reimbursement or refund of 539
expenses that in a previous year the decedent had deducted as an 540
itemized deduction pursuant to section 63 of the Internal Revenue 541
Code and applicable treasury regulations. The deduction otherwise 542

allowed under division (S)(9)(a) of this section shall be reduced 543
to the extent the reimbursement is attributable to an amount the 544
taxpayer or decedent deducted under this section in any taxable 545
year. 546

(b) Add any amount not otherwise included in Ohio taxable 547
income for any taxable year to the extent that the amount is 548
attributable to the recovery during the taxable year of any amount 549
deducted or excluded in computing federal or Ohio taxable income 550
in any taxable year, but only to the extent such amount has not 551
been distributed to beneficiaries for the taxable year. 552

(10) Deduct any portion of the deduction described in section 553
1341(a)(2) of the Internal Revenue Code, for repaying previously 554
reported income received under a claim of right, that meets both 555
of the following requirements: 556

(a) It is allowable for repayment of an item that was 557
included in the taxpayer's taxable income or the decedent's 558
adjusted gross income for a prior taxable year and did not qualify 559
for a credit under division (A) or (B) of section 5747.05 of the 560
Revised Code for that year. 561

(b) It does not otherwise reduce the taxpayer's taxable 562
income or the decedent's adjusted gross income for the current or 563
any other taxable year. 564

(11) Add any amount claimed as a credit under section 565
5747.059 of the Revised Code to the extent that the amount 566
satisfies either of the following: 567

(a) The amount was deducted or excluded from the computation 568
of the taxpayer's federal taxable income as required to be 569
reported for the taxpayer's taxable year under the Internal 570
Revenue Code; 571

(b) The amount resulted in a reduction in the taxpayer's 572
federal taxable income as required to be reported for any of the 573

taxpayer's taxable years under the Internal Revenue Code. 574

(12) Deduct any amount, net of related expenses deducted in 575
computing federal taxable income, that a trust is required to 576
report as farm income on its federal income tax return, but only 577
if the assets of the trust include at least ten acres of land 578
satisfying the definition of "land devoted exclusively to 579
agricultural use" under section 5713.30 of the Revised Code, 580
regardless of whether the land is valued for tax purposes as such 581
land under sections 5713.30 to 5713.38 of the Revised Code. If the 582
trust is a pass-through entity investor, section 5747.231 of the 583
Revised Code applies in ascertaining if the trust is eligible to 584
claim the deduction provided by division (S)(12) of this section 585
in connection with the pass-through entity's farm income. 586

Except for farm income attributable to the S portion of an 587
electing small business trust, the deduction provided by division 588
(S)(12) of this section is allowed only to the extent that the 589
trust has not distributed such farm income. Division (S)(12) of 590
this section applies only to taxable years of a trust beginning in 591
2002 or thereafter. 592

(13) Add the net amount of income described in section 641(c) 593
of the Internal Revenue Code to the extent that amount is not 594
included in federal taxable income. 595

(14) Add or deduct the amount the taxpayer would be required 596
to add or deduct under division (A)(20) or (21) of this section if 597
the taxpayer's Ohio taxable income were computed in the same 598
manner as an individual's Ohio adjusted gross income is computed 599
under this section. In the case of a trust, division (S)(14) of 600
this section applies only to any of the trust's taxable years 601
beginning in 2002 or thereafter. 602

(T) "School district income" and "school district income tax" 603
have the same meanings as in section 5748.01 of the Revised Code. 604

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 605
of this section, "public obligations," "purchase obligations," and 606
"interest or interest equivalent" have the same meanings as in 607
section 5709.76 of the Revised Code. 608

(V) "Limited liability company" means any limited liability 609
company formed under Chapter 1705. of the Revised Code or under 610
the laws of any other state. 611

(W) "Pass-through entity investor" means any person who, 612
during any portion of a taxable year of a pass-through entity, is 613
a partner, member, shareholder, or equity investor in that 614
pass-through entity. 615

(X) "Banking day" has the same meaning as in section 1304.01 616
of the Revised Code. 617

(Y) "Month" means a calendar month. 618

(Z) "Quarter" means the first three months, the second three 619
months, the third three months, or the last three months of the 620
taxpayer's taxable year. 621

(AA)(1) "Eligible institution" means a state university or 622
state institution of higher education as defined in section 623
3345.011 of the Revised Code, or a private, nonprofit college, 624
university, or other post-secondary institution located in this 625
state that possesses a certificate of authorization issued by the 626
Ohio board of regents pursuant to Chapter 1713. of the Revised 627
Code or a certificate of registration issued by the state board of 628
career colleges and schools under Chapter 3332. of the Revised 629
Code. 630

(2) "Qualified tuition and fees" means tuition and fees 631
imposed by an eligible institution as a condition of enrollment or 632
attendance, not exceeding two thousand five hundred dollars in 633
each of the individual's first two years of post-secondary 634
education. If the individual is a part-time student, "qualified 635

tuition and fees" includes tuition and fees paid for the academic 636
equivalent of the first two years of post-secondary education 637
during a maximum of five taxable years, not exceeding a total of 638
five thousand dollars. "Qualified tuition and fees" does not 639
include: 640

(a) Expenses for any course or activity involving sports, 641
games, or hobbies unless the course or activity is part of the 642
individual's degree or diploma program; 643

(b) The cost of books, room and board, student activity fees, 644
athletic fees, insurance expenses, or other expenses unrelated to 645
the individual's academic course of instruction; 646

(c) Tuition, fees, or other expenses paid or reimbursed 647
through an employer, scholarship, grant in aid, or other 648
educational benefit program. 649

(BB)(1) "Modified business income" means the business income 650
included in a trust's Ohio taxable income after such taxable 651
income is first reduced by the qualifying trust amount, if any. 652

(2) "Qualifying trust amount" of a trust means capital gains 653
and losses from the sale, exchange, or other disposition of equity 654
or ownership interests in, or debt obligations of, a qualifying 655
investee to the extent included in the trust's Ohio taxable 656
income, but only if the following requirements are satisfied: 657

(a) The book value of the qualifying investee's physical 658
assets in this state and everywhere, as of the last day of the 659
qualifying investee's fiscal or calendar year ending immediately 660
prior to the date on which the trust recognizes the gain or loss, 661
is available to the trust. 662

(b) The requirements of section 5747.011 of the Revised Code 663
are satisfied for the trust's taxable year in which the trust 664
recognizes the gain or loss. 665

Any gain or loss that is not a qualifying trust amount is 666
modified business income, qualifying investment income, or 667
modified nonbusiness income, as the case may be. 668

(3) "Modified nonbusiness income" means a trust's Ohio 669
taxable income other than modified business income, other than the 670
qualifying trust amount, and other than qualifying investment 671
income, as defined in section 5747.012 of the Revised Code, to the 672
extent such qualifying investment income is not otherwise part of 673
modified business income. 674

(4) "Modified Ohio taxable income" applies only to trusts, 675
and means the sum of the amounts described in divisions (BB)(4)(a) 676
to (c) of this section: 677

(a) The fraction, calculated under section 5747.013, and 678
applying section 5747.231 of the Revised Code, multiplied by the 679
sum of the following amounts: 680

(i) The trust's modified business income; 681

(ii) The trust's qualifying investment income, as defined in 682
section 5747.012 of the Revised Code, but only to the extent the 683
qualifying investment income does not otherwise constitute 684
modified business income and does not otherwise constitute a 685
qualifying trust amount. 686

(b) The qualifying trust amount multiplied by a fraction, the 687
numerator of which is the sum of the book value of the qualifying 688
investee's physical assets in this state on the last day of the 689
qualifying investee's fiscal or calendar year ending immediately 690
prior to the day on which the trust recognizes the qualifying 691
trust amount, and the denominator of which is the sum of the book 692
value of the qualifying investee's total physical assets 693
everywhere on the last day of the qualifying investee's fiscal or 694
calendar year ending immediately prior to the day on which the 695
trust recognizes the qualifying trust amount. If, for a taxable 696

year, the trust recognizes a qualifying trust amount with respect 697
to more than one qualifying investee, the amount described in 698
division (BB)(4)(b) of this section shall equal the sum of the 699
products so computed for each such qualifying investee. 700

(c)(i) With respect to a trust or portion of a trust that is 701
a resident as ascertained in accordance with division (I)(3)(d) of 702
this section, its modified nonbusiness income. 703

(ii) With respect to a trust or portion of a trust that is 704
not a resident as ascertained in accordance with division 705
(I)(3)(d) of this section, the amount of its modified nonbusiness 706
income satisfying the descriptions in divisions (B)(2) to (5) of 707
section 5747.20 of the Revised Code, except as otherwise provided 708
in division (BB)(4)(c)(ii) of this section. With respect to a 709
trust or portion of a trust that is not a resident as ascertained 710
in accordance with division (I)(3)(d) of this section, the trust's 711
portion of modified nonbusiness income recognized from the sale, 712
exchange, or other disposition of a debt interest in or equity 713
interest in a section 5747.212 entity, as defined in section 714
5747.212 of the Revised Code, without regard to division (A) of 715
that section, shall not be allocated to this state in accordance 716
with section 5747.20 of the Revised Code but shall be apportioned 717
to this state in accordance with division (B) of section 5747.212 718
of the Revised Code without regard to division (A) of that 719
section. 720

If the allocation and apportionment of a trust's income under 721
divisions (BB)(4)(a) and (c) of this section do not fairly 722
represent the modified Ohio taxable income of the trust in this 723
state, the alternative methods described in division (C) of 724
section 5747.21 of the Revised Code may be applied in the manner 725
and to the same extent provided in that section. 726

(5)(a) Except as set forth in division (BB)(5)(b) of this 727
section, "qualifying investee" means a person in which a trust has 728

an equity or ownership interest, or a person or unit of government 729
the debt obligations of either of which are owned by a trust. For 730
the purposes of division (BB)(2)(a) of this section and for the 731
purpose of computing the fraction described in division (BB)(4)(b) 732
of this section, all of the following apply: 733

(i) If the qualifying investee is a member of a qualifying 734
controlled group on the last day of the qualifying investee's 735
fiscal or calendar year ending immediately prior to the date on 736
which the trust recognizes the gain or loss, then "qualifying 737
investee" includes all persons in the qualifying controlled group 738
on such last day. 739

(ii) If the qualifying investee, or if the qualifying 740
investee and any members of the qualifying controlled group of 741
which the qualifying investee is a member on the last day of the 742
qualifying investee's fiscal or calendar year ending immediately 743
prior to the date on which the trust recognizes the gain or loss, 744
separately or cumulatively own, directly or indirectly, on the 745
last day of the qualifying investee's fiscal or calendar year 746
ending immediately prior to the date on which the trust recognizes 747
the qualifying trust amount, more than fifty per cent of the 748
equity of a pass-through entity, then the qualifying investee and 749
the other members are deemed to own the proportionate share of the 750
pass-through entity's physical assets which the pass-through 751
entity directly or indirectly owns on the last day of the 752
pass-through entity's calendar or fiscal year ending within or 753
with the last day of the qualifying investee's fiscal or calendar 754
year ending immediately prior to the date on which the trust 755
recognizes the qualifying trust amount. 756

(iii) For the purposes of division (BB)(5)(a)(iii) of this 757
section, "upper level pass-through entity" means a pass-through 758
entity directly or indirectly owning any equity of another 759
pass-through entity, and "lower level pass-through entity" means 760

that other pass-through entity. 761

An upper level pass-through entity, whether or not it is also 762
a qualifying investee, is deemed to own, on the last day of the 763
upper level pass-through entity's calendar or fiscal year, the 764
proportionate share of the lower level pass-through entity's 765
physical assets that the lower level pass-through entity directly 766
or indirectly owns on the last day of the lower level pass-through 767
entity's calendar or fiscal year ending within or with the last 768
day of the upper level pass-through entity's fiscal or calendar 769
year. If the upper level pass-through entity directly and 770
indirectly owns less than fifty per cent of the equity of the 771
lower level pass-through entity on each day of the upper level 772
pass-through entity's calendar or fiscal year in which or with 773
which ends the calendar or fiscal year of the lower level 774
pass-through entity and if, based upon clear and convincing 775
evidence, complete information about the location and cost of the 776
physical assets of the lower pass-through entity is not available 777
to the upper level pass-through entity, then solely for purposes 778
of ascertaining if a gain or loss constitutes a qualifying trust 779
amount, the upper level pass-through entity shall be deemed as 780
owning no equity of the lower level pass-through entity for each 781
day during the upper level pass-through entity's calendar or 782
fiscal year in which or with which ends the lower level 783
pass-through entity's calendar or fiscal year. Nothing in division 784
(BB)(5)(a)(iii) of this section shall be construed to provide for 785
any deduction or exclusion in computing any trust's Ohio taxable 786
income. 787

(b) With respect to a trust that is not a resident for the 788
taxable year and with respect to a part of a trust that is not a 789
resident for the taxable year, "qualifying investee" for that 790
taxable year does not include a C corporation if both of the 791
following apply: 792

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.	793 794 795 796
(ii) Such gain or loss constitutes nonbusiness income.	797
(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.	798 799 800 801
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	802 803
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	804 805
(EE)(1) For the purposes of division (EE) of this section:	806
(a) "Qualifying person" means any person other than a qualifying corporation.	807 808
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	809 810 811
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	812 813 814 815
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	816 817 818 819
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	820 821 822

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code: 823
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(1) "Trust" does not include a qualified pre-income tax trust. 825
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(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section. 827
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(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust. 830
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 841
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 843
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(b) The trust became irrevocable upon the creation of the trust; and 845
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(c) The grantor was domiciled in this state at the time the trust was created. 847
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Sec. 5747.08. An annual return with respect to the tax imposed by section 5747.02 of the Revised Code and each tax imposed under Chapter 5748. of the Revised Code shall be made by every taxpayer for any taxable year for which the taxpayer is 849
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liable for the tax imposed by that section or under that chapter, 853
unless the total credits allowed under divisions (E), (F), and (G) 854
of section 5747.05 of the Revised Code for the year are equal to 855
or exceed the tax imposed by section 5747.02 of the Revised Code, 856
in which case no return shall be required unless the taxpayer is 857
liable for a tax imposed pursuant to Chapter 5748. of the Revised 858
Code. 859

(A) If an individual is deceased, any return or notice 860
required of that individual under this chapter shall be made and 861
filed by that decedent's executor, administrator, or other person 862
charged with the property of that decedent. 863

(B) If an individual is unable to make a return or notice 864
required by this chapter, the return or notice required of that 865
individual shall be made and filed by the individual's duly 866
authorized agent, guardian, conservator, fiduciary, or other 867
person charged with the care of the person or property of that 868
individual. 869

(C) Returns or notices required of an estate or a trust shall 870
be made and filed by the fiduciary of the estate or trust. 871

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 872
of this section, any pass-through entity may file a single return 873
on behalf of one or more of the entity's investors other than an 874
investor that is a person subject to the tax imposed under section 875
5733.06 of the Revised Code. The single return shall set forth the 876
name, address, and social security number or other identifying 877
number of each of those pass-through entity investors and shall 878
indicate the distributive share of each of those pass-through 879
entity investor's income taxable in this state in accordance with 880
sections 5747.20 to 5747.231 of the Revised Code. Such 881
pass-through entity investors for whom the pass-through entity 882
elects to file a single return are not entitled to the exemption 883
or credit provided for by sections 5747.02 and 5747.022 of the 884

Revised Code; shall calculate the tax before business credits at 885
the highest rate of tax set forth in section 5747.02 of the 886
Revised Code for the taxable year for which the return is filed; 887
and are entitled to only their distributive share of the business 888
credits as defined in division (D)(2) of this section. A single 889
check drawn by the pass-through entity shall accompany the return 890
in full payment of the tax due, as shown on the single return, for 891
such investors, other than investors who are persons subject to 892
the tax imposed under section 5733.06 of the Revised Code. 893

(b)(i) A pass-through entity shall not include in such a 894
single return any investor that is a trust to the extent that any 895
direct or indirect current, future, or contingent beneficiary of 896
the trust is a person subject to the tax imposed under section 897
5733.06 of the Revised Code. 898

(ii) A pass-through entity shall not include in such a single 899
return any investor that is itself a pass-through entity to the 900
extent that any direct or indirect investor in the second 901
pass-through entity is a person subject to the tax imposed under 902
section 5733.06 of the Revised Code. 903

(c) Nothing in division (D) of this section precludes the tax 904
commissioner from requiring such investors to file the return and 905
make the payment of taxes and related interest, penalty, and 906
interest penalty required by this section or section 5747.02, 907
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 908
of this section shall be construed to provide to such an investor 909
or pass-through entity any additional deduction or credit, other 910
than the credit provided by division (J) of this section, solely 911
on account of the entity's filing a return in accordance with this 912
section. Such a pass-through entity also shall make the filing and 913
payment of estimated taxes on behalf of the pass-through entity 914
investors other than an investor that is a person subject to the 915
tax imposed under section 5733.06 of the Revised Code. 916

(2) For the purposes of this section, "business credits"	917
means the credits listed in section 5747.98 of the Revised Code	918
excluding the following credits:	919
(a) The retirement credit under division (B) of section	920
5747.055 of the Revised Code;	921
(b) The senior citizen credit under division (C) of section	922
5747.05 of the Revised Code;	923
(c) The lump sum distribution credit under division (D) of	924
section 5747.05 of the Revised Code;	925
(d) The dependent care credit under section 5747.054 of the	926
Revised Code;	927
(e) The lump sum retirement income credit under division (C)	928
of section 5747.055 of the Revised Code;	929
(f) The lump sum retirement income credit under division (D)	930
of section 5747.055 of the Revised Code;	931
(g) The lump sum retirement income credit under division (E)	932
of section 5747.055 of the Revised Code;	933
(h) The credit for displaced workers who pay for job training	934
under section 5747.27 of the Revised Code;	935
(i) The twenty-dollar personal exemption credit under section	936
5747.022 of the Revised Code;	937
(j) The joint filing credit under division (G) of section	938
5747.05 of the Revised Code;	939
(k) The nonresident credit under division (A) of section	940
5747.05 of the Revised Code;	941
(l) The credit for a resident's out-of-state income under	942
division (B) of section 5747.05 of the Revised Code;	943
(m) The low-income credit under section 5747.056 of the	944
Revised Code;	945

(n) The credit for human organ and tissue donations under 946
section 5747.81 of the Revised Code. 947

(3) The election provided for under division (D) of this 948
section applies only to the taxable year for which the election is 949
made by the pass-through entity. Unless the tax commissioner 950
provides otherwise, this election, once made, is binding and 951
irrevocable for the taxable year for which the election is made. 952
Nothing in this division shall be construed to provide for any 953
deduction or credit that would not be allowable if a nonresident 954
pass-through entity investor were to file an annual return. 955

(4) If a pass-through entity makes the election provided for 956
under division (D) of this section, the pass-through entity shall 957
be liable for any additional taxes, interest, interest penalty, or 958
penalties imposed by this chapter if the tax commissioner finds 959
that the single return does not reflect the correct tax due by the 960
pass-through entity investors covered by that return. Nothing in 961
this division shall be construed to limit or alter the liability, 962
if any, imposed on pass-through entity investors for unpaid or 963
underpaid taxes, interest, interest penalty, or penalties as a 964
result of the pass-through entity's making the election provided 965
for under division (D) of this section. For the purposes of 966
division (D) of this section, "correct tax due" means the tax that 967
would have been paid by the pass-through entity had the single 968
return been filed in a manner reflecting the tax commissioner's 969
findings. Nothing in division (D) of this section shall be 970
construed to make or hold a pass-through entity liable for tax 971
attributable to a pass-through entity investor's income from a 972
source other than the pass-through entity electing to file the 973
single return. 974

(E) If a husband and wife file a joint federal income tax 975
return for a taxable year, they shall file a joint return under 976
this section for that taxable year, and their liabilities are 977

joint and several, but, if the federal income tax liability of 978
either spouse is determined on a separate federal income tax 979
return, they shall file separate returns under this section. 980

If either spouse is not required to file a federal income tax 981
return and either or both are required to file a return pursuant 982
to this chapter, they may elect to file separate or joint returns, 983
and, pursuant to that election, their liabilities are separate or 984
joint and several. If a husband and wife file separate returns 985
pursuant to this chapter, each must claim the taxpayer's own 986
exemption, but not both, as authorized under section 5747.02 of 987
the Revised Code on the taxpayer's own return. 988

(F) Each return or notice required to be filed under this 989
section shall contain the signature of the taxpayer or the 990
taxpayer's duly authorized agent and of the person who prepared 991
the return for the taxpayer, and shall include the taxpayer's 992
social security number. Each return shall be verified by a 993
declaration under the penalties of perjury. The tax commissioner 994
shall prescribe the form that the signature and declaration shall 995
take. 996

(G) Each return or notice required to be filed under this 997
section shall be made and filed as required by section 5747.04 of 998
the Revised Code, on or before the fifteenth day of April of each 999
year, on forms that the tax commissioner shall prescribe, together 1000
with remittance made payable to the treasurer of state in the 1001
combined amount of the state and all school district income taxes 1002
shown to be due on the form, unless the combined amount shown to 1003
be due is one dollar or less, in which case that amount need not 1004
be remitted. 1005

Upon good cause shown, the tax commissioner may extend the 1006
period for filing any notice or return required to be filed under 1007
this section and may adopt rules relating to extensions. If the 1008
extension results in an extension of time for the payment of any 1009

state or school district income tax liability with respect to 1010
which the return is filed, the taxpayer shall pay at the time the 1011
tax liability is paid an amount of interest computed at the rate 1012
per annum prescribed by section 5703.47 of the Revised Code on 1013
that liability from the time that payment is due without extension 1014
to the time of actual payment. Except as provided in section 1015
5747.132 of the Revised Code, in addition to all other interest 1016
charges and penalties, all taxes imposed under this chapter or 1017
Chapter 5748. of the Revised Code and remaining unpaid after they 1018
become due, except combined amounts due of one dollar or less, 1019
bear interest at the rate per annum prescribed by section 5703.47 1020
of the Revised Code until paid or until the day an assessment is 1021
issued under section 5747.13 of the Revised Code, whichever occurs 1022
first. 1023

If the tax commissioner considers it necessary in order to 1024
ensure the payment of the tax imposed by section 5747.02 of the 1025
Revised Code or any tax imposed under Chapter 5748. of the Revised 1026
Code, the tax commissioner may require returns and payments to be 1027
made otherwise than as provided in this section. 1028

To the extent that any provision in this division conflicts 1029
with any provision in section 5747.026 of the Revised Code, the 1030
provision in that section prevails. 1031

(H) If any report, claim, statement, or other document 1032
required to be filed, or any payment required to be made, within a 1033
prescribed period or on or before a prescribed date under this 1034
chapter is delivered after that period or that date by United 1035
States mail to the agency, officer, or office with which the 1036
report, claim, statement, or other document is required to be 1037
filed, or to which the payment is required to be made, the date of 1038
the postmark stamped on the cover in which the report, claim, 1039
statement, or other document, or payment is mailed shall be deemed 1040
to be the date of delivery or the date of payment. 1041

If a payment is required to be made by electronic funds 1042
transfer pursuant to section 5747.072 of the Revised Code, the 1043
payment is considered to be made when the payment is received by 1044
the treasurer of state or credited to an account designated by the 1045
treasurer of state for the receipt of tax payments. 1046

"The date of the postmark" means, in the event there is more 1047
than one date on the cover, the earliest date imprinted on the 1048
cover by the United States postal service. 1049

(I) The amounts withheld by the employer pursuant to section 1050
5747.06 of the Revised Code shall be allowed to the recipient of 1051
the compensation as credits against payment of the appropriate 1052
taxes imposed on the recipient by section 5747.02 and under 1053
Chapter 5748. of the Revised Code. 1054

(J) If, in accordance with division (D) of this section, a 1055
pass-through entity elects to file a single return and if any 1056
investor is required to file the return and make the payment of 1057
taxes required by this chapter on account of the investor's other 1058
income that is not included in a single return filed by a 1059
pass-through entity, the investor is entitled to a refundable 1060
credit equal to the investor's proportionate share of the tax paid 1061
by the pass-through entity on behalf of the investor. The investor 1062
shall claim the credit for the investor's taxable year in which or 1063
with which ends the taxable year of the pass-through entity. 1064
Nothing in this chapter shall be construed to allow any credit 1065
provided in this chapter to be claimed more than once. For the 1066
purposes of computing any interest, penalty, or interest penalty, 1067
the investor shall be deemed to have paid the refundable credit 1068
provided by this division on the day that the pass-through entity 1069
paid the estimated tax or the tax giving rise to the credit. 1070

Sec. 5747.81. For taxable years beginning on or after January 1071
1, 2007, a refundable credit shall be allowed against the tax 1072

imposed by section 5747.02 of the Revised Code for a taxpayer who 1073
died during the taxable year and who donated a human organ, human 1074
eye, or any other human tissue following death. The amount of the 1075
credit shall equal five hundred dollars. 1076

The credit allowed by this section shall be claimed on the 1077
return required to be filed under section 5747.08 of the Revised 1078
Code by the decedent taxpayer's executor, administrator, or other 1079
person charged with the decedent taxpayer's property for the 1080
taxable year in which the decedent died. 1081

The credit allowed by this section shall be claimed in the 1082
order required under section 5747.98 of the Revised Code. 1083

Sec. 5747.98. (A) To provide a uniform procedure for 1084
calculating the amount of tax due under section 5747.02 of the 1085
Revised Code, a taxpayer shall claim any credits to which the 1086
taxpayer is entitled in the following order: 1087

(1) The retirement income credit under division (B) of 1088
section 5747.055 of the Revised Code; 1089

(2) The senior citizen credit under division (C) of section 1090
5747.05 of the Revised Code; 1091

(3) The lump sum distribution credit under division (D) of 1092
section 5747.05 of the Revised Code; 1093

(4) The dependent care credit under section 5747.054 of the 1094
Revised Code; 1095

(5) The lump sum retirement income credit under division (C) 1096
of section 5747.055 of the Revised Code; 1097

(6) The lump sum retirement income credit under division (D) 1098
of section 5747.055 of the Revised Code; 1099

(7) The lump sum retirement income credit under division (E) 1100
of section 5747.055 of the Revised Code; 1101

(8) The low-income credit under section 5747.056 of the Revised Code;	1102 1103
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	1104 1105
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	1106 1107
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1108 1109
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	1110 1111
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1112 1113
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1114 1115
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	1116 1117
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	1118 1119
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	1120 1121
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	1122 1123
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	1124 1125
(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	1126 1127 1128
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under	1129 1130

section 5747.31 of the Revised Code;	1131
(22) The job training credit under section 5747.39 of the Revised Code;	1132 1133
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	1134 1135
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	1136 1137
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	1138 1139
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	1140 1141
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1142 1143
(28) The export sales credit under section 5747.057 of the Revised Code;	1144 1145
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	1146 1147
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	1148 1149
(31) The research and development credit under section 5747.331 of the Revised Code;	1150 1151
(32) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	1152 1153
(33) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	1154 1155
(34) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	1156 1157 1158
(35) The refundable credit for tax withheld under division	1159

(B)(1) of section 5747.062 of the Revised Code; 1160

(36) The refundable credit under section 5747.80 of the 1161
Revised Code for losses on loans made to the Ohio venture capital 1162
program under sections 150.01 to 150.10 of the Revised Code; 1163

(37) The refundable credit for human organ and tissue 1164
donations under section 5747.81 of the Revised Code. 1165

(B) For any credit, except the refundable credits enumerated 1166
in ~~divisions (A)(32) to (36)~~ of this section and the credit 1167
granted under division (I) of section 5747.08 of the Revised Code, 1168
the amount of the credit for a taxable year shall not exceed the 1169
tax due after allowing for any other credit that precedes it in 1170
the order required under this section. Any excess amount of a 1171
particular credit may be carried forward if authorized under the 1172
section creating that credit. Nothing in this chapter shall be 1173
construed to allow a taxpayer to claim, directly or indirectly, a 1174
credit more than once for a taxable year. 1175

Section 2. That existing sections 5747.01, 5747.08, and 1176
5747.98 of the Revised Code are hereby repealed. 1177

Section 3. The amendment or enactment by this act of sections 1178
5747.01, 5747.08, 5747.81, and 5747.98 of the Revised Code applies 1179
to taxable years beginning on or after January 1, 2007. 1180