

As Introduced

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Representative Reinhard

**Cosponsors: Representatives Collier, Combs, Hughes, McGregor, J.,
Otterman, J., Webster**

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A B I L L

To amend section 5747.01 of the Revised Code to 1
authorize an income tax deduction for interest 2
from deposits in certain bank accounts. 3

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

Section 1. That section 5747.01 of the Revised Code be 4
amended to read as follows: 5

Sec. 5747.01. Except as otherwise expressly provided or 6
clearly appearing from the context, any term used in this chapter 7
that is not otherwise defined in this section has the same meaning 8
as when used in a comparable context in the laws of the United 9
States relating to federal income taxes or if not used in a 10
comparable context in those laws, has the same meaning as in 11
section 5733.40 of the Revised Code. Any reference in this chapter 12
to the Internal Revenue Code includes other laws of the United 13
States relating to federal income taxes. 14

As used in this chapter: 15

(A) "Adjusted gross income" or "Ohio adjusted gross income" 16
means federal adjusted gross income, as defined and used in the 17
Internal Revenue Code, adjusted as provided in this section: 18

(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.	19 20 21
(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.	22 23 24 25 26
(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.	27 28 29 30 31 32
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	33 34
(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.	35 36 37 38
(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. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross	39 40 41 42 43 44 45 46 47 48 49

income required under division (A) of this section and (ii) the 50
personal exemptions allowed to the trust pursuant to section 51
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 52
deductions to adjusted gross income required under division (A) of 53
this section, (ii) the amount of federal income taxes attributable 54
to such income, and (iii) the amount of taxable income that has 55
been included in the adjusted gross income of a beneficiary by 56
reason of a prior accumulation distribution. Any undistributed net 57
income included in the adjusted gross income of a beneficiary 58
shall reduce the undistributed net income of the trust commencing 59
with the earliest years of the accumulation period. 60

(7) Deduct the amount of wages and salaries, if any, not 61
otherwise allowable as a deduction but that would have been 62
allowable as a deduction in computing federal adjusted gross 63
income for the taxable year, had the targeted jobs credit allowed 64
and determined under sections 38, 51, and 52 of the Internal 65
Revenue Code not been in effect. 66

(8) Deduct any interest or interest equivalent on public 67
obligations and purchase obligations to the extent that the 68
interest or interest equivalent is included in federal adjusted 69
gross income. 70

(9) Add any loss or deduct any gain resulting from the sale, 71
exchange, or other disposition of public obligations to the extent 72
that the loss has been deducted or the gain has been included in 73
computing federal adjusted gross income. 74

(10) Deduct or add amounts, as provided under section 5747.70 75
of the Revised Code, related to contributions to variable college 76
savings program accounts made or tuition units purchased pursuant 77
to Chapter 3334. of the Revised Code. 78

(11)(a) Deduct, to the extent not otherwise allowable as a 79
deduction or exclusion in computing federal or Ohio adjusted gross 80

income for the taxable year, the amount the taxpayer paid during 81
the taxable year for medical care insurance and qualified 82
long-term care insurance for the taxpayer, the taxpayer's spouse, 83
and dependents. No deduction for medical care insurance under 84
division (A)(11) of this section shall be allowed either to any 85
taxpayer who is eligible to participate in any subsidized health 86
plan maintained by any employer of the taxpayer or of the 87
taxpayer's spouse, or to any taxpayer who is entitled to, or on 88
application would be entitled to, benefits under part A of Title 89
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 90
301, as amended. For the purposes of division (A)(11)(a) of this 91
section, "subsidized health plan" means a health plan for which 92
the employer pays any portion of the plan's cost. The deduction 93
allowed under division (A)(11)(a) of this section shall be the net 94
of any related premium refunds, related premium reimbursements, or 95
related insurance premium dividends received during the taxable 96
year. 97

(b) Deduct, to the extent not otherwise deducted or excluded 98
in computing federal or Ohio adjusted gross income during the 99
taxable year, the amount the taxpayer paid during the taxable 100
year, not compensated for by any insurance or otherwise, for 101
medical care of the taxpayer, the taxpayer's spouse, and 102
dependents, to the extent the expenses exceed seven and one-half 103
per cent of the taxpayer's federal adjusted gross income. 104

(c) For purposes of division (A)(11) of this section, 105
"medical care" has the meaning given in section 213 of the 106
Internal Revenue Code, subject to the special rules, limitations, 107
and exclusions set forth therein, and "qualified long-term care" 108
has the same meaning given in section 7702B(c) of the Internal 109
Revenue Code. 110

(12)(a) Deduct any amount included in federal adjusted gross 111
income solely because the amount represents a reimbursement or 112

refund of expenses that in any year the taxpayer had deducted as 113
an itemized deduction pursuant to section 63 of the Internal 114
Revenue Code and applicable United States department of the 115
treasury regulations. The deduction otherwise allowed under 116
division (A)(12)(a) of this section shall be reduced to the extent 117
the reimbursement is attributable to an amount the taxpayer 118
deducted under this section in any taxable year. 119

(b) Add any amount not otherwise included in Ohio adjusted 120
gross income for any taxable year to the extent that the amount is 121
attributable to the recovery during the taxable year of any amount 122
deducted or excluded in computing federal or Ohio adjusted gross 123
income in any taxable year. 124

(13) Deduct any portion of the deduction described in section 125
1341(a)(2) of the Internal Revenue Code, for repaying previously 126
reported income received under a claim of right, that meets both 127
of the following requirements: 128

(a) It is allowable for repayment of an item that was 129
included in the taxpayer's adjusted gross income for a prior 130
taxable year and did not qualify for a credit under division (A) 131
or (B) of section 5747.05 of the Revised Code for that year; 132

(b) It does not otherwise reduce the taxpayer's adjusted 133
gross income for the current or any other taxable year. 134

(14) Deduct an amount equal to the deposits made to, and net 135
investment earnings of, a medical savings account during the 136
taxable year, in accordance with section 3924.66 of the Revised 137
Code. The deduction allowed by division (A)(14) of this section 138
does not apply to medical savings account deposits and earnings 139
otherwise deducted or excluded for the current or any other 140
taxable year from the taxpayer's federal adjusted gross income. 141

(15)(a) Add an amount equal to the funds withdrawn from a 142
medical savings account during the taxable year, and the net 143

investment earnings on those funds, when the funds withdrawn were 144
used for any purpose other than to reimburse an account holder 145
for, or to pay, eligible medical expenses, in accordance with 146
section 3924.66 of the Revised Code; 147

(b) Add the amounts distributed from a medical savings 148
account under division (A)(2) of section 3924.68 of the Revised 149
Code during the taxable year. 150

(16) Add any amount claimed as a credit under section 151
5747.059 of the Revised Code to the extent that such amount 152
satisfies either of the following: 153

(a) The amount was deducted or excluded from the computation 154
of the taxpayer's federal adjusted gross income as required to be 155
reported for the taxpayer's taxable year under the Internal 156
Revenue Code; 157

(b) The amount resulted in a reduction of the taxpayer's 158
federal adjusted gross income as required to be reported for any 159
of the taxpayer's taxable years under the Internal Revenue Code. 160

(17) Deduct the amount contributed by the taxpayer to an 161
individual development account program established by a county 162
department of job and family services pursuant to sections 329.11 163
to 329.14 of the Revised Code for the purpose of matching funds 164
deposited by program participants. On request of the tax 165
commissioner, the taxpayer shall provide any information that, in 166
the tax commissioner's opinion, is necessary to establish the 167
amount deducted under division (A)(17) of this section. 168

(18) Beginning in taxable year 2001 but not for any taxable 169
year beginning after December 31, 2005, if the taxpayer is married 170
and files a joint return and the combined federal adjusted gross 171
income of the taxpayer and the taxpayer's spouse for the taxable 172
year does not exceed one hundred thousand dollars, or if the 173
taxpayer is single and has a federal adjusted gross income for the 174

taxable year not exceeding fifty thousand dollars, deduct amounts 175
paid during the taxable year for qualified tuition and fees paid 176
to an eligible institution for the taxpayer, the taxpayer's 177
spouse, or any dependent of the taxpayer, who is a resident of 178
this state and is enrolled in or attending a program that 179
culminates in a degree or diploma at an eligible institution. The 180
deduction may be claimed only to the extent that qualified tuition 181
and fees are not otherwise deducted or excluded for any taxable 182
year from federal or Ohio adjusted gross income. The deduction may 183
not be claimed for educational expenses for which the taxpayer 184
claims a credit under section 5747.27 of the Revised Code. 185

(19) Add any reimbursement received during the taxable year 186
of any amount the taxpayer deducted under division (A)(18) of this 187
section in any previous taxable year to the extent the amount is 188
not otherwise included in Ohio adjusted gross income. 189

(20)(a)(i) Add five-sixths of the amount of depreciation 190
expense allowed by subsection (k) of section 168 of the Internal 191
Revenue Code, including the taxpayer's proportionate or 192
distributive share of the amount of depreciation expense allowed 193
by that subsection to a pass-through entity in which the taxpayer 194
has a direct or indirect ownership interest. 195

(ii) Add five-sixths of the amount of qualifying section 179 196
depreciation expense, including a person's proportionate or 197
distributive share of the amount of qualifying section 179 198
depreciation expense allowed to any pass-through entity in which 199
the person has a direct or indirect ownership. For the purposes of 200
this division, "qualifying section 179 depreciation expense" means 201
the difference between (I) the amount of depreciation expense 202
directly or indirectly allowed to the taxpayer under section 179 203
of the Internal Revenue Code, and (II) the amount of depreciation 204
expense directly or indirectly allowed to the taxpayer under 205
section 179 of the Internal Revenue Code as that section existed 206

on December 31, 2002.	207
The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.	208 209 210 211
(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.	212 213
(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.	214 215 216 217 218 219 220 221 222 223
(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.	224 225 226 227 228 229 230
(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.	231 232 233 234
(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated	235 236 237

to the same location. Otherwise, the add-back shall be apportioned 238
using the apportionment factors for the taxable year in which the 239
deduction is taken, subject to one or more of the four alternative 240
methods of apportionment enumerated in section 5747.21 of the 241
Revised Code. 242

(c) No deduction is available under division (A)(21)(a) of 243
this section with regard to any depreciation allowed by section 244
168(k) of the Internal Revenue Code and by the qualifying section 245
179 depreciation expense amount to the extent that such 246
depreciation resulted in or increased a federal net operating loss 247
carryback or carryforward to a taxable year to which division 248
(A)(20)(d) of this section does not apply. 249

(22) Deduct, to the extent not otherwise deducted or excluded 250
in computing federal or Ohio adjusted gross income for the taxable 251
year, the amount the taxpayer received during the taxable year as 252
reimbursement for life insurance premiums under section 5919.31 of 253
the Revised Code. 254

(23) Deduct, to the extent not otherwise deducted or excluded 255
in computing federal or Ohio adjusted gross income for the taxable 256
year, the amount the taxpayer received during the taxable year as 257
a death benefit paid by the adjutant general under section 5919.33 258
of the Revised Code. 259

(24) Deduct, to the extent included in federal adjusted gross 260
income and not otherwise allowable as a deduction or exclusion in 261
computing federal or Ohio adjusted gross income for the taxable 262
year, military pay and allowances received by the taxpayer during 263
the taxable year for active duty service in the United States 264
army, air force, navy, marine corps, or coast guard or reserve 265
components thereof or the national guard. The deduction may not be 266
claimed for military pay and allowances received by the taxpayer 267
while the taxpayer is stationed in this state. 268

(25) Deduct, to the extent not otherwise allowable as a 269
deduction or exclusion in computing federal or Ohio adjusted gross 270
income for the taxable year and not otherwise compensated for by 271
any other source, the amount of qualified organ donation expenses 272
incurred by the taxpayer during the taxable year, not to exceed 273
ten thousand dollars. A taxpayer may deduct qualified organ 274
donation expenses only once for all taxable years beginning with 275
taxable years beginning in 2007. 276

For the purposes of division (A)(25) of this section: 277

(a) "Human organ" means all or any portion of a human liver, 278
pancreas, kidney, intestine, or lung, and any portion of human 279
bone marrow. 280

(b) "Qualified organ donation expenses" means travel 281
expenses, lodging expenses, and wages and salary forgone by a 282
taxpayer in connection with the taxpayer's donation, while living, 283
of one or more of the taxpayer's human organs to another human 284
being. 285

(26) Deduct, to the extent not otherwise deducted or excluded 286
in computing federal or Ohio adjusted gross income for the taxable 287
year, amounts received by the taxpayer as retired military 288
personnel pay for service in the United States army, navy, air 289
force, coast guard, or marine corps or reserve components thereof, 290
or the national guard. If the taxpayer receives income on account 291
of retirement paid under the federal civil service retirement 292
system or federal employees retirement system, or under any 293
successor retirement program enacted by the congress of the United 294
States that is established and maintained for retired employees of 295
the United States government, and such retirement income is based, 296
in whole or in part, on credit for the taxpayer's military 297
service, the deduction allowed under this division shall include 298
only that portion of such retirement income that is attributable 299
to the taxpayer's military service, to the extent that portion of 300

such retirement income is otherwise included in federal adjusted 301
gross income and is not otherwise deducted under this section. Any 302
amount deducted under division (A)(26) of this section is not 303
included in the taxpayer's adjusted gross income for the purposes 304
of section 5747.055 of the Revised Code. No amount may be deducted 305
under division (A)(26) of this section on the basis of which a 306
credit was claimed under section 5747.055 of the Revised Code. 307

(27) Deduct, to the extent included in federal adjusted gross 309
income, interest from an individual's savings, checking, 310
certificate of deposit, or money market account, in an amount not 311
to exceed five hundred dollars for a separate return or one 312
thousand dollars for a joint return. 313

(B) "Business income" means income, including gain or loss, 314
arising from transactions, activities, and sources in the regular 315
course of a trade or business and includes income, gain, or loss 316
from real property, tangible property, and intangible property if 317
the acquisition, rental, management, and disposition of the 318
property constitute integral parts of the regular course of a 319
trade or business operation. "Business income" includes income, 320
including gain or loss, from a partial or complete liquidation of 321
a business, including, but not limited to, gain or loss from the 322
sale or other disposition of goodwill. 323

(C) "Nonbusiness income" means all income other than business 324
income and may include, but is not limited to, compensation, rents 325
and royalties from real or tangible personal property, capital 326
gains, interest, dividends and distributions, patent or copyright 327
royalties, or lottery winnings, prizes, and awards. 328

(D) "Compensation" means any form of remuneration paid to an 329
employee for personal services. 330

(E) "Fiduciary" means a guardian, trustee, executor, 331

administrator, receiver, conservator, or any other person acting	332
in any fiduciary capacity for any individual, trust, or estate.	333
(F) "Fiscal year" means an accounting period of twelve months	334
ending on the last day of any month other than December.	335
(G) "Individual" means any natural person.	336
(H) "Internal Revenue Code" means the "Internal Revenue Code	337
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	338
(I) "Resident" means any of the following, provided that	339
division (I)(3) of this section applies only to taxable years of a	340
trust beginning in 2002 or thereafter:	341
(1) An individual who is domiciled in this state, subject to	342
section 5747.24 of the Revised Code;	343
(2) The estate of a decedent who at the time of death was	344
domiciled in this state. The domicile tests of section 5747.24 of	345
the Revised Code are not controlling for purposes of division	346
(I)(2) of this section.	347
(3) A trust that, in whole or part, resides in this state. If	348
only part of a trust resides in this state, the trust is a	349
resident only with respect to that part.	350
For the purposes of division (I)(3) of this section:	351
(a) A trust resides in this state for the trust's current	352
taxable year to the extent, as described in division (I)(3)(d) of	353
this section, that the trust consists directly or indirectly, in	354
whole or in part, of assets, net of any related liabilities, that	355
were transferred, or caused to be transferred, directly or	356
indirectly, to the trust by any of the following:	357
(i) A person, a court, or a governmental entity or	358
instrumentality on account of the death of a decedent, but only if	359
the trust is described in division (I)(3)(e)(i) or (ii) of this	360
section;	361

(ii) A person who was domiciled in this state for the 362
purposes of this chapter when the person directly or indirectly 363
transferred assets to an irrevocable trust, but only if at least 364
one of the trust's qualifying beneficiaries is domiciled in this 365
state for the purposes of this chapter during all or some portion 366
of the trust's current taxable year; 367

(iii) A person who was domiciled in this state for the 368
purposes of this chapter when the trust document or instrument or 369
part of the trust document or instrument became irrevocable, but 370
only if at least one of the trust's qualifying beneficiaries is a 371
resident domiciled in this state for the purposes of this chapter 372
during all or some portion of the trust's current taxable year. If 373
a trust document or instrument became irrevocable upon the death 374
of a person who at the time of death was domiciled in this state 375
for purposes of this chapter, that person is a person described in 376
division (I)(3)(a)(iii) of this section. 377

(b) A trust is irrevocable to the extent that the transferor 378
is not considered to be the owner of the net assets of the trust 379
under sections 671 to 678 of the Internal Revenue Code. 380

(c) With respect to a trust other than a charitable lead 381
trust, "qualifying beneficiary" has the same meaning as "potential 382
current beneficiary" as defined in section 1361(e)(2) of the 383
Internal Revenue Code, and with respect to a charitable lead trust 384
"qualifying beneficiary" is any current, future, or contingent 385
beneficiary, but with respect to any trust "qualifying 386
beneficiary" excludes a person or a governmental entity or 387
instrumentality to any of which a contribution would qualify for 388
the charitable deduction under section 170 of the Internal Revenue 389
Code. 390

(d) For the purposes of division (I)(3)(a) of this section, 391
the extent to which a trust consists directly or indirectly, in 392
whole or in part, of assets, net of any related liabilities, that 393

were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

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

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

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

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

(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 425
the testator's death for purposes of the taxes levied under 426
Chapter 5731. of the Revised Code. 427

(ii) A trust is described in division (I)(3)(e)(ii) of this 428
section if the transfer is a qualifying transfer described in any 429
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 430
irrevocable inter vivos trust, and at least one of the trust's 431
qualifying beneficiaries is domiciled in this state for purposes 432
of this chapter during all or some portion of the trust's current 433
taxable year. 434

(f) For the purposes of division (I)(3)(e)(ii) of this 435
section, a "qualifying transfer" is a transfer of assets, net of 436
any related liabilities, directly or indirectly to a trust, if the 437
transfer is described in any of the following: 438

(i) The transfer is made to a trust, created by the decedent 439
before the decedent's death and while the decedent was domiciled 440
in this state for the purposes of this chapter, and, prior to the 441
death of the decedent, the trust became irrevocable while the 442
decedent was domiciled in this state for the purposes of this 443
chapter. 444

(ii) The transfer is made to a trust to which the decedent, 445
prior to the decedent's death, had directly or indirectly 446
transferred assets, net of any related liabilities, while the 447
decedent was domiciled in this state for the purposes of this 448
chapter, and prior to the death of the decedent the trust became 449
irrevocable while the decedent was domiciled in this state for the 450
purposes of this chapter. 451

(iii) The transfer is made on account of a contractual 452
relationship existing directly or indirectly between the 453
transferor and either the decedent or the estate of the decedent 454
at any time prior to the date of the decedent's death, and the 455

decedent was domiciled in this state at the time of death for 456
purposes of the taxes levied under Chapter 5731. of the Revised 457
Code. 458

(iv) The transfer is made to a trust on account of a 459
contractual relationship existing directly or indirectly between 460
the transferor and another person who at the time of the 461
decedent's death was domiciled in this state for purposes of this 462
chapter. 463

(v) The transfer is made to a trust on account of the will of 464
a testator. 465

(vi) The transfer is made to a trust created by or caused to 466
be created by a court, and the trust was directly or indirectly 467
created in connection with or as a result of the death of an 468
individual who, for purposes of the taxes levied under Chapter 469
5731. of the Revised Code, was domiciled in this state at the time 470
of the individual's death. 471

(g) The tax commissioner may adopt rules to ascertain the 472
part of a trust residing in this state. 473

(J) "Nonresident" means an individual or estate that is not a 474
resident. An individual who is a resident for only part of a 475
taxable year is a nonresident for the remainder of that taxable 476
year. 477

(K) "Pass-through entity" has the same meaning as in section 478
5733.04 of the Revised Code. 479

(L) "Return" means the notifications and reports required to 480
be filed pursuant to this chapter for the purpose of reporting the 481
tax due and includes declarations of estimated tax when so 482
required. 483

(M) "Taxable year" means the calendar year or the taxpayer's 484
fiscal year ending during the calendar year, or fractional part 485

thereof, upon which the adjusted gross income is calculated 486
pursuant to this chapter. 487

(N) "Taxpayer" means any person subject to the tax imposed by 488
section 5747.02 of the Revised Code or any pass-through entity 489
that makes the election under division (D) of section 5747.08 of 490
the Revised Code. 491

(O) "Dependents" means dependents as defined in the Internal 492
Revenue Code and as claimed in the taxpayer's federal income tax 493
return for the taxable year or which the taxpayer would have been 494
permitted to claim had the taxpayer filed a federal income tax 495
return. 496

(P) "Principal county of employment" means, in the case of a 497
nonresident, the county within the state in which a taxpayer 498
performs services for an employer or, if those services are 499
performed in more than one county, the county in which the major 500
portion of the services are performed. 501

(Q) As used in sections 5747.50 to 5747.55 of the Revised 502
Code: 503

(1) "Subdivision" means any county, municipal corporation, 504
park district, or township. 505

(2) "Essential local government purposes" includes all 506
functions that any subdivision is required by general law to 507
exercise, including like functions that are exercised under a 508
charter adopted pursuant to the Ohio Constitution. 509

(R) "Overpayment" means any amount already paid that exceeds 510
the figure determined to be the correct amount of the tax. 511

(S) "Taxable income" or "Ohio taxable income" applies only to 512
estates and trusts, and means federal taxable income, as defined 513
and used in the Internal Revenue Code, adjusted as follows: 514

(1) Add interest or dividends, net of ordinary, necessary, 515

and reasonable expenses not deducted in computing federal taxable 516
income, on obligations or securities of any state or of any 517
political subdivision or authority of any state, other than this 518
state and its subdivisions and authorities, but only to the extent 519
that such net amount is not otherwise includible in Ohio taxable 520
income and is described in either division (S)(1)(a) or (b) of 521
this section: 522

(a) The net amount is not attributable to the S portion of an 523
electing small business trust and has not been distributed to 524
beneficiaries for the taxable year; 525

(b) The net amount is attributable to the S portion of an 526
electing small business trust for the taxable year. 527

(2) Add interest or dividends, net of ordinary, necessary, 528
and reasonable expenses not deducted in computing federal taxable 529
income, on obligations of any authority, commission, 530
instrumentality, territory, or possession of the United States to 531
the extent that the interest or dividends are exempt from federal 532
income taxes but not from state income taxes, but only to the 533
extent that such net amount is not otherwise includible in Ohio 534
taxable income and is described in either division (S)(1)(a) or 535
(b) of this section; 536

(3) Add the amount of personal exemption allowed to the 537
estate pursuant to section 642(b) of the Internal Revenue Code; 538

(4) Deduct interest or dividends, net of related expenses 539
deducted in computing federal taxable income, on obligations of 540
the United States and its territories and possessions or of any 541
authority, commission, or instrumentality of the United States to 542
the extent that the interest or dividends are exempt from state 543
taxes under the laws of the United States, but only to the extent 544
that such amount is included in federal taxable income and is 545
described in either division (S)(1)(a) or (b) of this section; 546

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

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

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

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

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

year. 579

(b) Add any amount not otherwise included in Ohio taxable 580
income for any taxable year to the extent that the amount is 581
attributable to the recovery during the taxable year of any amount 582
deducted or excluded in computing federal or Ohio taxable income 583
in any taxable year, but only to the extent such amount has not 584
been distributed to beneficiaries for the taxable year. 585

(10) Deduct any portion of the deduction described in section 586
1341(a)(2) of the Internal Revenue Code, for repaying previously 587
reported income received under a claim of right, that meets both 588
of the following requirements: 589

(a) It is allowable for repayment of an item that was 590
included in the taxpayer's taxable income or the decedent's 591
adjusted gross income for a prior taxable year and did not qualify 592
for a credit under division (A) or (B) of section 5747.05 of the 593
Revised Code for that year. 594

(b) It does not otherwise reduce the taxpayer's taxable 595
income or the decedent's adjusted gross income for the current or 596
any other taxable year. 597

(11) Add any amount claimed as a credit under section 598
5747.059 of the Revised Code to the extent that the amount 599
satisfies either of the following: 600

(a) The amount was deducted or excluded from the computation 601
of the taxpayer's federal taxable income as required to be 602
reported for the taxpayer's taxable year under the Internal 603
Revenue Code; 604

(b) The amount resulted in a reduction in the taxpayer's 605
federal taxable income as required to be reported for any of the 606
taxpayer's taxable years under the Internal Revenue Code. 607

(12) Deduct any amount, net of related expenses deducted in 608

computing federal taxable income, that a trust is required to 609
report as farm income on its federal income tax return, but only 610
if the assets of the trust include at least ten acres of land 611
satisfying the definition of "land devoted exclusively to 612
agricultural use" under section 5713.30 of the Revised Code, 613
regardless of whether the land is valued for tax purposes as such 614
land under sections 5713.30 to 5713.38 of the Revised Code. If the 615
trust is a pass-through entity investor, section 5747.231 of the 616
Revised Code applies in ascertaining if the trust is eligible to 617
claim the deduction provided by division (S)(12) of this section 618
in connection with the pass-through entity's farm income. 619

Except for farm income attributable to the S portion of an 620
electing small business trust, the deduction provided by division 621
(S)(12) of this section is allowed only to the extent that the 622
trust has not distributed such farm income. Division (S)(12) of 623
this section applies only to taxable years of a trust beginning in 624
2002 or thereafter. 625

(13) Add the net amount of income described in section 641(c) 626
of the Internal Revenue Code to the extent that amount is not 627
included in federal taxable income. 628

(14) Add or deduct the amount the taxpayer would be required 629
to add or deduct under division (A)(20) or (21) of this section if 630
the taxpayer's Ohio taxable income were computed in the same 631
manner as an individual's Ohio adjusted gross income is computed 632
under this section. In the case of a trust, division (S)(14) of 633
this section applies only to any of the trust's taxable years 634
beginning in 2002 or thereafter. 635

(T) "School district income" and "school district income tax" 636
have the same meanings as in section 5748.01 of the Revised Code. 637

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 638
of this section, "public obligations," "purchase obligations," and 639

"interest or interest equivalent" have the same meanings as in 640
section 5709.76 of the Revised Code. 641

(V) "Limited liability company" means any limited liability 642
company formed under Chapter 1705. of the Revised Code or under 643
the laws of any other state. 644

(W) "Pass-through entity investor" means any person who, 645
during any portion of a taxable year of a pass-through entity, is 646
a partner, member, shareholder, or equity investor in that 647
pass-through entity. 648

(X) "Banking day" has the same meaning as in section 1304.01 649
of the Revised Code. 650

(Y) "Month" means a calendar month. 651

(Z) "Quarter" means the first three months, the second three 652
months, the third three months, or the last three months of the 653
taxpayer's taxable year. 654

(AA)(1) "Eligible institution" means a state university or 655
state institution of higher education as defined in section 656
3345.011 of the Revised Code, or a private, nonprofit college, 657
university, or other post-secondary institution located in this 658
state that possesses a certificate of authorization issued by the 659
Ohio board of regents pursuant to Chapter 1713. of the Revised 660
Code or a certificate of registration issued by the state board of 661
career colleges and schools under Chapter 3332. of the Revised 662
Code. 663

(2) "Qualified tuition and fees" means tuition and fees 664
imposed by an eligible institution as a condition of enrollment or 665
attendance, not exceeding two thousand five hundred dollars in 666
each of the individual's first two years of post-secondary 667
education. If the individual is a part-time student, "qualified 668
tuition and fees" includes tuition and fees paid for the academic 669
equivalent of the first two years of post-secondary education 670

during a maximum of five taxable years, not exceeding a total of 671
five thousand dollars. "Qualified tuition and fees" does not 672
include: 673

(a) Expenses for any course or activity involving sports, 674
games, or hobbies unless the course or activity is part of the 675
individual's degree or diploma program; 676

(b) The cost of books, room and board, student activity fees, 677
athletic fees, insurance expenses, or other expenses unrelated to 678
the individual's academic course of instruction; 679

(c) Tuition, fees, or other expenses paid or reimbursed 680
through an employer, scholarship, grant in aid, or other 681
educational benefit program. 682

(BB)(1) "Modified business income" means the business income 683
included in a trust's Ohio taxable income after such taxable 684
income is first reduced by the qualifying trust amount, if any. 685

(2) "Qualifying trust amount" of a trust means capital gains 686
and losses from the sale, exchange, or other disposition of equity 687
or ownership interests in, or debt obligations of, a qualifying 688
investee to the extent included in the trust's Ohio taxable 689
income, but only if the following requirements are satisfied: 690

(a) The book value of the qualifying investee's physical 691
assets in this state and everywhere, as of the last day of the 692
qualifying investee's fiscal or calendar year ending immediately 693
prior to the date on which the trust recognizes the gain or loss, 694
is available to the trust. 695

(b) The requirements of section 5747.011 of the Revised Code 696
are satisfied for the trust's taxable year in which the trust 697
recognizes the gain or loss. 698

Any gain or loss that is not a qualifying trust amount is 699
modified business income, qualifying investment income, or 700

modified nonbusiness income, as the case may be. 701

(3) "Modified nonbusiness income" means a trust's Ohio 702
taxable income other than modified business income, other than the 703
qualifying trust amount, and other than qualifying investment 704
income, as defined in section 5747.012 of the Revised Code, to the 705
extent such qualifying investment income is not otherwise part of 706
modified business income. 707

(4) "Modified Ohio taxable income" applies only to trusts, 708
and means the sum of the amounts described in divisions (BB)(4)(a) 709
to (c) of this section: 710

(a) The fraction, calculated under section 5747.013, and 711
applying section 5747.231 of the Revised Code, multiplied by the 712
sum of the following amounts: 713

(i) The trust's modified business income; 714

(ii) The trust's qualifying investment income, as defined in 715
section 5747.012 of the Revised Code, but only to the extent the 716
qualifying investment income does not otherwise constitute 717
modified business income and does not otherwise constitute a 718
qualifying trust amount. 719

(b) The qualifying trust amount multiplied by a fraction, the 720
numerator of which is the sum of the book value of the qualifying 721
investee's physical assets in this state on the last day of the 722
qualifying investee's fiscal or calendar year ending immediately 723
prior to the day on which the trust recognizes the qualifying 724
trust amount, and the denominator of which is the sum of the book 725
value of the qualifying investee's total physical assets 726
everywhere on the last day of the qualifying investee's fiscal or 727
calendar year ending immediately prior to the day on which the 728
trust recognizes the qualifying trust amount. If, for a taxable 729
year, the trust recognizes a qualifying trust amount with respect 730
to more than one qualifying investee, the amount described in 731

division (BB)(4)(b) of this section shall equal the sum of the 732
products so computed for each such qualifying investee. 733

(c)(i) With respect to a trust or portion of a trust that is 734
a resident as ascertained in accordance with division (I)(3)(d) of 735
this section, its modified nonbusiness income. 736

(ii) With respect to a trust or portion of a trust that is 737
not a resident as ascertained in accordance with division 738
(I)(3)(d) of this section, the amount of its modified nonbusiness 739
income satisfying the descriptions in divisions (B)(2) to (5) of 740
section 5747.20 of the Revised Code, except as otherwise provided 741
in division (BB)(4)(c)(ii) of this section. With respect to a 742
trust or portion of a trust that is not a resident as ascertained 743
in accordance with division (I)(3)(d) of this section, the trust's 744
portion of modified nonbusiness income recognized from the sale, 745
exchange, or other disposition of a debt interest in or equity 746
interest in a section 5747.212 entity, as defined in section 747
5747.212 of the Revised Code, without regard to division (A) of 748
that section, shall not be allocated to this state in accordance 749
with section 5747.20 of the Revised Code but shall be apportioned 750
to this state in accordance with division (B) of section 5747.212 751
of the Revised Code without regard to division (A) of that 752
section. 753

If the allocation and apportionment of a trust's income under 754
divisions (BB)(4)(a) and (c) of this section do not fairly 755
represent the modified Ohio taxable income of the trust in this 756
state, the alternative methods described in division (C) of 757
section 5747.21 of the Revised Code may be applied in the manner 758
and to the same extent provided in that section. 759

(5)(a) Except as set forth in division (BB)(5)(b) of this 760
section, "qualifying investee" means a person in which a trust has 761
an equity or ownership interest, or a person or unit of government 762
the debt obligations of either of which are owned by a trust. For 763

the purposes of division (BB)(2)(a) of this section and for the 764
purpose of computing the fraction described in division (BB)(4)(b) 765
of this section, all of the following apply: 766

(i) If the qualifying investee is a member of a qualifying 767
controlled group on the last day of the qualifying investee's 768
fiscal or calendar year ending immediately prior to the date on 769
which the trust recognizes the gain or loss, then "qualifying 770
investee" includes all persons in the qualifying controlled group 771
on such last day. 772

(ii) If the qualifying investee, or if the qualifying 773
investee and any members of the qualifying controlled group of 774
which the qualifying investee is a member on the last day of the 775
qualifying investee's fiscal or calendar year ending immediately 776
prior to the date on which the trust recognizes the gain or loss, 777
separately or cumulatively own, directly or indirectly, on the 778
last day of the qualifying investee's fiscal or calendar year 779
ending immediately prior to the date on which the trust recognizes 780
the qualifying trust amount, more than fifty per cent of the 781
equity of a pass-through entity, then the qualifying investee and 782
the other members are deemed to own the proportionate share of the 783
pass-through entity's physical assets which the pass-through 784
entity directly or indirectly owns on the last day of the 785
pass-through entity's calendar or fiscal year ending within or 786
with the last day of the qualifying investee's fiscal or calendar 787
year ending immediately prior to the date on which the trust 788
recognizes the qualifying trust amount. 789

(iii) For the purposes of division (BB)(5)(a)(iii) of this 790
section, "upper level pass-through entity" means a pass-through 791
entity directly or indirectly owning any equity of another 792
pass-through entity, and "lower level pass-through entity" means 793
that other pass-through entity. 794

An upper level pass-through entity, whether or not it is also 795

a qualifying investee, is deemed to own, on the last day of the 796
upper level pass-through entity's calendar or fiscal year, the 797
proportionate share of the lower level pass-through entity's 798
physical assets that the lower level pass-through entity directly 799
or indirectly owns on the last day of the lower level pass-through 800
entity's calendar or fiscal year ending within or with the last 801
day of the upper level pass-through entity's fiscal or calendar 802
year. If the upper level pass-through entity directly and 803
indirectly owns less than fifty per cent of the equity of the 804
lower level pass-through entity on each day of the upper level 805
pass-through entity's calendar or fiscal year in which or with 806
which ends the calendar or fiscal year of the lower level 807
pass-through entity and if, based upon clear and convincing 808
evidence, complete information about the location and cost of the 809
physical assets of the lower pass-through entity is not available 810
to the upper level pass-through entity, then solely for purposes 811
of ascertaining if a gain or loss constitutes a qualifying trust 812
amount, the upper level pass-through entity shall be deemed as 813
owning no equity of the lower level pass-through entity for each 814
day during the upper level pass-through entity's calendar or 815
fiscal year in which or with which ends the lower level 816
pass-through entity's calendar or fiscal year. Nothing in division 817
(BB)(5)(a)(iii) of this section shall be construed to provide for 818
any deduction or exclusion in computing any trust's Ohio taxable 819
income. 820

(b) With respect to a trust that is not a resident for the 821
taxable year and with respect to a part of a trust that is not a 822
resident for the taxable year, "qualifying investee" for that 823
taxable year does not include a C corporation if both of the 824
following apply: 825

(i) During the taxable year the trust or part of the trust 826
recognizes a gain or loss from the sale, exchange, or other 827

disposition of equity or ownership interests in, or debt obligations of, the C corporation.	828 829
(ii) Such gain or loss constitutes nonbusiness income.	830
(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.	831 832 833 834
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	835 836
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	837 838
(EE)(1) For the purposes of division (EE) of this section:	839
(a) "Qualifying person" means any person other than a qualifying corporation.	840 841
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	842 843 844
(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;	845 846 847 848
(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.	849 850 851 852
(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.	853 854 855
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	856 857

(1) "Trust" does not include a qualified pre-income tax trust. 858
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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. 860
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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. 863
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 874
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 876
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(b) The trust became irrevocable upon the creation of the trust; and 878
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(c) The grantor was domiciled in this state at the time the trust was created. 880
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Section 2. That existing section 5747.01 of the Revised Code is hereby repealed. 882
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Section 3. The amendment by this act of section 5747.01 of the Revised Code applies to taxable years beginning on or after January 1, 2008. 884
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