

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 372

Representative McGregor, R.

—

A B I L L

To amend sections 2101.16, 5747.01, 5903.10, and 1
5903.12 and to enact section 2101.164 of the 2
Revised Code to exempt estates of armed forces 3
members who died while serving in a combat zone 4
from probate fees, to exempt military retirement 5
pay from the income tax, to provide that 6
reservists and National Guard members may renew 7
their professional licenses within six months 8
after active duty service, and to extend 9
continuing education reporting periods for 10
National Guard members ordered to duty by the 11
Governor. 12

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

Section 1. That sections 2101.16, 5747.01, 5903.10, and 13
5903.12 be amended and that section 2101.164 of the Revised Code 14
be enacted to read as follows: 15

Sec. 2101.16. (A) ~~The~~ Except as provided in section 2101.164 16
of the Revised Code, the fees enumerated in this division shall be 17
charged and collected, if possible, by the probate judge and shall 18
be in full for all services rendered in the respective 19
proceedings: 20

(1) Account, in addition to advertising charges	\$12.00	21
Waivers and proof of notice of hearing on account, per		22
page, minimum one dollar	\$ 1.00	23
(2) Account of distribution, in addition to		24
advertising charges	\$ 7.00	25
(3) Adoption of child, petition for	\$50.00	26
(4) Alter or cancel contract for sale or purchase of		27
real estate, petition to	\$20.00	28
(5) Application and order not otherwise provided		29
for in this section or by rule adopted pursuant to		30
division (E) of this section	\$ 5.00	31
(6) Appropriation suit, per day, hearing in	\$20.00	32
(7) Birth, application for registration of	\$ 7.00	33
(8) Birth record, application to correct	\$ 5.00	34
(9) Bond, application for new or additional	\$ 5.00	35
(10) Bond, application for release of surety or		36
reduction of	\$ 5.00	37
(11) Bond, receipt for securities deposited in lieu of	\$ 5.00	38
(12) Certified copy of journal entry, record, or proceeding,		39
per page, minimum fee one dollar	\$ 1.00	40
(13) Citation and issuing citation, application for	\$ 5.00	41
(14) Change of name, petition for	\$20.00	42
(15) Claim, application of administrator or executor for		43
allowance of administrator's or executor's own	\$10.00	44
(16) Claim, application to compromise or settle	\$10.00	45
(17) Claim, authority to present	\$10.00	46
(18) Commissioner, appointment of	\$ 5.00	47
(19) Compensation for extraordinary services and attorney's		48
fees for fiduciary, application for	\$ 5.00	49
(20) Competency, application to procure adjudication of ...	\$20.00	50
(21) Complete contract, application to	\$10.00	51
(22) Concealment of assets, citation for	\$10.00	52
(23) Construction of will, petition for	\$20.00	53

(24) Continue decedent's business, application to	\$10.00	54
Monthly reports of operation	\$ 5.00	55
(25) Declaratory judgment, petition for	\$20.00	56
(26) Deposit of will	\$ 5.00	57
(27) Designation of heir	\$20.00	58
(28) Distribution in kind, application, assent, and order for	\$ 5.00	59 60
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	\$ 7.00	61 62
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	\$15.00	63 64 65
(31) Exceptions to any proceeding named in this section, contest of appointment or	\$10.00	66 67
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	\$10.00	68 69
(33) Election of surviving spouse under will	\$ 5.00	70
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	\$35.00	71 72 73
(35) Foreign will, application to record	\$10.00	74
Record of foreign will, additional, per page	\$ 1.00	75
(36) Forms when supplied by the probate court, not to exceed	\$10.00	76 77
(37) Heirship, petition to determine	\$20.00	78
(38) Injunction proceedings	\$20.00	79
(39) Improve real estate, petition to	\$20.00	80
(40) Inventory with appraisalment	\$10.00	81
(41) Inventory without appraisalment	\$ 7.00	82
(42) Investment or expenditure of funds, application for ..	\$10.00	83
(43) Invest in real estate, application to	\$10.00	84
(44) Lease for oil, gas, coal, or other mineral, petition to	\$20.00	85 86

(45) Lease or lease and improve real estate, petition to ..	\$20.00	87
(46) Marriage license	\$10.00	88
Certified abstract of each marriage	\$ 2.00	89
(47) Minor or mentally ill person, etc., disposal of estate		90
under ten thousand dollars of	\$10.00	91
(48) Mortgage or mortgage and repair or improve real		92
estate, petition to	\$20.00	93
(49) Newly discovered assets, report of	\$ 7.00	94
(50) Nonresident executor or administrator to bar		95
creditors' claims, proceedings by	\$20.00	96
(51) Power of attorney or revocation of power,		97
bonding company	\$10.00	98
(52) Presumption of death, petition to establish	\$20.00	99
(53) Probating will	\$15.00	100
Proof of notice to beneficiaries	\$ 5.00	101
(54) Purchase personal property, application of surviving		102
spouse to	\$10.00	103
(55) Purchase real estate at appraised value, petition of		104
surviving spouse to	\$20.00	105
(56) Receipts in addition to advertising charges,		106
application and order to record	\$ 5.00	107
Record of those receipts, additional, per page	\$ 1.00	108
(57) Record in excess of fifteen hundred words in any		109
proceeding in the probate court, per page	\$ 1.00	110
(58) Release of estate by mortgagee or other lienholder ...	\$ 5.00	111
(59) Relieving an estate from administration under section		112
2113.03 of the Revised Code or granting an order for a		113
summary release from administration under section		114
2113.031 of the Revised Code	\$60.00	115
(60) Removal of fiduciary, application for	\$10.00	116
(61) Requalification of executor or administrator	\$10.00	117
(62) Resignation of fiduciary	\$ 5.00	118
(63) Sale bill, public sale of personal property	\$10.00	119

(64) Sale of personal property and report, application		120
for	\$10.00	121
(65) Sale of real estate, petition for	\$25.00	122
(66) Terminate guardianship, petition to	\$10.00	123
(67) Transfer of real estate, application, entry, and certificate for	\$ 7.00	124 125
(68) Unclaimed money, application to invest	\$ 7.00	126
(69) Vacate approval of account or order of distribution, motion to	\$10.00	127 128
(70) Writ of execution	\$ 5.00	129
(71) Writ of possession	\$ 5.00	130
(72) Wrongful death, application and settlement of claim for	\$20.00	131 132
(73) Year's allowance, petition to review	\$ 7.00	133
(74) Guardian's report, filing and review of	\$ 5.00	134

(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the

fees for the investigation shall be paid into the county treasury. 153
If the court finds that the guardian or applicant is indigent, the 154
court may waive the costs, fees, and expenses of an investigation. 155

(C) Thirty dollars of the thirty-five-dollar fee collected 156
pursuant to division (A)(34) of this section and twenty dollars of 157
the sixty-dollar fee collected pursuant to division (A)(59) of 158
this section shall be deposited by the county treasurer in the 159
indigent guardianship fund created pursuant to section 2111.51 of 160
the Revised Code. 161

(D) The fees of witnesses, jurors, sheriffs, coroners, and 162
constables for services rendered in the probate court or by order 163
of the probate judge shall be the same as provided for like 164
services in the court of common pleas. 165

(E) The probate court, by rule, may require an advance 166
deposit for costs, not to exceed one hundred twenty-five dollars, 167
at the time application is made for an appointment as executor or 168
administrator or at the time a will is presented for probate. 169

(F) The probate court, by rule, shall establish a reasonable 170
fee, not to exceed fifty dollars, for the filing of a petition for 171
the release of information regarding an adopted person's name by 172
birth and the identity of the adopted person's biological parents 173
and biological siblings pursuant to section 3107.41 of the Revised 174
Code, all proceedings relative to the petition, the entry of an 175
order relative to the petition, and all services required to be 176
performed in connection with the petition. The probate court may 177
use a reasonable portion of a fee charged under authority of this 178
division to reimburse any agency, as defined in section 3107.39 of 179
the Revised Code, for any services it renders in performing a task 180
described in section 3107.41 of the Revised Code relative to or in 181
connection with the petition for which the fee was charged. 182

(G)(1) Thirty dollars of the fifty-dollar fee collected 183

pursuant to division (A)(3) of this section shall be deposited 184
into the "putative father registry fund," which is hereby created 185
in the state treasury. The department of job and family services 186
shall use the money in the fund to fund the department's costs of 187
performing its duties related to the putative father registry 188
established under section 3107.062 of the Revised Code. 189

(2) If the department determines that money in the putative 190
father registry fund is more than is needed for its duties related 191
to the putative father registry, the department may use the 192
surplus moneys in the fund as permitted in division (C) of section 193
2151.3529, division (B) of section 2151.3530, or section 5103.155 194
of the Revised Code. 195

Sec. 2101.164. (A) As used in this section, "combat zone" 196
means an area that the president of the United States by executive 197
order designates for purposes of 26 U.S.C. 112 as an area in which 198
armed forces of the United States or the national guard are 199
engaging or have engaged in combat. 200

(B) A probate judge shall not charge, or collect from, the 201
estate of a decedent who died while in active service as a member 202
of the armed forces of the United States or the national guard any 203
of the following fees if the death occurred while the decedent was 204
serving in a combat zone or as a result of wounds, disease, or 205
injury incurred while serving in a combat zone: 206

(1) Any fee for or associated with the filing of the 207
decedent's will for probate; 208

(2) Any fee for any service rendered by the probate court 209
that is associated with the administration of the decedent's 210
estate; 211

(3) Any fee for relieving the decedent's estate from 212
administration under section 2113.03 of the Revised Code or 213

granting an order for a summary release from administration under 214
section 2113.031 of the Revised Code. 215

(C) In determining whether a decedent died in a place or 216
manner that exempts the estate of the decedent from fees under 217
division (B) of this section, a probate judge may consider a 218
casualty report issued pursuant to Army Regulation 600-8-1 or the 219
regulations of any of the armed services of the United States or 220
the national guard, the list of combat zones set forth in 221
Publication 3, "The Armed Forces' Tax Guide," of the Internal 222
Revenue Service, or any other form of documentation satisfactory 223
to the probate judge. 224

Sec. 5747.01. Except as otherwise expressly provided or 225
clearly appearing from the context, any term used in this chapter 226
that is not otherwise defined in this section has the same meaning 227
as when used in a comparable context in the laws of the United 228
States relating to federal income taxes or if not used in a 229
comparable context in those laws, has the same meaning as in 230
section 5733.40 of the Revised Code. Any reference in this chapter 231
to the Internal Revenue Code includes other laws of the United 232
States relating to federal income taxes. 233

As used in this chapter: 234

(A) "Adjusted gross income" or "Ohio adjusted gross income" 235
means federal adjusted gross income, as defined and used in the 236
Internal Revenue Code, adjusted as provided in this section: 237

(1) Add interest or dividends on obligations or securities of 238
any state or of any political subdivision or authority of any 239
state, other than this state and its subdivisions and authorities. 240

(2) Add interest or dividends on obligations of any 241
authority, commission, instrumentality, territory, or possession 242
of the United States to the extent that the interest or dividends 243

are exempt from federal income taxes but not from state income taxes. 244
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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. 246
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(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income. 252
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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. 254
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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 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 or thereafter. 258
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"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 267
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reason of a prior accumulation distribution. Any undistributed net 276
income included in the adjusted gross income of a beneficiary 277
shall reduce the undistributed net income of the trust commencing 278
with the earliest years of the accumulation period. 279

(7) Deduct the amount of wages and salaries, if any, not 280
otherwise allowable as a deduction but that would have been 281
allowable as a deduction in computing federal adjusted gross 282
income for the taxable year, had the targeted jobs credit allowed 283
and determined under sections 38, 51, and 52 of the Internal 284
Revenue Code not been in effect. 285

(8) Deduct any interest or interest equivalent on public 286
obligations and purchase obligations to the extent that the 287
interest or interest equivalent is included in federal adjusted 288
gross income. 289

(9) Add any loss or deduct any gain resulting from the sale, 290
exchange, or other disposition of public obligations to the extent 291
that the loss has been deducted or the gain has been included in 292
computing federal adjusted gross income. 293

(10) Deduct or add amounts, as provided under section 5747.70 294
of the Revised Code, related to contributions to variable college 295
savings program accounts made or tuition units purchased pursuant 296
to Chapter 3334. of the Revised Code. 297

(11)(a) Deduct, to the extent not otherwise allowable as a 298
deduction or exclusion in computing federal or Ohio adjusted gross 299
income for the taxable year, the amount the taxpayer paid during 300
the taxable year for medical care insurance and qualified 301
long-term care insurance for the taxpayer, the taxpayer's spouse, 302
and dependents. No deduction for medical care insurance under 303
division (A)(11) of this section shall be allowed either to any 304
taxpayer who is eligible to participate in any subsidized health 305
plan maintained by any employer of the taxpayer or of the 306

taxpayer's spouse, or to any taxpayer who is entitled to, or on 307
application would be entitled to, benefits under part A of Title 308
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 309
301, as amended. For the purposes of division (A)(11)(a) of this 310
section, "subsidized health plan" means a health plan for which 311
the employer pays any portion of the plan's cost. The deduction 312
allowed under division (A)(11)(a) of this section shall be the net 313
of any related premium refunds, related premium reimbursements, or 314
related insurance premium dividends received during the taxable 315
year. 316

(b) Deduct, to the extent not otherwise deducted or excluded 317
in computing federal or Ohio adjusted gross income during the 318
taxable year, the amount the taxpayer paid during the taxable 319
year, not compensated for by any insurance or otherwise, for 320
medical care of the taxpayer, the taxpayer's spouse, and 321
dependents, to the extent the expenses exceed seven and one-half 322
per cent of the taxpayer's federal adjusted gross income. 323

(c) For purposes of division (A)(11) of this section, 324
"medical care" has the meaning given in section 213 of the 325
Internal Revenue Code, subject to the special rules, limitations, 326
and exclusions set forth therein, and "qualified long-term care" 327
has the same meaning given in section 7702B(c) of the Internal 328
Revenue Code. 329

(12)(a) Deduct any amount included in federal adjusted gross 330
income solely because the amount represents a reimbursement or 331
refund of expenses that in any year the taxpayer had deducted as 332
an itemized deduction pursuant to section 63 of the Internal 333
Revenue Code and applicable United States department of the 334
treasury regulations. The deduction otherwise allowed under 335
division (A)(12)(a) of this section shall be reduced to the extent 336
the reimbursement is attributable to an amount the taxpayer 337
deducted under this section in any taxable year. 338

(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) 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 does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

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

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

(16) Add any amount claimed as a credit under section	370
5747.059 of the Revised Code to the extent that such amount	371
satisfies either of the following:	372
(a) The amount was deducted or excluded from the computation	373
of the taxpayer's federal adjusted gross income as required to be	374
reported for the taxpayer's taxable year under the Internal	375
Revenue Code;	376
(b) The amount resulted in a reduction of the taxpayer's	377
federal adjusted gross income as required to be reported for any	378
of the taxpayer's taxable years under the Internal Revenue Code.	379
(17) Deduct the amount contributed by the taxpayer to an	380
individual development account program established by a county	381
department of job and family services pursuant to sections 329.11	382
to 329.14 of the Revised Code for the purpose of matching funds	383
deposited by program participants. On request of the tax	384
commissioner, the taxpayer shall provide any information that, in	385
the tax commissioner's opinion, is necessary to establish the	386
amount deducted under division (A)(17) of this section.	387
(18) Beginning in taxable year 2001 but not for any taxable	388
year beginning after December 31, 2005, if the taxpayer is married	389
and files a joint return and the combined federal adjusted gross	390
income of the taxpayer and the taxpayer's spouse for the taxable	391
year does not exceed one hundred thousand dollars, or if the	392
taxpayer is single and has a federal adjusted gross income for the	393
taxable year not exceeding fifty thousand dollars, deduct amounts	394
paid during the taxable year for qualified tuition and fees paid	395
to an eligible institution for the taxpayer, the taxpayer's	396
spouse, or any dependent of the taxpayer, who is a resident of	397
this state and is enrolled in or attending a program that	398
culminates in a degree or diploma at an eligible institution. The	399
deduction may be claimed only to the extent that qualified tuition	400
and fees are not otherwise deducted or excluded for any taxable	401

year from federal or Ohio adjusted gross income. The deduction may 402
not be claimed for educational expenses for which the taxpayer 403
claims a credit under section 5747.27 of the Revised Code. 404

(19) Add any reimbursement received during the taxable year 405
of any amount the taxpayer deducted under division (A)(18) of this 406
section in any previous taxable year to the extent the amount is 407
not otherwise included in Ohio adjusted gross income. 408

(20)(a)(i) Add five-sixths of the amount of depreciation 409
expense allowed by subsection (k) of section 168 of the Internal 410
Revenue Code, including the taxpayer's proportionate or 411
distributive share of the amount of depreciation expense allowed 412
by that subsection to a pass-through entity in which the taxpayer 413
has a direct or indirect ownership interest. 414

(ii) Add five-sixths of the amount of qualifying section 179 415
depreciation expense, including a person's proportionate or 416
distributive share of the amount of qualifying section 179 417
depreciation expense allowed to any pass-through entity in which 418
the person has a direct or indirect ownership. For the purposes of 419
this division, "qualifying section 179 depreciation expense" means 420
the difference between (I) the amount of depreciation expense 421
directly or indirectly allowed to the taxpayer under section 179 422
of the Internal Revenue Code, and (II) the amount of depreciation 423
expense directly or indirectly allowed to the taxpayer under 424
section 179 of the Internal Revenue Code as that section existed 425
on December 31, 2002. 426

The tax commissioner, under procedures established by the 427
commissioner, may waive the add-backs related to a pass-through 428
entity if the taxpayer owns, directly or indirectly, less than 429
five per cent of the pass-through entity. 430

(b) Nothing in division (A)(20) of this section shall be 431
construed to adjust or modify the adjusted basis of any asset. 432

(c) To the extent the add-back required under division 433
(A)(20)(a) of this section is attributable to property generating 434
nonbusiness income or loss allocated under section 5747.20 of the 435
Revised Code, the add-back shall be situated to the same location 436
as the nonbusiness income or loss generated by the property for 437
the purpose of determining the credit under division (A) of 438
section 5747.05 of the Revised Code. Otherwise, the add-back shall 439
be apportioned, subject to one or more of the four alternative 440
methods of apportionment enumerated in section 5747.21 of the 441
Revised Code. 442

(d) For the purposes of division (A) of this section, net 443
operating loss carryback and carryforward shall not include 444
five-sixths of the allowance of any net operating loss deduction 445
carryback or carryforward to the taxable year to the extent such 446
loss resulted from depreciation allowed by section 168(k) of the 447
Internal Revenue Code and by the qualifying section 179 448
depreciation expense amount. 449

(21)(a) If the taxpayer was required to add an amount under 450
division (A)(20)(a) of this section for a taxable year, deduct 451
one-fifth of the amount so added for each of the five succeeding 452
taxable years. 453

(b) If the amount deducted under division (A)(21)(a) of this 454
section is attributable to an add-back allocated under division 455
(A)(20)(c) of this section, the amount deducted shall be situated 456
to the same location. Otherwise, the add-back shall be apportioned 457
using the apportionment factors for the taxable year in which the 458
deduction is taken, subject to one or more of the four alternative 459
methods of apportionment enumerated in section 5747.21 of the 460
Revised Code. 461

(c) No deduction is available under division (A)(21)(a) of 462
this section with regard to any depreciation allowed by section 463
168(k) of the Internal Revenue Code and by the qualifying section 464

179 depreciation expense amount to the extent that such 465
depreciation resulted in or increased a federal net operating loss 466
carryback or carryforward to a taxable year to which division 467
(A)(20)(d) of this section does not apply. 468

(22) Deduct, to the extent not otherwise deducted or excluded 469
in computing federal or Ohio adjusted gross income for the taxable 470
year, the amount the taxpayer received during the taxable year as 471
reimbursement for life insurance premiums under section 5919.31 of 472
the Revised Code. 473

(23) Deduct, to the extent not otherwise deducted or excluded 474
in computing federal or Ohio adjusted gross income for the taxable 475
year, the amount the taxpayer received during the taxable year as 476
a death benefit paid by the adjutant general under section 5919.33 477
of the Revised Code. 478

(24) Deduct, to the extent included in federal adjusted gross 479
income and not otherwise allowable as a deduction or exclusion in 480
computing federal or Ohio adjusted gross income for the taxable 481
year, military pay and allowances received by the taxpayer during 482
the taxable year for active duty service in the United States 483
army, air force, navy, marine corps, or coast guard or reserve 484
components thereof or the national guard. The deduction may not be 485
claimed for military pay and allowances received by the taxpayer 486
while the taxpayer is stationed in this state. 487

(25) Deduct, to the extent not otherwise allowable as a 488
deduction or exclusion in computing federal or Ohio adjusted gross 489
income for the taxable year and not otherwise compensated for by 490
any other source, the amount of qualified organ donation expenses 491
incurred by the taxpayer during the taxable year, not to exceed 492
ten thousand dollars. A taxpayer may deduct qualified organ 493
donation expenses only once for all taxable years beginning with 494
taxable years beginning in 2007. 495

For the purposes of division (A)(25) of this section: 496

(a) "Human organ" means all or any portion of a human liver, 497
pancreas, kidney, intestine, or lung, and any portion of human 498
bone marrow. 499

(b) "Qualified organ donation expenses" means travel 500
expenses, lodging expenses, and wages and salary forgone by a 501
taxpayer in connection with the taxpayer's donation, while living, 502
of one or more of the taxpayer's human organs to another human 503
being. 504

(26) Deduct, to the extent not otherwise deducted or excluded 505
in computing federal or Ohio adjusted gross income for the taxable 506
year, amounts received by the taxpayer as retired military 507
personnel pay for service in the United States army, navy, air 508
force, coast guard, or marine corps or reserve components thereof 509
or the national guard. Any amount deducted under division (A)(26) 510
of this section is not included in the taxpayer's adjusted gross 511
income for the purposes of section 5747.055 of the Revised Code. 512
No amount may be deducted under division (A)(26) of this section 513
on the basis of which a credit was claimed under section 5747.055 514
of the Revised Code. 515

(B) "Business income" means income, including gain or loss, 516
arising from transactions, activities, and sources in the regular 517
course of a trade or business and includes income, gain, or loss 518
from real property, tangible property, and intangible property if 519
the acquisition, rental, management, and disposition of the 520
property constitute integral parts of the regular course of a 521
trade or business operation. "Business income" includes income, 522
including gain or loss, from a partial or complete liquidation of 523
a business, including, but not limited to, gain or loss from the 524
sale or other disposition of goodwill. 525

(C) "Nonbusiness income" means all income other than business 526

income and may include, but is not limited to, compensation, rents 527
and royalties from real or tangible personal property, capital 528
gains, interest, dividends and distributions, patent or copyright 529
royalties, or lottery winnings, prizes, and awards. 530

(D) "Compensation" means any form of remuneration paid to an 531
employee for personal services. 532

(E) "Fiduciary" means a guardian, trustee, executor, 533
administrator, receiver, conservator, or any other person acting 534
in any fiduciary capacity for any individual, trust, or estate. 535

(F) "Fiscal year" means an accounting period of twelve months 536
ending on the last day of any month other than December. 537

(G) "Individual" means any natural person. 538

(H) "Internal Revenue Code" means the "Internal Revenue Code 539
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 540

(I) "Resident" means any of the following, provided that 541
division (I)(3) of this section applies only to taxable years of a 542
trust beginning in 2002 or thereafter: 543

(1) An individual who is domiciled in this state, subject to 544
section 5747.24 of the Revised Code; 545

(2) The estate of a decedent who at the time of death was 546
domiciled in this state. The domicile tests of section 5747.24 of 547
the Revised Code are not controlling for purposes of division 548
(I)(2) of this section. 549

(3) A trust that, in whole or part, resides in this state. If 550
only part of a trust resides in this state, the trust is a 551
resident only with respect to that part. 552

For the purposes of division (I)(3) of this section: 553

(a) A trust resides in this state for the trust's current 554
taxable year to the extent, as described in division (I)(3)(d) of 555
this section, that the trust consists directly or indirectly, in 556

whole or in part, of assets, net of any related liabilities, that 557
were transferred, or caused to be transferred, directly or 558
indirectly, to the trust by any of the following: 559

(i) A person, a court, or a governmental entity or 560
instrumentality on account of the death of a decedent, but only if 561
the trust is described in division (I)(3)(e)(i) or (ii) of this 562
section; 563

(ii) A person who was domiciled in this state for the 564
purposes of this chapter when the person directly or indirectly 565
transferred assets to an irrevocable trust, but only if at least 566
one of the trust's qualifying beneficiaries is domiciled in this 567
state for the purposes of this chapter during all or some portion 568
of the trust's current taxable year; 569

(iii) A person who was domiciled in this state for the 570
purposes of this chapter when the trust document or instrument or 571
part of the trust document or instrument became irrevocable, but 572
only if at least one of the trust's qualifying beneficiaries is a 573
resident domiciled in this state for the purposes of this chapter 574
during all or some portion of the trust's current taxable year. If 575
a trust document or instrument became irrevocable upon the death 576
of a person who at the time of death was domiciled in this state 577
for purposes of this chapter, that person is a person described in 578
division (I)(3)(a)(iii) of this section. 579

(b) A trust is irrevocable to the extent that the transferor 580
is not considered to be the owner of the net assets of the trust 581
under sections 671 to 678 of the Internal Revenue Code. 582

(c) With respect to a trust other than a charitable lead 583
trust, "qualifying beneficiary" has the same meaning as "potential 584
current beneficiary" as defined in section 1361(e)(2) of the 585
Internal Revenue Code, and with respect to a charitable lead trust 586
"qualifying beneficiary" is any current, future, or contingent 587

beneficiary, but with respect to any trust "qualifying 588
beneficiary" excludes a person or a governmental entity or 589
instrumentality to any of which a contribution would qualify for 590
the charitable deduction under section 170 of the Internal Revenue 591
Code. 592

(d) For the purposes of division (I)(3)(a) of this section, 593
the extent to which a trust consists directly or indirectly, in 594
whole or in part, of assets, net of any related liabilities, that 595
were transferred directly or indirectly, in whole or part, to the 596
trust by any of the sources enumerated in that division shall be 597
ascertained by multiplying the fair market value of the trust's 598
assets, net of related liabilities, by the qualifying ratio, which 599
shall be computed as follows: 600

(i) The first time the trust receives assets, the numerator 601
of the qualifying ratio is the fair market value of those assets 602
at that time, net of any related liabilities, from sources 603
enumerated in division (I)(3)(a) of this section. The denominator 604
of the qualifying ratio is the fair market value of all the 605
trust's assets at that time, net of any related liabilities. 606

(ii) Each subsequent time the trust receives assets, a 607
revised qualifying ratio shall be computed. The numerator of the 608
revised qualifying ratio is the sum of (1) the fair market value 609
of the trust's assets immediately prior to the subsequent 610
transfer, net of any related liabilities, multiplied by the 611
qualifying ratio last computed without regard to the subsequent 612
transfer, and (2) the fair market value of the subsequently 613
transferred assets at the time transferred, net of any related 614
liabilities, from sources enumerated in division (I)(3)(a) of this 615
section. The denominator of the revised qualifying ratio is the 616
fair market value of all the trust's assets immediately after the 617
subsequent transfer, net of any related liabilities. 618

(iii) Whether a transfer to the trust is by or from any of 619

the sources enumerated in division (I)(3)(a) of this section shall 620
be ascertained without regard to the domicile of the trust's 621
beneficiaries. 622

(e) For the purposes of division (I)(3)(a)(i) of this 623
section: 624

(i) A trust is described in division (I)(3)(e)(i) of this 625
section if the trust is a testamentary trust and the testator of 626
that testamentary trust was domiciled in this state at the time of 627
the testator's death for purposes of the taxes levied under 628
Chapter 5731. of the Revised Code. 629

(ii) A trust is described in division (I)(3)(e)(ii) of this 630
section if the transfer is a qualifying transfer described in any 631
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 632
irrevocable inter vivos trust, and at least one of the trust's 633
qualifying beneficiaries is domiciled in this state for purposes 634
of this chapter during all or some portion of the trust's current 635
taxable year. 636

(f) For the purposes of division (I)(3)(e)(ii) of this 637
section, a "qualifying transfer" is a transfer of assets, net of 638
any related liabilities, directly or indirectly to a trust, if the 639
transfer is described in any of the following: 640

(i) The transfer is made to a trust, created by the decedent 641
before the decedent's death and while the decedent was domiciled 642
in this state for the purposes of this chapter, and, prior to the 643
death of the decedent, the trust became irrevocable while the 644
decedent was domiciled in this state for the purposes of this 645
chapter. 646

(ii) The transfer is made to a trust to which the decedent, 647
prior to the decedent's death, had directly or indirectly 648
transferred assets, net of any related liabilities, while the 649
decedent was domiciled in this state for the purposes of this 650

chapter, and prior to the death of the decedent the trust became 651
irrevocable while the decedent was domiciled in this state for the 652
purposes of this chapter. 653

(iii) The transfer is made on account of a contractual 654
relationship existing directly or indirectly between the 655
transferor and either the decedent or the estate of the decedent 656
at any time prior to the date of the decedent's death, and the 657
decedent was domiciled in this state at the time of death for 658
purposes of the taxes levied under Chapter 5731. of the Revised 659
Code. 660

(iv) The transfer is made to a trust on account of a 661
contractual relationship existing directly or indirectly between 662
the transferor and another person who at the time of the 663
decedent's death was domiciled in this state for purposes of this 664
chapter. 665

(v) The transfer is made to a trust on account of the will of 666
a testator. 667

(vi) The transfer is made to a trust created by or caused to 668
be created by a court, and the trust was directly or indirectly 669
created in connection with or as a result of the death of an 670
individual who, for purposes of the taxes levied under Chapter 671
5731. of the Revised Code, was domiciled in this state at the time 672
of the individual's death. 673

(g) The tax commissioner may adopt rules to ascertain the 674
part of a trust residing in this state. 675

(J) "Nonresident" means an individual or estate that is not a 676
resident. An individual who is a resident for only part of a 677
taxable year is a nonresident for the remainder of that taxable 678
year. 679

(K) "Pass-through entity" has the same meaning as in section 680
5733.04 of the Revised Code. 681

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

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

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

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

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

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

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

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

(R) "Overpayment" means any amount already paid that exceeds 712
the figure determined to be the correct amount of the tax. 713

(S) "Taxable income" or "Ohio taxable income" applies only to 714
estates and trusts, and means federal taxable income, as defined 715
and used in the Internal Revenue Code, adjusted as follows: 716

(1) Add interest or dividends, net of ordinary, necessary, 717
and reasonable expenses not deducted in computing federal taxable 718
income, on obligations or securities of any state or of any 719
political subdivision or authority of any state, other than this 720
state and its subdivisions and authorities, but only to the extent 721
that such net amount is not otherwise includible in Ohio taxable 722
income and is described in either division (S)(1)(a) or (b) of 723
this section: 724

(a) The net amount is not attributable to the S portion of an 725
electing small business trust and has not been distributed to 726
beneficiaries for the taxable year; 727

(b) The net amount is attributable to the S portion of an 728
electing small business trust for the taxable year. 729

(2) Add interest or dividends, net of ordinary, necessary, 730
and reasonable expenses not deducted in computing federal taxable 731
income, on obligations of any authority, commission, 732
instrumentality, territory, or possession of the United States to 733
the extent that the interest or dividends are exempt from federal 734
income taxes but not from state income taxes, but only to the 735
extent that such net amount is not otherwise includible in Ohio 736
taxable income and is described in either division (S)(1)(a) or 737
(b) of this section; 738

(3) Add the amount of personal exemption allowed to the 739
estate pursuant to section 642(b) of the Internal Revenue Code; 740

(4) Deduct interest or dividends, net of related expenses 741
deducted in computing federal taxable income, on obligations of 742

the United States and its territories and possessions or of any 743
authority, commission, or instrumentality of the United States to 744
the extent that the interest or dividends are exempt from state 745
taxes under the laws of the United States, but only to the extent 746
that such amount is included in federal taxable income and is 747
described in either division (S)(1)(a) or (b) of this section; 748

(5) Deduct the amount of wages and salaries, if any, not 749
otherwise allowable as a deduction but that would have been 750
allowable as a deduction in computing federal taxable income for 751
the taxable year, had the targeted jobs credit allowed under 752
sections 38, 51, and 52 of the Internal Revenue Code not been in 753
effect, but only to the extent such amount relates either to 754
income included in federal taxable income for the taxable year or 755
to income of the S portion of an electing small business trust for 756
the taxable year; 757

(6) Deduct any interest or interest equivalent, net of 758
related expenses deducted in computing federal taxable income, on 759
public obligations and purchase obligations, but only to the 760
extent that such net amount relates either to income included in 761
federal taxable income for the taxable year or to income of the S 762
portion of an electing small business trust for the taxable year; 763

(7) Add any loss or deduct any gain resulting from sale, 764
exchange, or other disposition of public obligations to the extent 765
that such loss has been deducted or such gain has been included in 766
computing either federal taxable income or income of the S portion 767
of an electing small business trust for the taxable year; 768

(8) Except in the case of the final return of an estate, add 769
any amount deducted by the taxpayer on both its Ohio estate tax 770
return pursuant to section 5731.14 of the Revised Code, and on its 771
federal income tax return in determining federal taxable income; 772

(9)(a) Deduct any amount included in federal taxable income 773

solely because the amount represents a reimbursement or refund of 774
expenses that in a previous year the decedent had deducted as an 775
itemized deduction pursuant to section 63 of the Internal Revenue 776
Code and applicable treasury regulations. The deduction otherwise 777
allowed under division (S)(9)(a) of this section shall be reduced 778
to the extent the reimbursement is attributable to an amount the 779
taxpayer or decedent deducted under this section in any taxable 780
year. 781

(b) Add any amount not otherwise included in Ohio taxable 782
income for any taxable year to the extent that the amount is 783
attributable to the recovery during the taxable year of any amount 784
deducted or excluded in computing federal or Ohio taxable income 785
in any taxable year, but only to the extent such amount has not 786
been distributed to beneficiaries for the taxable year. 787

(10) Deduct any portion of the deduction described in section 788
1341(a)(2) of the Internal Revenue Code, for repaying previously 789
reported income received under a claim of right, that meets both 790
of the following requirements: 791

(a) It is allowable for repayment of an item that was 792
included in the taxpayer's taxable income or the decedent's 793
adjusted gross income for a prior taxable year and did not qualify 794
for a credit under division (A) or (B) of section 5747.05 of the 795
Revised Code for that year. 796

(b) It does not otherwise reduce the taxpayer's taxable 797
income or the decedent's adjusted gross income for the current or 798
any other taxable year. 799

(11) Add any amount claimed as a credit under section 800
5747.059 of the Revised Code to the extent that the amount 801
satisfies either of the following: 802

(a) The amount was deducted or excluded from the computation 803
of the taxpayer's federal taxable income as required to be 804

reported for the taxpayer's taxable year under the Internal Revenue Code; 805
806

(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. 807
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(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. 810
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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 or thereafter. 822
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(13) 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. 828
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(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) 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) of 831
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this section applies only to any of the trust's taxable years 836
beginning in 2002 or thereafter. 837

(T) "School district income" and "school district income tax" 838
have the same meanings as in section 5748.01 of the Revised Code. 839

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 840
of this section, "public obligations," "purchase obligations," and 841
"interest or interest equivalent" have the same meanings as in 842
section 5709.76 of the Revised Code. 843

(V) "Limited liability company" means any limited liability 844
company formed under Chapter 1705. of the Revised Code or under 845
the laws of any other state. 846

(W) "Pass-through entity investor" means any person who, 847
during any portion of a taxable year of a pass-through entity, is 848
a partner, member, shareholder, or equity investor in that 849
pass-through entity. 850

(X) "Banking day" has the same meaning as in section 1304.01 851
of the Revised Code. 852

(Y) "Month" means a calendar month. 853

(Z) "Quarter" means the first three months, the second three 854
months, the third three months, or the last three months of the 855
taxpayer's taxable year. 856

(AA)(1) "Eligible institution" means a state university or 857
state institution of higher education as defined in section 858
3345.011 of the Revised Code, or a private, nonprofit college, 859
university, or other post-secondary institution located in this 860
state that possesses a certificate of authorization issued by the 861
Ohio board of regents pursuant to Chapter 1713. of the Revised 862
Code or a certificate of registration issued by the state board of 863
career colleges and schools under Chapter 3332. of the Revised 864
Code. 865

(2) "Qualified tuition and fees" means tuition and fees 866
imposed by an eligible institution as a condition of enrollment or 867
attendance, not exceeding two thousand five hundred dollars in 868
each of the individual's first two years of post-secondary 869
education. If the individual is a part-time student, "qualified 870
tuition and fees" includes tuition and fees paid for the academic 871
equivalent of the first two years of post-secondary education 872
during a maximum of five taxable years, not exceeding a total of 873
five thousand dollars. "Qualified tuition and fees" does not 874
include: 875

(a) Expenses for any course or activity involving sports, 876
games, or hobbies unless the course or activity is part of the 877
individual's degree or diploma program; 878

(b) The cost of books, room and board, student activity fees, 879
athletic fees, insurance expenses, or other expenses unrelated to 880
the individual's academic course of instruction; 881

(c) Tuition, fees, or other expenses paid or reimbursed 882
through an employer, scholarship, grant in aid, or other 883
educational benefit program. 884

(BB)(1) "Modified business income" means the business income 885
included in a trust's Ohio taxable income after such taxable 886
income is first reduced by the qualifying trust amount, if any. 887

(2) "Qualifying trust amount" of a trust means capital gains 888
and losses from the sale, exchange, or other disposition of equity 889
or ownership interests in, or debt obligations of, a qualifying 890
investee to the extent included in the trust's Ohio taxable 891
income, but only if the following requirements are satisfied: 892

(a) The book value of the qualifying investee's physical 893
assets in this state and everywhere, as of the last day of the 894
qualifying investee's fiscal or calendar year ending immediately 895
prior to the date on which the trust recognizes the gain or loss, 896

is available to the trust. 897

(b) The requirements of section 5747.011 of the Revised Code 898
are satisfied for the trust's taxable year in which the trust 899
recognizes the gain or loss. 900

Any gain or loss that is not a qualifying trust amount is 901
modified business income, qualifying investment income, or 902
modified nonbusiness income, as the case may be. 903

(3) "Modified nonbusiness income" means a trust's Ohio 904
taxable income other than modified business income, other than the 905
qualifying trust amount, and other than qualifying investment 906
income, as defined in section 5747.012 of the Revised Code, to the 907
extent such qualifying investment income is not otherwise part of 908
modified business income. 909

(4) "Modified Ohio taxable income" applies only to trusts, 910
and means the sum of the amounts described in divisions (BB)(4)(a) 911
to (c) of this section: 912

(a) The fraction, calculated under section 5747.013, and 913
applying section 5747.231 of the Revised Code, multiplied by the 914
sum of the following amounts: 915

(i) The trust's modified business income; 916

(ii) The trust's qualifying investment income, as defined in 917
section 5747.012 of the Revised Code, but only to the extent the 918
qualifying investment income does not otherwise constitute 919
modified business income and does not otherwise constitute a 920
qualifying trust amount. 921

(b) The qualifying trust amount multiplied by a fraction, the 922
numerator of which is the sum of the book value of the qualifying 923
investee's physical assets in this state on the last day of the 924
qualifying investee's fiscal or calendar year ending immediately 925
prior to the day on which the trust recognizes the qualifying 926

trust amount, and the denominator of which is the sum of the book 927
value of the qualifying investee's total physical assets 928
everywhere on the last day of the qualifying investee's fiscal or 929
calendar year ending immediately prior to the day on which the 930
trust recognizes the qualifying trust amount. If, for a taxable 931
year, the trust recognizes a qualifying trust amount with respect 932
to more than one qualifying investee, the amount described in 933
division (BB)(4)(b) of this section shall equal the sum of the 934
products so computed for each such qualifying investee. 935

(c)(i) With respect to a trust or portion of a trust that is 936
a resident as ascertained in accordance with division (I)(3)(d) of 937
this section, its modified nonbusiness income. 938

(ii) With respect to a trust or portion of a trust that is 939
not a resident as ascertained in accordance with division 940
(I)(3)(d) of this section, the amount of its modified nonbusiness 941
income satisfying the descriptions in divisions (B)(2) to (5) of 942
section 5747.20 of the Revised Code, except as otherwise provided 943
in division (BB)(4)(c)(ii) of this section. With respect to a 944
trust or portion of a trust that is not a resident as ascertained 945
in accordance with division (I)(3)(d) of this section, the trust's 946
portion of modified nonbusiness income recognized from the sale, 947
exchange, or other disposition of a debt interest in or equity 948
interest in a section 5747.212 entity, as defined in section 949
5747.212 of the Revised Code, without regard to division (A) of 950
that section, shall not be allocated to this state in accordance 951
with section 5747.20 of the Revised Code but shall be apportioned 952
to this state in accordance with division (B) of section 5747.212 953
of the Revised Code without regard to division (A) of that 954
section. 955

If the allocation and apportionment of a trust's income under 956
divisions (BB)(4)(a) and (c) of this section do not fairly 957
represent the modified Ohio taxable income of the trust in this 958

state, the alternative methods described in division (C) of 959
section 5747.21 of the Revised Code may be applied in the manner 960
and to the same extent provided in that section. 961

(5)(a) Except as set forth in division (BB)(5)(b) of this 962
section, "qualifying investee" means a person in which a trust has 963
an equity or ownership interest, or a person or unit of government 964
the debt obligations of either of which are owned by a trust. For 965
the purposes of division (BB)(2)(a) of this section and for the 966
purpose of computing the fraction described in division (BB)(4)(b) 967
of this section, all of the following apply: 968

(i) If the qualifying investee is a member of a qualifying 969
controlled group on the last day of the qualifying investee's 970
fiscal or calendar year ending immediately prior to the date on 971
which the trust recognizes the gain or loss, then "qualifying 972
investee" includes all persons in the qualifying controlled group 973
on such last day. 974

(ii) If the qualifying investee, or if the qualifying 975
investee and any members of the qualifying controlled group of 976
which the qualifying investee is a member on the last day of the 977
qualifying investee's fiscal or calendar year ending immediately 978
prior to the date on which the trust recognizes the gain or loss, 979
separately or cumulatively own, directly or indirectly, on the 980
last day of the qualifying investee's fiscal or calendar year 981
ending immediately prior to the date on which the trust recognizes 982
the qualifying trust amount, more than fifty per cent of the 983
equity of a pass-through entity, then the qualifying investee and 984
the other members are deemed to own the proportionate share of the 985
pass-through entity's physical assets which the pass-through 986
entity directly or indirectly owns on the last day of the 987
pass-through entity's calendar or fiscal year ending within or 988
with the last day of the qualifying investee's fiscal or calendar 989
year ending immediately prior to the date on which the trust 990

recognizes the qualifying trust amount. 991

(iii) For the purposes of division (BB)(5)(a)(iii) of this 992
section, "upper level pass-through entity" means a pass-through 993
entity directly or indirectly owning any equity of another 994
pass-through entity, and "lower level pass-through entity" means 995
that other pass-through entity. 996

An upper level pass-through entity, whether or not it is also 997
a qualifying investee, is deemed to own, on the last day of the 998
upper level pass-through entity's calendar or fiscal year, the 999
proportionate share of the lower level pass-through entity's 1000
physical assets that the lower level pass-through entity directly 1001
or indirectly owns on the last day of the lower level pass-through 1002
entity's calendar or fiscal year ending within or with the last 1003
day of the upper level pass-through entity's fiscal or calendar 1004
year. If the upper level pass-through entity directly and 1005
indirectly owns less than fifty per cent of the equity of the 1006
lower level pass-through entity on each day of the upper level 1007
pass-through entity's calendar or fiscal year in which or with 1008
which ends the calendar or fiscal year of the lower level 1009
pass-through entity and if, based upon clear and convincing 1010
evidence, complete information about the location and cost of the 1011
physical assets of the lower pass-through entity is not available 1012
to the upper level pass-through entity, then solely for purposes 1013
of ascertaining if a gain or loss constitutes a qualifying trust 1014
amount, the upper level pass-through entity shall be deemed as 1015
owning no equity of the lower level pass-through entity for each 1016
day during the upper level pass-through entity's calendar or 1017
fiscal year in which or with which ends the lower level 1018
pass-through entity's calendar or fiscal year. Nothing in division 1019
(BB)(5)(a)(iii) of this section shall be construed to provide for 1020
any deduction or exclusion in computing any trust's Ohio taxable 1021
income. 1022

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

(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.

(ii) Such gain or loss constitutes nonbusiness income.

(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.

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

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

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

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

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

(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;

(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 1053
ending within, or on the last day of, the investor's taxable year. 1054

(2) For the purposes of this chapter, unless expressly stated 1055
otherwise, no qualifying person indirectly owns any asset directly 1056
or indirectly owned by any qualifying corporation. 1057

(FF) For purposes of this chapter and Chapter 5751. of the 1058
Revised Code: 1059

(1) "Trust" does not include a qualified pre-income tax 1060
trust. 1061

(2) A "qualified pre-income tax trust" is any pre-income tax 1062
trust that makes a qualifying pre-income tax trust election as 1063
described in division (FF)(3) of this section. 1064

(3) A "qualifying pre-income tax trust election" is an 1065
election by a pre-income tax trust to subject to the tax imposed 1066
by section 5751.02 of the Revised Code the pre-income tax trust 1067
and all pass-through entities of which the trust owns or controls, 1068
directly, indirectly, or constructively through related interests, 1069
five per cent or more of the ownership or equity interests. The 1070
trustee shall notify the tax commissioner in writing of the 1071
election on or before April 15, 2006. The election, if timely 1072
made, shall be effective on and after January 1, 2006, and shall 1073
apply for all tax periods and tax years until revoked by the 1074
trustee of the trust. 1075

(4) A "pre-income tax trust" is a trust that satisfies all of 1076
the following requirements: 1077

(a) The document or instrument creating the trust was 1078
executed by the grantor before January 1, 1972; 1079

(b) The trust became irrevocable upon the creation of the 1080
trust; and 1081

(c) The grantor was domiciled in this state at the time the 1082

trust was created. 1083

Sec. 5903.10. Any holder of an expired license or certificate 1084
from this state or any political subdivision or agency of the 1085
state to practice a trade or profession, whose license or 1086
certificate was not renewed because of ~~his~~ the holder's service in 1087
the armed forces of the United States, or in the national guard or 1088
in a reserve component, shall, upon presentation of satisfactory 1089
evidence of honorable discharge or separation under honorable 1090
conditions therefrom within six months of such discharge or 1091
separation, be granted a renewal of said license or certificate by 1092
the issuing board or authority at the usual cost without penalty 1093
and without re-examination if not otherwise disqualified because 1094
of mental or physical disability. 1095

Sec. 5903.12. (A) As used in this section: 1096

(1) "Continuing education" means continuing education 1097
required of a licensee by law and includes, but is not limited to, 1098
the continuing education required of licensees under sections 1099
3737.881, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 4723.24, 1100
4725.16, 4725.51, 4730.14, 4730.49, 4731.281, 4734.25, 4735.141, 1101
4736.11, 4741.16, 4741.19, 4751.07, 4755.63, 4757.33, 4759.06, 1102
4761.06, and 4763.07 of the Revised Code. 1103

(2) "License" means a license, certificate, permit, or other 1104
authorization issued or conferred by a licensing agency under 1105
which a licensee may engage in a profession, occupation, or 1106
occupational activity. 1107

(3) "Licensee" means a person to whom all of the following 1108
apply: 1109

(a) The person has been issued a license by a licensing 1110
agency. 1111

(b) The person is a member of the Ohio national guard, the 1112

Ohio military reserve, the Ohio naval militia, or a reserve 1113
component of the armed forces of the United States. 1114

(c) The person has been called to active duty, whether inside 1115
or outside the United States, because of an executive order issued 1116
by the president of the United States or an act of congress, or 1117
upon the order of the governor, for a period in excess of 1118
thirty-one days. 1119

(4) "Licensing agency" means any state department, division, 1120
board, commission, agency, or other state governmental unit 1121
authorized by the Revised Code to issue a license. 1122

(5) "Reporting period" means the period of time during which 1123
a licensee must complete the number of hours of continuing 1124
education required of the licensee by law. 1125

(B) Each licensing agency, upon receiving an application from 1126
one of its licensees that is accompanied by proper documentation 1127
certifying that the licensee has been called to active duty as 1128
described in division (A)(3)(c) of this section during the current 1129
or a prior reporting period and certifying the length of that 1130
active duty, shall extend the current reporting period by an 1131
amount of time equal to the total number of months that the 1132
licensee spent on active duty during the current reporting period. 1133
For purposes of this division, any portion of a month served on 1134
active duty shall be considered one full month. 1135

Section 2. That existing sections 2101.16, 5747.01, 5903.10, 1136
and 5903.12 of the Revised Code are hereby repealed. 1137

Section 3. The amendment by this act of section 2101.16 of 1138
the Revised Code and the enactment of this act by section 2101.164 1139
of the Revised Code apply to the estates of decedents who die on 1140
or after the effective date of this act. 1141

Section 4. The amendment by this act of section 5747.01 of 1142

the Revised Code applies to taxable years beginning on or after	1143
January 1, 2008.	1144