

**As Introduced**

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

**S. B. No. 133**

**Senator Schuring**

**Cosponsors: Senators Schaffer, Faber, Mumper, Schuler, Goodman,  
Coughlin**

**—**

**A B I L L**

To amend sections 5747.01 and 5747.02 and to enact 1  
section 5747.014 of the Revised Code to reduce the 2  
income tax rate on capital gains reinvested in 3  
Ohio-based investments. 4

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

**Section 1.** That sections 5747.01 and 5747.02 be amended and 5  
section 5747.014 of the Revised Code be enacted to read as 6  
follows: 7

**Sec. 5747.01.** Except as otherwise expressly provided or 8  
clearly appearing from the context, any term used in this chapter 9  
that is not otherwise defined in this section has the same meaning 10  
as when used in a comparable context in the laws of the United 11  
States relating to federal income taxes or if not used in a 12  
comparable context in those laws, has the same meaning as in 13  
section 5733.40 of the Revised Code. Any reference in this chapter 14  
to the Internal Revenue Code includes other laws of the United 15  
States relating to federal income taxes. 16

As used in this chapter: 17

(A) "Adjusted gross income" or "Ohio adjusted gross income" 18

means federal adjusted gross income, as defined and used in the 19  
Internal Revenue Code, adjusted as provided in this section: 20

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

(2) Add interest or dividends on obligations of any 24  
authority, commission, instrumentality, territory, or possession 25  
of the United States to the extent that the interest or dividends 26  
are exempt from federal income taxes but not from state income 27  
taxes. 28

(3) Deduct interest or dividends on obligations of the United 29  
States and its territories and possessions or of any authority, 30  
commission, or instrumentality of the United States to the extent 31  
that the interest or dividends are included in federal adjusted 32  
gross income but exempt from state income taxes under the laws of 33  
the United States. 34

(4) Deduct disability and survivor's benefits to the extent 35  
included in federal adjusted gross income. 36

(5) Deduct benefits under Title II of the Social Security Act 37  
and tier 1 railroad retirement benefits to the extent included in 38  
federal adjusted gross income under section 86 of the Internal 39  
Revenue Code. 40

(6) In the case of a taxpayer who is a beneficiary of a trust 41  
that makes an accumulation distribution as defined in section 665 42  
of the Internal Revenue Code, add, for the beneficiary's taxable 43  
years beginning before 2002, the portion, if any, of such 44  
distribution that does not exceed the undistributed net income of 45  
the trust for the three taxable years preceding the taxable year 46  
in which the distribution is made to the extent that the portion 47  
was not included in the trust's taxable income for any of the 48  
trust's taxable years beginning in 2002 or thereafter. 49

"Undistributed net income of a trust" means the taxable income of 50  
the trust increased by (a)(i) the additions to adjusted gross 51  
income required under division (A) of this section and (ii) the 52  
personal exemptions allowed to the trust pursuant to section 53  
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 54  
deductions to adjusted gross income required under division (A) of 55  
this section, (ii) the amount of federal income taxes attributable 56  
to such income, and (iii) the amount of taxable income that has 57  
been included in the adjusted gross income of a beneficiary by 58  
reason of a prior accumulation distribution. Any undistributed net 59  
income included in the adjusted gross income of a beneficiary 60  
shall reduce the undistributed net income of the trust commencing 61  
with the earliest years of the accumulation period. 62

(7) Deduct the amount of wages and salaries, if any, not 63  
otherwise allowable as a deduction but that would have been 64  
allowable as a deduction in computing federal adjusted gross 65  
income for the taxable year, had the targeted jobs credit allowed 66  
and determined under sections 38, 51, and 52 of the Internal 67  
Revenue Code not been in effect. 68

(8) Deduct any interest or interest equivalent on public 69  
obligations and purchase obligations to the extent that the 70  
interest or interest equivalent is included in federal adjusted 71  
gross income. 72

(9) Add any loss or deduct any gain resulting from the sale, 73  
exchange, or other disposition of public obligations to the extent 74  
that the loss has been deducted or the gain has been included in 75  
computing federal adjusted gross income. 76

(10) Deduct or add amounts, as provided under section 5747.70 77  
of the Revised Code, related to contributions to variable college 78  
savings program accounts made or tuition units purchased pursuant 79  
to Chapter 3334. of the Revised Code. 80

(11)(a) Deduct, to the extent not otherwise allowable as a 81  
deduction or exclusion in computing federal or Ohio adjusted gross 82  
income for the taxable year, the amount the taxpayer paid during 83  
the taxable year for medical care insurance and qualified 84  
long-term care insurance for the taxpayer, the taxpayer's spouse, 85  
and dependents. No deduction for medical care insurance under 86  
division (A)(11) of this section shall be allowed either to any 87  
taxpayer who is eligible to participate in any subsidized health 88  
plan maintained by any employer of the taxpayer or of the 89  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 90  
application would be entitled to, benefits under part A of Title 91  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 92  
301, as amended. For the purposes of division (A)(11)(a) of this 93  
section, "subsidized health plan" means a health plan for which 94  
the employer pays any portion of the plan's cost. The deduction 95  
allowed under division (A)(11)(a) of this section shall be the net 96  
of any related premium refunds, related premium reimbursements, or 97  
related insurance premium dividends received during the taxable 98  
year. 99

(b) Deduct, to the extent not otherwise deducted or excluded 100  
in computing federal or Ohio adjusted gross income during the 101  
taxable year, the amount the taxpayer paid during the taxable 102  
year, not compensated for by any insurance or otherwise, for 103  
medical care of the taxpayer, the taxpayer's spouse, and 104  
dependents, to the extent the expenses exceed seven and one-half 105  
per cent of the taxpayer's federal adjusted gross income. 106

(c) For purposes of division (A)(11) of this section, 107  
"medical care" has the meaning given in section 213 of the 108  
Internal Revenue Code, subject to the special rules, limitations, 109  
and exclusions set forth therein, and "qualified long-term care" 110  
has the same meaning given in section 7702B(c) of the Internal 111  
Revenue Code. 112

(12)(a) Deduct any amount included in federal adjusted gross 113  
income solely because the amount represents a reimbursement or 114  
refund of expenses that in any year the taxpayer had deducted as 115  
an itemized deduction pursuant to section 63 of the Internal 116  
Revenue Code and applicable United States department of the 117  
treasury regulations. The deduction otherwise allowed under 118  
division (A)(12)(a) of this section shall be reduced to the extent 119  
the reimbursement is attributable to an amount the taxpayer 120  
deducted under this section in any taxable year. 121

(b) Add any amount not otherwise included in Ohio adjusted 122  
gross income for any taxable year to the extent that the amount is 123  
attributable to the recovery during the taxable year of any amount 124  
deducted or excluded in computing federal or Ohio adjusted gross 125  
income in any taxable year. 126

(13) Deduct any portion of the deduction described in section 127  
1341(a)(2) of the Internal Revenue Code, for repaying previously 128  
reported income received under a claim of right, that meets both 129  
of the following requirements: 130

(a) It is allowable for repayment of an item that was 131  
included in the taxpayer's adjusted gross income for a prior 132  
taxable year and did not qualify for a credit under division (A) 133  
or (B) of section 5747.05 of the Revised Code for that year; 134

(b) It does not otherwise reduce the taxpayer's adjusted 135  
gross income for the current or any other taxable year. 136

(14) Deduct an amount equal to the deposits made to, and net 137  
investment earnings of, a medical savings account during the 138  
taxable year, in accordance with section 3924.66 of the Revised 139  
Code. The deduction allowed by division (A)(14) of this section 140  
does not apply to medical savings account deposits and earnings 141  
otherwise deducted or excluded for the current or any other 142  
taxable year from the taxpayer's federal adjusted gross income. 143

(15)(a) Add an amount equal to the funds withdrawn from a 144  
medical savings account during the taxable year, and the net 145  
investment earnings on those funds, when the funds withdrawn were 146  
used for any purpose other than to reimburse an account holder 147  
for, or to pay, eligible medical expenses, in accordance with 148  
section 3924.66 of the Revised Code; 149

(b) Add the amounts distributed from a medical savings 150  
account under division (A)(2) of section 3924.68 of the Revised 151  
Code during the taxable year. 152

(16) Add any amount claimed as a credit under section 153  
5747.059 of the Revised Code to the extent that such amount 154  
satisfies either of the following: 155

(a) The amount was deducted or excluded from the computation 156  
of the taxpayer's federal adjusted gross income as required to be 157  
reported for the taxpayer's taxable year under the Internal 158  
Revenue Code; 159

(b) The amount resulted in a reduction of the taxpayer's 160  
federal adjusted gross income as required to be reported for any 161  
of the taxpayer's taxable years under the Internal Revenue Code. 162

(17) Deduct the amount contributed by the taxpayer to an 163  
individual development account program established by a county 164  
department of job and family services pursuant to sections 329.11 165  
to 329.14 of the Revised Code for the purpose of matching funds 166  
deposited by program participants. On request of the tax 167  
commissioner, the taxpayer shall provide any information that, in 168  
the tax commissioner's opinion, is necessary to establish the 169  
amount deducted under division (A)(17) of this section. 170

(18) Beginning in taxable year 2001 but not for any taxable 171  
year beginning after December 31, 2005, if the taxpayer is married 172  
and files a joint return and the combined federal adjusted gross 173  
income of the taxpayer and the taxpayer's spouse for the taxable 174

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

(19) Add any reimbursement received during the taxable year 188  
of any amount the taxpayer deducted under division (A)(18) of this 189  
section in any previous taxable year to the extent the amount is 190  
not otherwise included in Ohio adjusted gross income. 191

(20)(a)(i) Add five-sixths of the amount of depreciation 192  
expense allowed by subsection (k) of section 168 of the Internal 193  
Revenue Code, including the taxpayer's proportionate or 194  
distributive share of the amount of depreciation expense allowed 195  
by that subsection to a pass-through entity in which the taxpayer 196  
has a direct or indirect ownership interest. 197

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

expense directly or indirectly allowed to the taxpayer under 207  
section 179 of the Internal Revenue Code as that section existed 208  
on December 31, 2002. 209

The tax commissioner, under procedures established by the 210  
commissioner, may waive the add-backs related to a pass-through 211  
entity if the taxpayer owns, directly or indirectly, less than 212  
five per cent of the pass-through entity. 213

(b) Nothing in division (A)(20) of this section shall be 214  
construed to adjust or modify the adjusted basis of any asset. 215

(c) To the extent the add-back required under division 216  
(A)(20)(a) of this section is attributable to property generating 217  
nonbusiness income or loss allocated under section 5747.20 of the 218  
Revised Code, the add-back shall be situated to the same location 219  
as the nonbusiness income or loss generated by the property for 220  
the purpose of determining the credit under division (A) of 221  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 222  
be apportioned, subject to one or more of the four alternative 223  
methods of apportionment enumerated in section 5747.21 of the 224  
Revised Code. 225

(d) For the purposes of division (A) of this section, net 226  
operating loss carryback and carryforward shall not include 227  
five-sixths of the allowance of any net operating loss deduction 228  
carryback or carryforward to the taxable year to the extent such 229  
loss resulted from depreciation allowed by section 168(k) of the 230  
Internal Revenue Code and by the qualifying section 179 231  
depreciation expense amount. 232

(21)(a) If the taxpayer was required to add an amount under 233  
division (A)(20)(a) of this section for a taxable year, deduct 234  
one-fifth of the amount so added for each of the five succeeding 235  
taxable years. 236

(b) If the amount deducted under division (A)(21)(a) of this 237



section is attributable to an add-back allocated under division 238  
(A)(20)(c) of this section, the amount deducted shall be sitused 239  
to the same location. Otherwise, the add-back shall be apportioned 240  
using the apportionment factors for the taxable year in which the 241  
deduction is taken, subject to one or more of the four alternative 242  
methods of apportionment enumerated in section 5747.21 of the 243  
Revised Code. 244

(c) No deduction is available under division (A)(21)(a) of 245  
this section with regard to any depreciation allowed by section 246  
168(k) of the Internal Revenue Code and by the qualifying section 247  
179 depreciation expense amount to the extent that such 248  
depreciation resulted in or increased a federal net operating loss 249  
carryback or carryforward to a taxable year to which division 250  
(A)(20)(d) of this section does not apply. 251

(22) Deduct, to the extent not otherwise deducted or excluded 252  
in computing federal or Ohio adjusted gross income for the taxable 253  
year, the amount the taxpayer received during the taxable year as 254  
reimbursement for life insurance premiums under section 5919.31 of 255  
the Revised Code. 256

(23) Deduct, to the extent not otherwise deducted or excluded 257  
in computing federal or Ohio adjusted gross income for the taxable 258  
year, the amount the taxpayer received during the taxable year as 259  
a death benefit paid by the adjutant general under section 5919.33 260  
of the Revised Code. 261

(24) Deduct, to the extent included in federal adjusted gross 262  
income and not otherwise allowable as a deduction or exclusion in 263  
computing federal or Ohio adjusted gross income for the taxable 264  
year, military pay and allowances received by the taxpayer during 265  
the taxable year for active duty service in the United States 266  
army, air force, navy, marine corps, or coast guard or reserve 267  
components thereof or the national guard. The deduction may not be 268  
claimed for military pay and allowances received by the taxpayer 269

while the taxpayer is stationed in this state.	270
<u>(25) Deduct or add amounts, as provided in division (B) of</u>	271
<u>section 5747.014 of the Revised Code, related to Ohio-based</u>	272
<u>reinvestments.</u>	273
(B) "Business income" means income, including gain or loss,	274
arising from transactions, activities, and sources in the regular	275
course of a trade or business and includes income, gain, or loss	276
from real property, tangible property, and intangible property if	277
the acquisition, rental, management, and disposition of the	278
property constitute integral parts of the regular course of a	279
trade or business operation. "Business income" includes income,	280
including gain or loss, from a partial or complete liquidation of	281
a business, including, but not limited to, gain or loss from the	282
sale or other disposition of goodwill.	283
(C) "Nonbusiness income" means all income other than business	284
income and may include, but is not limited to, compensation, rents	285
and royalties from real or tangible personal property, capital	286
gains, interest, dividends and distributions, patent or copyright	287
royalties, or lottery winnings, prizes, and awards.	288
(D) "Compensation" means any form of remuneration paid to an	289
employee for personal services.	290
(E) "Fiduciary" means a guardian, trustee, executor,	291
administrator, receiver, conservator, or any other person acting	292
in any fiduciary capacity for any individual, trust, or estate.	293
(F) "Fiscal year" means an accounting period of twelve months	294
ending on the last day of any month other than December.	295
(G) "Individual" means any natural person.	296
(H) "Internal Revenue Code" means the "Internal Revenue Code	297
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	298
(I) "Resident" means any of the following, provided that	299

division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

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

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

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

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

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

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

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

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or

part of the trust document or instrument became irrevocable, but 330  
only if at least one of the trust's qualifying beneficiaries is a 331  
resident domiciled in this state for the purposes of this chapter 332  
during all or some portion of the trust's current taxable year. If 333  
a trust document or instrument became irrevocable upon the death 334  
of a person who at the time of death was domiciled in this state 335  
for purposes of this chapter, that person is a person described in 336  
division (I)(3)(a)(iii) of this section. 337

(b) A trust is irrevocable to the extent that the transferor 338  
is not considered to be the owner of the net assets of the trust 339  
under sections 671 to 678 of the Internal Revenue Code. 340

(c) With respect to a trust other than a charitable lead 341  
trust, "qualifying beneficiary" has the same meaning as "potential 342  
current beneficiary" as defined in section 1361(e)(2) of the 343  
Internal Revenue Code, and with respect to a charitable lead trust 344  
"qualifying beneficiary" is any current, future, or contingent 345  
beneficiary, but with respect to any trust "qualifying 346  
beneficiary" excludes a person or a governmental entity or 347  
instrumentality to any of which a contribution would qualify for 348  
the charitable deduction under section 170 of the Internal Revenue 349  
Code. 350

(d) For the purposes of division (I)(3)(a) of this section, 351  
the extent to which a trust consists directly or indirectly, in 352  
whole or in part, of assets, net of any related liabilities, that 353  
were transferred directly or indirectly, in whole or part, to the 354  
trust by any of the sources enumerated in that division shall be 355  
ascertained by multiplying the fair market value of the trust's 356  
assets, net of related liabilities, by the qualifying ratio, which 357  
shall be computed as follows: 358

(i) The first time the trust receives assets, the numerator 359  
of the qualifying ratio is the fair market value of those assets 360  
at that time, net of any related liabilities, from sources 361

enumerated in division (I)(3)(a) of this section. The denominator 362  
of the qualifying ratio is the fair market value of all the 363  
trust's assets at that time, net of any related liabilities. 364

(ii) Each subsequent time the trust receives assets, a 365  
revised qualifying ratio shall be computed. The numerator of the 366  
revised qualifying ratio is the sum of (1) the fair market value 367  
of the trust's assets immediately prior to the subsequent 368  
transfer, net of any related liabilities, multiplied by the 369  
qualifying ratio last computed without regard to the subsequent 370  
transfer, and (2) the fair market value of the subsequently 371  
transferred assets at the time transferred, net of any related 372  
liabilities, from sources enumerated in division (I)(3)(a) of this 373  
section. The denominator of the revised qualifying ratio is the 374  
fair market value of all the trust's assets immediately after the 375  
subsequent transfer, net of any related liabilities. 376

(iii) Whether a transfer to the trust is by or from any of 377  
the sources enumerated in division (I)(3)(a) of this section shall 378  
be ascertained without regard to the domicile of the trust's 379  
beneficiaries. 380

(e) For the purposes of division (I)(3)(a)(i) of this 381  
section: 382

(i) A trust is described in division (I)(3)(e)(i) of this 383  
section if the trust is a testamentary trust and the testator of 384  
that testamentary trust was domiciled in this state at the time of 385  
the testator's death for purposes of the taxes levied under 386  
Chapter 5731. of the Revised Code. 387

(ii) A trust is described in division (I)(3)(e)(ii) of this 388  
section if the transfer is a qualifying transfer described in any 389  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 390  
irrevocable inter vivos trust, and at least one of the trust's 391  
qualifying beneficiaries is domiciled in this state for purposes 392

of this chapter during all or some portion of the trust's current 393  
taxable year. 394

(f) For the purposes of division (I)(3)(e)(ii) of this 395  
section, a "qualifying transfer" is a transfer of assets, net of 396  
any related liabilities, directly or indirectly to a trust, if the 397  
transfer is described in any of the following: 398

(i) The transfer is made to a trust, created by the decedent 399  
before the decedent's death and while the decedent was domiciled 400  
in this state for the purposes of this chapter, and, prior to the 401  
death of the decedent, the trust became irrevocable while the 402  
decedent was domiciled in this state for the purposes of this 403  
chapter. 404

(ii) The transfer is made to a trust to which the decedent, 405  
prior to the decedent's death, had directly or indirectly 406  
transferred assets, net of any related liabilities, while the 407  
decedent was domiciled in this state for the purposes of this 408  
chapter, and prior to the death of the decedent the trust became 409  
irrevocable while the decedent was domiciled in this state for the 410  
purposes of this chapter. 411

(iii) The transfer is made on account of a contractual 412  
relationship existing directly or indirectly between the 413  
transferor and either the decedent or the estate of the decedent 414  
at any time prior to the date of the decedent's death, and the 415  
decedent was domiciled in this state at the time of death for 416  
purposes of the taxes levied under Chapter 5731. of the Revised 417  
Code. 418

(iv) The transfer is made to a trust on account of a 419  
contractual relationship existing directly or indirectly between 420  
the transferor and another person who at the time of the 421  
decedent's death was domiciled in this state for purposes of this 422  
chapter. 423

(v) The transfer is made to a trust on account of the will of a testator. 424  
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(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death. 426  
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(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state. 432  
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(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year. 434  
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(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. 438  
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(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. 440  
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(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. 444  
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(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. 448  
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(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax 452  
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return for the taxable year or which the taxpayer would have been 454  
permitted to claim had the taxpayer filed a federal income tax 455  
return. 456

(P) "Principal county of employment" means, in the case of a 457  
nonresident, the county within the state in which a taxpayer 458  
performs services for an employer or, if those services are 459  
performed in more than one county, the county in which the major 460  
portion of the services are performed. 461

(Q) As used in sections 5747.50 to 5747.55 of the Revised 462  
Code: 463

(1) "Subdivision" means any county, municipal corporation, 464  
park district, or township. 465

(2) "Essential local government purposes" includes all 466  
functions that any subdivision is required by general law to 467  
exercise, including like functions that are exercised under a 468  
charter adopted pursuant to the Ohio Constitution. 469

(R) "Overpayment" means any amount already paid that exceeds 470  
the figure determined to be the correct amount of the tax. 471

(S) "Taxable income" or "Ohio taxable income" applies only to 472  
estates and trusts, and means federal taxable income, as defined 473  
and used in the Internal Revenue Code, adjusted as follows: 474

(1) Add interest or dividends, net of ordinary, necessary, 475  
and reasonable expenses not deducted in computing federal taxable 476  
income, on obligations or securities of any state or of any 477  
political subdivision or authority of any state, other than this 478  
state and its subdivisions and authorities, but only to the extent 479  
that such net amount is not otherwise includible in Ohio taxable 480  
income and is described in either division (S)(1)(a) or (b) of 481  
this section: 482

(a) The net amount is not attributable to the S portion of an 483



electing small business trust and has not been distributed to 484  
beneficiaries for the taxable year; 485

(b) The net amount is attributable to the S portion of an 486  
electing small business trust for the taxable year. 487

(2) Add interest or dividends, net of ordinary, necessary, 488  
and reasonable expenses not deducted in computing federal taxable 489  
income, on obligations of any authority, commission, 490  
instrumentality, territory, or possession of the United States to 491  
the extent that the interest or dividends are exempt from federal 492  
income taxes but not from state income taxes, but only to the 493  
extent that such net amount is not otherwise includible in Ohio 494  
taxable income and is described in either division (S)(1)(a) or 495  
(b) of this section; 496

(3) Add the amount of personal exemption allowed to the 497  
estate pursuant to section 642(b) of the Internal Revenue Code; 498

(4) Deduct interest or dividends, net of related expenses 499  
deducted in computing federal taxable income, on obligations of 500  
the United States and its territories and possessions or of any 501  
authority, commission, or instrumentality of the United States to 502  
the extent that the interest or dividends are exempt from state 503  
taxes under the laws of the United States, but only to the extent 504  
that such amount is included in federal taxable income and is 505  
described in either division (S)(1)(a) or (b) of this section; 506

(5) Deduct the amount of wages and salaries, if any, not 507  
otherwise allowable as a deduction but that would have been 508  
allowable as a deduction in computing federal taxable income for 509  
the taxable year, had the targeted jobs credit allowed under 510  
sections 38, 51, and 52 of the Internal Revenue Code not been in 511  
effect, but only to the extent such amount relates either to 512  
income included in federal taxable income for the taxable year or 513  
to income of the S portion of an electing small business trust for 514

the taxable year; 515

(6) Deduct any interest or interest equivalent, net of 516  
related expenses deducted in computing federal taxable income, on 517  
public obligations and purchase obligations, but only to the 518  
extent that such net amount relates either to income included in 519  
federal taxable income for the taxable year or to income of the S 520  
portion of an electing small business trust for the taxable year; 521

(7) Add any loss or deduct any gain resulting from sale, 522  
exchange, or other disposition of public obligations to the extent 523  
that such loss has been deducted or such gain has been included in 524  
computing either federal taxable income or income of the S portion 525  
of an electing small business trust for the taxable year; 526

(8) Except in the case of the final return of an estate, add 527  
any amount deducted by the taxpayer on both its Ohio estate tax 528  
return pursuant to section 5731.14 of the Revised Code, and on its 529  
federal income tax return in determining federal taxable income; 530

(9)(a) Deduct any amount included in federal taxable income 531  
solely because the amount represents a reimbursement or refund of 532  
expenses that in a previous year the decedent had deducted as an 533  
itemized deduction pursuant to section 63 of the Internal Revenue 534  
Code and applicable treasury regulations. The deduction otherwise 535  
allowed under division (S)(9)(a) of this section shall be reduced 536  
to the extent the reimbursement is attributable to an amount the 537  
taxpayer or decedent deducted under this section in any taxable 538  
year. 539

(b) Add any amount not otherwise included in Ohio taxable 540  
income for any taxable year to the extent that the amount is 541  
attributable to the recovery during the taxable year of any amount 542  
deducted or excluded in computing federal or Ohio taxable income 543  
in any taxable year, but only to the extent such amount has not 544  
been distributed to beneficiaries for the taxable year. 545

(10) 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 taxable income or the decedent'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 taxable income or the decedent's adjusted gross income for the current or any other taxable year.

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

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

(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.

(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 577  
claim the deduction provided by division (S)(12) of this section 578  
in connection with the pass-through entity's farm income. 579

Except for farm income attributable to the S portion of an 580  
electing small business trust, the deduction provided by division 581  
(S)(12) of this section is allowed only to the extent that the 582  
trust has not distributed such farm income. Division (S)(12) of 583  
this section applies only to taxable years of a trust beginning in 584  
2002 or thereafter. 585

(13) Add the net amount of income described in section 641(c) 586  
of the Internal Revenue Code to the extent that amount is not 587  
included in federal taxable income. 588

(14) Add or deduct the amount the taxpayer would be required 589  
to add or deduct under division (A)(20) or (21) of this section if 590  
the taxpayer's Ohio taxable income were computed in the same 591  
manner as an individual's Ohio adjusted gross income is computed 592  
under this section. In the case of a trust, division (S)(14) of 593  
this section applies only to any of the trust's taxable years 594  
beginning in 2002 or thereafter. 595

(T) "School district income" and "school district income tax" 596  
have the same meanings as in section 5748.01 of the Revised Code. 597

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 598  
of this section, "public obligations," "purchase obligations," and 599  
"interest or interest equivalent" have the same meanings as in 600  
section 5709.76 of the Revised Code. 601

(V) "Limited liability company" means any limited liability 602  
company formed under Chapter 1705. of the Revised Code or under 603  
the laws of any other state. 604

(W) "Pass-through entity investor" means any person who, 605  
during any portion of a taxable year of a pass-through entity, is 606  
a partner, member, shareholder, or equity investor in that 607

pass-through entity. 608

(X) "Banking day" has the same meaning as in section 1304.01 609  
of the Revised Code. 610

(Y) "Month" means a calendar month. 611

(Z) "Quarter" means the first three months, the second three 612  
months, the third three months, or the last three months of the 613  
taxpayer's taxable year. 614

(AA)(1) "Eligible institution" means a state university or 615  
state institution of higher education as defined in section 616  
3345.011 of the Revised Code, or a private, nonprofit college, 617  
university, or other post-secondary institution located in this 618  
state that possesses a certificate of authorization issued by the 619  
Ohio board of regents pursuant to Chapter 1713. of the Revised 620  
Code or a certificate of registration issued by the state board of 621  
career colleges and schools under Chapter 3332. of the Revised 622  
Code. 623

(2) "Qualified tuition and fees" means tuition and fees 624  
imposed by an eligible institution as a condition of enrollment or 625  
attendance, not exceeding two thousand five hundred dollars in 626  
each of the individual's first two years of post-secondary 627  
education. If the individual is a part-time student, "qualified 628  
tuition and fees" includes tuition and fees paid for the academic 629  
equivalent of the first two years of post-secondary education 630  
during a maximum of five taxable years, not exceeding a total of 631  
five thousand dollars. "Qualified tuition and fees" does not 632  
include: 633

(a) Expenses for any course or activity involving sports, 634  
games, or hobbies unless the course or activity is part of the 635  
individual's degree or diploma program; 636

(b) The cost of books, room and board, student activity fees, 637  
athletic fees, insurance expenses, or other expenses unrelated to 638

the individual's academic course of instruction; 639

(c) Tuition, fees, or other expenses paid or reimbursed 640  
through an employer, scholarship, grant in aid, or other 641  
educational benefit program. 642

(BB)(1) "Modified business income" means the business income 643  
included in a trust's Ohio taxable income after such taxable 644  
income is first reduced by the qualifying trust amount, if any. 645

(2) "Qualifying trust amount" of a trust means capital gains 646  
and losses from the sale, exchange, or other disposition of equity 647  
or ownership interests in, or debt obligations of, a qualifying 648  
investee to the extent included in the trust's Ohio taxable 649  
income, but only if the following requirements are satisfied: 650

(a) The book value of the qualifying investee's physical 651  
assets in this state and everywhere, as of the last day of the 652  
qualifying investee's fiscal or calendar year ending immediately 653  
prior to the date on which the trust recognizes the gain or loss, 654  
is available to the trust. 655

(b) The requirements of section 5747.011 of the Revised Code 656  
are satisfied for the trust's taxable year in which the trust 657  
recognizes the gain or loss. 658

Any gain or loss that is not a qualifying trust amount is 659  
modified business income, qualifying investment income, or 660  
modified nonbusiness income, as the case may be. 661

(3) "Modified nonbusiness income" means a trust's Ohio 662  
taxable income other than modified business income, other than the 663  
qualifying trust amount, and other than qualifying investment 664  
income, as defined in section 5747.012 of the Revised Code, to the 665  
extent such qualifying investment income is not otherwise part of 666  
modified business income. 667

(4) "Modified Ohio taxable income" applies only to trusts, 668

and means the sum of the amounts described in divisions (BB)(4)(a) 669  
to (c) of this section: 670

(a) The fraction, calculated under section 5747.013, and 671  
applying section 5747.231 of the Revised Code, multiplied by the 672  
sum of the following amounts: 673

(i) The trust's modified business income; 674

(ii) The trust's qualifying investment income, as defined in 675  
section 5747.012 of the Revised Code, but only to the extent the 676  
qualifying investment income does not otherwise constitute 677  
modified business income and does not otherwise constitute a 678  
qualifying trust amount. 679

(b) The qualifying trust amount multiplied by a fraction, the 680  
numerator of which is the sum of the book value of the qualifying 681  
investee's physical assets in this state on the last day of the 682  
qualifying investee's fiscal or calendar year ending immediately 683  
prior to the day on which the trust recognizes the qualifying 684  
trust amount, and the denominator of which is the sum of the book 685  
value of the qualifying investee's total physical assets 686  
everywhere on the last day of the qualifying investee's fiscal or 687  
calendar year ending immediately prior to the day on which the 688  
trust recognizes the qualifying trust amount. If, for a taxable 689  
year, the trust recognizes a qualifying trust amount with respect 690  
to more than one qualifying investee, the amount described in 691  
division (BB)(4)(b) of this section shall equal the sum of the 692  
products so computed for each such qualifying investee. 693

(c)(i) With respect to a trust or portion of a trust that is 694  
a resident as ascertained in accordance with division (I)(3)(d) of 695  
this section, its modified nonbusiness income. 696

(ii) With respect to a trust or portion of a trust that is 697  
not a resident as ascertained in accordance with division 698  
(I)(3)(d) of this section, the amount of its modified nonbusiness 699

income satisfying the descriptions in divisions (B)(2) to (5) of 700  
section 5747.20 of the Revised Code, except as otherwise provided 701  
in division (BB)(4)(c)(ii) of this section. With respect to a 702  
trust or portion of a trust that is not a resident as ascertained 703  
in accordance with division (I)(3)(d) of this section, the trust's 704  
portion of modified nonbusiness income recognized from the sale, 705  
exchange, or other disposition of a debt interest in or equity 706  
interest in a section 5747.212 entity, as defined in section 707  
5747.212 of the Revised Code, without regard to division (A) of 708  
that section, shall not be allocated to this state in accordance 709  
with section 5747.20 of the Revised Code but shall be apportioned 710  
to this state in accordance with division (B) of section 5747.212 711  
of the Revised Code without regard to division (A) of that 712  
section. 713

If the allocation and apportionment of a trust's income under 714  
divisions (BB)(4)(a) and (c) of this section do not fairly 715  
represent the modified Ohio taxable income of the trust in this 716  
state, the alternative methods described in division (C) of 717  
section 5747.21 of the Revised Code may be applied in the manner 718  
and to the same extent provided in that section. 719

(5)(a) Except as set forth in division (BB)(5)(b) of this 720  
section, "qualifying investee" means a person in which a trust has 721  
an equity or ownership interest, or a person or unit of government 722  
the debt obligations of either of which are owned by a trust. For 723  
the purposes of division (BB)(2)(a) of this section and for the 724  
purpose of computing the fraction described in division (BB)(4)(b) 725  
of this section, all of the following apply: 726

(i) If the qualifying investee is a member of a qualifying 727  
controlled group on the last day of the qualifying investee's 728  
fiscal or calendar year ending immediately prior to the date on 729  
which the trust recognizes the gain or loss, then "qualifying 730  
investee" includes all persons in the qualifying controlled group 731



on such last day. 732

(ii) If the qualifying investee, or if the qualifying 733  
investee and any members of the qualifying controlled group of 734  
which the qualifying investee is a member on the last day of the 735  
qualifying investee's fiscal or calendar year ending immediately 736  
prior to the date on which the trust recognizes the gain or loss, 737  
separately or cumulatively own, directly or indirectly, on the 738  
last day of the qualifying investee's fiscal or calendar year 739  
ending immediately prior to the date on which the trust recognizes 740  
the qualifying trust amount, more than fifty per cent of the 741  
equity of a pass-through entity, then the qualifying investee and 742  
the other members are deemed to own the proportionate share of the 743  
pass-through entity's physical assets which the pass-through 744  
entity directly or indirectly owns on the last day of the 745  
pass-through entity's calendar or fiscal year ending within or 746  
with the last day of the qualifying investee's fiscal or calendar 747  
year ending immediately prior to the date on which the trust 748  
recognizes the qualifying trust amount. 749

(iii) For the purposes of division (BB)(5)(a)(iii) of this 750  
section, "upper level pass-through entity" means a pass-through 751  
entity directly or indirectly owning any equity of another 752  
pass-through entity, and "lower level pass-through entity" means 753  
that other pass-through entity. 754

An upper level pass-through entity, whether or not it is also 755  
a qualifying investee, is deemed to own, on the last day of the 756  
upper level pass-through entity's calendar or fiscal year, the 757  
proportionate share of the lower level pass-through entity's 758  
physical assets that the lower level pass-through entity directly 759  
or indirectly owns on the last day of the lower level pass-through 760  
entity's calendar or fiscal year ending within or with the last 761  
day of the upper level pass-through entity's fiscal or calendar 762  
year. If the upper level pass-through entity directly and 763

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

(b) With respect to a trust that is not a resident for the 781  
taxable year and with respect to a part of a trust that is not a 782  
resident for the taxable year, "qualifying investee" for that 783  
taxable year does not include a C corporation if both of the 784  
following apply: 785

(i) During the taxable year the trust or part of the trust 786  
recognizes a gain or loss from the sale, exchange, or other 787  
disposition of equity or ownership interests in, or debt 788  
obligations of, the C corporation. 789

(ii) Such gain or loss constitutes nonbusiness income. 790

(6) "Available" means information is such that a person is 791  
able to learn of the information by the due date plus extensions, 792  
if any, for filing the return for the taxable year in which the 793  
trust recognizes the gain or loss. 794

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	795 796
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	797 798
(EE)(1) For the purposes of division (EE) of this section:	799
(a) "Qualifying person" means any person other than a qualifying corporation.	800 801
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	802 803 804
(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;	805 806 807 808
(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.	809 810 811 812
(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.	813 814 815
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	816 817
(1) "Trust" does not include a qualified pre-income tax trust.	818 819
(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.	820 821 822
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed	823 824

by section 5751.02 of the Revised Code the pre-income tax trust 825  
and all pass-through entities of which the trust owns or controls, 826  
directly, indirectly, or constructively through related interests, 827  
five per cent or more of the ownership or equity interests. The 828  
trustee shall notify the tax commissioner in writing of the 829  
election on or before April 15, 2006. The election, if timely 830  
made, shall be effective on and after January 1, 2006, and shall 831  
apply for all tax periods and tax years until revoked by the 832  
trustee of the trust. 833

(4) A "pre-income tax trust" is a trust that satisfies all of 834  
the following requirements: 835

(a) The document or instrument creating the trust was 836  
executed by the grantor before January 1, 1972; 837

(b) The trust became irrevocable upon the creation of the 838  
trust; and 839

(c) The grantor was domiciled in this state at the time the 840  
trust was created. 841

Sec. 5747.014. (A) For purposes of this section, division 842  
(A)(9) of section 5747.01 of the Revised Code, and section 5747.02 843  
of the Revised Code: 844

(1) "Modified capital gain" means a capital gain realized 845  
from the sale, exchange, or other disposition of non-Ohio-based 846  
investments to the extent included in federal adjusted gross 847  
income and not otherwise deducted or excluded in computing Ohio 848  
adjusted gross income. 849

(2) "Modified capital loss" means a capital loss realized 850  
from the sale, exchange, or other disposition of non-Ohio-based 851  
investments to the extent included in the computation of federal 852  
adjusted gross income. 853

(3) "Net modified capital gain" means the excess of modified 854

capital gains over modified capital losses, plus any capital gain 855  
distributions included in federal adjusted gross income but only 856  
to the extent the taxpayer can prove to the satisfaction of the 857  
tax commissioner that the capital gain distributions relate to the 858  
sale, exchange, or other disposition of a non-Ohio-based 859  
investment. 860

(4) "Ohio-based reinvestment" means an investment in any of 861  
the following: 862

(a) Publicly traded shares of a business incorporated under 863  
the laws of this state that maintains its corporate headquarters 864  
in this state at the time the taxpayer made the investment; 865

(b) Pass-through entities, the majority of the equity 866  
ownership interests of which are owned directly by persons subject 867  
to the tax levied under section 5747.02 of the Revised Code at the 868  
time the taxpayer made the investment; 869

(c) Public obligations issued by this state or subdivisions, 870  
as those terms are defined in section 5709.76 of the Revised Code; 871

(d) Tangible personal property used in business and 872  
physically located in this state at the time the taxpayer made the 873  
investment; 874

(e) Real property located in this state. 875

(5) A "non-Ohio-based investment" means any investment other 876  
than an Ohio-based reinvestment. 877

(B) In computing Ohio adjusted gross income under division 878  
(A) of section 5747.01 of the Revised Code, the following amounts 879  
shall be deducted or added under division (A)(24) of that section: 880

(1) Deduct Ohio-based reinvestments to the extent not 881  
otherwise deducted or excluded in computing federal or Ohio 882  
adjusted gross income. The amount deducted under division (B)(1) 883  
of this section shall not exceed net modified capital gains for 884

the taxable year. 885

(2)(a) Subject to division (B)(2)(b) of this section, add an 886  
amount equal to Ohio-based reinvestments sold or otherwise 887  
disposed of during the taxable year and within three years after 888  
the Ohio-based reinvestment was made to the extent a deduction was 889  
taken for the reinvestment in the current or a prior taxable year, 890  
plus ten per cent of that amount, and interest on that amount from 891  
the first day of January following the day the Ohio-based 892  
reinvestment was made computed at the rate per annum required 893  
under section 5703.47 of the Revised Code. 894

For the purposes of division (B)(2)(a) of this section and 895  
section 5747.13 of the Revised Code, the return subject to 896  
assessment shall be the return for the taxable year that includes 897  
the last day of the end of the three-year period beginning on the 898  
day the Ohio-based reinvestment was made. 899

(b) Any addition required under division (B)(2)(a) of this 900  
section shall be reduced by any amount the taxpayer invests in an 901  
Ohio-based reinvestment during the taxable year, ten per cent of 902  
that amount, and interest on that amount computed as provided in 903  
that division. The amount of the reduction shall not exceed the 904  
amount otherwise required to be added under division (B)(2)(a) of 905  
this section. No reduction shall be allowed under division 906  
(B)(2)(b) of this section for any amount deducted under division 907  
(B)(1) of this section for the same taxable year. 908

**Sec. 5747.02.** (A) For the purpose of providing revenue for 909  
the support of schools and local government functions, to provide 910  
relief to property taxpayers, to provide revenue for the general 911  
revenue fund, and to meet the expenses of administering the tax 912  
levied by this chapter, there is hereby levied on every 913  
individual, trust, and estate residing in or earning or receiving 914  
income in this state, on every individual, trust, and estate 915

earning or receiving lottery winnings, prizes, or awards pursuant 916  
to Chapter 3770. of the Revised Code, and on every individual, 917  
trust, and estate otherwise having nexus with or in this state 918  
under the Constitution of the United States, an annual tax 919  
measured in the case of individuals by the sum of Ohio adjusted 920  
gross income and Ohio-based reinvestments less an exemption for 921  
the taxpayer, the taxpayer's spouse, and each dependent as 922  
provided in section 5747.025 of the Revised Code; measured in the 923  
case of trusts by modified Ohio taxable income under division (D) 924  
of this section; and measured in the case of estates by Ohio 925  
taxable income. ~~The~~ 926

~~(1) The tax imposed by this section on the balance thus 927  
obtained is hereby levied as follows: 928~~

~~(1) For taxable years beginning in 2004: 929~~

~~OHIO ADJUSTED GROSS INCOME LESS 930~~

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR 931~~

~~MODIFIED OHIO 932~~

~~TAXABLE INCOME (TRUSTS) 933~~

~~OR 934~~

~~OHIO TAXABLE INCOME (ESTATES) TAX 935~~

~~\$5,000 or less .743% 936~~

~~More than \$5,000 but not more 937  
than \$10,000 \$37.15 plus 1.486% of the amount  
in excess of \$5,000~~

~~More than \$10,000 but not more 938  
than \$15,000 \$111.45 plus 2.972% of the  
amount in excess of \$10,000~~

~~More than \$15,000 but not more 939  
than \$20,000 \$260.05 plus 3.715% of the  
amount in excess of \$15,000~~

~~More than \$20,000 but not more 940  
than \$40,000 \$445.80 plus 4.457% of the  
amount in excess of \$20,000~~

~~More than \$40,000 but not more 941  
than \$80,000 \$1,337.20 plus 5.201% of the  
amount in excess of \$40,000~~

<del>More than \$80,000 but not more than \$100,000</del>	<del>\$3,417.60 plus 5.943% of the amount in excess of \$80,000</del>	942
<del>More than \$100,000 but not more than \$200,000</del>	<del>\$4,606.20 plus 6.9% of the amount in excess of \$100,000</del>	943
<del>More than \$200,000</del>	<del>\$11,506.20 plus 7.5% of the amount in excess of \$200,000</del>	944
<del>(2) For taxable years beginning in 2005:</del>		945
<del>OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)</del>		946
<del>OR</del>		947
<del>MODIFIED OHIO TAXABLE INCOME (TRUSTS)</del>		948
<del>OR</del>		949
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	951
<del>\$5,000 or less</del>	<del>.712%</del>	952
<del>More than \$5,000 but not more than \$10,000</del>	<del>\$35.60 plus 1.424% of the amount in excess of \$5,000</del>	953
<del>More than \$10,000 but not more than \$15,000</del>	<del>\$106.80 plus 2.847% of the amount in excess of \$10,000</del>	954
<del>More than \$15,000 but not more than \$20,000</del>	<del>\$249.15 plus 3.559% of the amount in excess of \$15,000</del>	955
<del>More than \$20,000 but not more than \$40,000</del>	<del>\$427.10 plus 4.27% of the amount in excess of \$20,000</del>	956
<del>More than \$40,000 but not more than \$80,000</del>	<del>\$1,281.10 plus 4.983% of the amount in excess of \$40,000</del>	957
<del>More than \$80,000 but not more than \$100,000</del>	<del>\$3,274.30 plus 5.693% of the amount in excess of \$80,000</del>	958
<del>More than \$100,000 but not more than \$200,000</del>	<del>\$4,412.90 plus 6.61% of the amount in excess of \$100,000</del>	959
<del>More than \$200,000</del>	<del>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</del>	960
<del>(3) For taxable years beginning in 2006:</del>		961



<del>OHIO ADJUSTED GROSS INCOME LESS</del>		962
<del>EXEMPTIONS (INDIVIDUALS)</del>		
<del>OR</del>		963
<del>MODIFIED OHIO</del>		964
<del>TAXABLE INCOME (TRUSTS)</del>		965
<del>OR</del>		966
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	967
<del>\$5,000 or less</del>	<del>.681%</del>	968
<del>More than \$5,000 but not more than \$10,000</del>	<del>\$34.05 plus 1.361% of the amount in excess of \$5,000</del>	969
<del>More than \$10,000 but not more than \$15,000</del>	<del>\$102.10 plus 2.722% of the amount in excess of \$10,000</del>	970
<del>More than \$15,000 but not more than \$20,000</del>	<del>\$238.20 plus 3.403% of the amount in excess of \$15,000</del>	971
<del>More than \$20,000 but not more than \$40,000</del>	<del>\$408.35 plus 4.083% of the amount in excess of \$20,000</del>	972
<del>More than \$40,000 but not more than \$80,000</del>	<del>\$1,224.95 plus 4.764% of the amount in excess of \$40,000</del>	973
<del>More than \$80,000 but not more than \$100,000</del>	<del>\$3,130.55 plus 5.444% of the amount in excess of \$80,000</del>	974
<del>More than \$100,000 but not more than \$200,000</del>	<del>\$4,219.35 plus 6.32% of the amount in excess of \$100,000</del>	975
<del>More than \$200,000</del>	<del>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</del>	976
<del>(4) For taxable years beginning in 2007:</del>		977
<del>OHIO ADJUSTED GROSS INCOME LESS</del>		978
<del>EXEMPTIONS (INDIVIDUALS)</del>		
<del>OR</del>		979
<del>MODIFIED OHIO</del>		980
<del>TAXABLE INCOME (TRUSTS)</del>		981
<del>OR</del>		982
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	983
<u>individuals for taxable years beginning in or after 2007 shall be</u>		984

the sum of the tax amounts computed under division (A)(1)(a) and 985  
division (A)(1)(b), (c), or (d) of this section where "INCOME" 986  
does not include Ohio-based reinvestments, or shall be the tax 987  
amount computed under division (A)(1)(b), (c), or (d) of this 988  
section where "INCOME" includes Ohio-based reinvestments, 989  
whichever computation produces the lower tax amount. If the 990  
computation where "INCOME" does not include Ohio-based 991  
reinvestments applies, the total amount of exemptions allowed 992  
under section 5747.025 of the Revised Code shall be applied first 993  
against adjusted gross income, and if the total amount of the 994  
exemptions exceeds adjusted gross income, the excess shall be 995  
applied against Ohio-based reinvestments. If the computation where 996  
"INCOME" includes Ohio-based reinvestments applies, the total 997  
amount of exemptions allowed under section 5747.025 of the Revised 998  
Code shall be applied against the sum of adjusted gross income and 999  
Ohio-based reinvestments. 1000

The tax imposed by this section on estates and trusts for 1001  
taxable years beginning in or after 2007 shall be the tax amounts 1002  
computed under division (A)(1)(b), (c), or (d) of this section, as 1003  
applicable to the taxable year. 1004

(a) The tax imposed on Ohio-based reinvestments of 1005  
individuals shall be three per cent of the Ohio-based 1006  
reinvestment. 1007

(b) The tax imposed on Ohio adjusted gross income of 1008  
individuals, modified Ohio taxable income of trusts, and Ohio 1009  
taxable income of estates for taxable years beginning in 2007 1010  
shall be computed as follows: 1011

<u>INCOME</u>	<u>TAX</u>	
\$5,000 or less	.649%	1013
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	1014
More than \$10,000 but not more	\$97.40 plus 2.598% of the amount	1015

than \$15,000	in excess of \$10,000	
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	1016
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	1017
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	1018
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	1019
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	1020
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	1021

~~(5) For taxable years beginning in 2008:~~ 1022

~~OHIO ADJUSTED GROSS INCOME LESS~~ 1023

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR~~ 1024

~~MODIFIED OHIO~~ 1025

~~TAXABLE INCOME (TRUSTS)~~ 1026

~~OR~~ 1027

~~OHIO TAXABLE INCOME (ESTATES) TAX~~ 1028

(c) The tax imposed on Ohio adjusted gross income of individuals, modified Ohio taxable income of trusts, and Ohio taxable income of estates for taxable years beginning in 2008 shall be computed as follows: 1029  
1030  
1031  
1032

<u>INCOME</u>	<u>TAX</u>	1033
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\$5,000 or less	.618%	1034
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More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1035
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More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	1036
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More than \$15,000 but not more	\$216.35 plus 3.091% of the	1037
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than \$20,000	amount in excess of \$15,000	
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1038
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1039
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1040
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1041
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1042

~~(6) For taxable years beginning in 2009 or thereafter:~~ 1043

~~OHIO ADJUSTED GROSS INCOME LESS~~ 1044

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR~~ 1045

~~MODIFIED OHIO~~ 1046

~~TAXABLE INCOME (TRUSTS)~~ 1047

~~OR~~ 1048

~~OHIO TAXABLE INCOME (ESTATES)~~ ~~TAX~~ 1049

(d) The tax imposed on Ohio adjusted gross income of 1050

individuals, modified Ohio taxable income of trusts, and Ohio 1051

taxable income of estates for taxable years beginning in or after 1052

2009 shall be computed as follows: 1053

<u>INCOME</u>	<u>TAX</u>	
\$5,000 or less	.587%	1055
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1056
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1057
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1058
More than \$20,000 but not more	\$352.20 plus 3.521% of the	1059

than \$40,000	amount in excess of \$20,000	
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1060
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	1061
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1062
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1063

(2) In July of each year, beginning in 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

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

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years

beginning in the calendar year in which that certification is 1087  
made. 1088

(C) The levy of this tax on income does not prevent a 1089  
municipal corporation, a joint economic development zone created 1090  
under section 715.691, or a joint economic development district 1091  
created under section 715.70 or 715.71 or sections 715.72 to 1092  
715.81 of the Revised Code from levying a tax on income. 1093

(D) This division applies only to taxable years of a trust 1094  
beginning in 2002 or thereafter. 1095

(1) The tax imposed by this section on a trust shall be 1096  
computed by multiplying the Ohio modified taxable income of the 1097  
trust by the rates prescribed by division (A)(1)(b), (c), or (d) 1098  
of this section, as applicable to the taxable year. 1099

(2) A credit is allowed against the tax computed under 1100  
division (D) of this section equal to the lesser of (1) the tax 1101  
paid to another state or the District of Columbia on the trust's 1102  
modified nonbusiness income, other than the portion of the trust's 1103  
nonbusiness income that is qualifying investment income as defined 1104  
in section 5747.012 of the Revised Code, or (2) the effective tax 1105  
rate, based on modified Ohio taxable income, multiplied by the 1106  
trust's modified nonbusiness income other than the portion of 1107  
trust's nonbusiness income that is qualifying investment income. 1108  
The credit applies before any other applicable credits. 1109

(3) The credits enumerated in divisions (A)(1) to (13) of 1110  
section 5747.98 of the Revised Code do not apply to a trust 1111  
subject to this division. Any credits enumerated in other 1112  
divisions of section 5747.98 of the Revised Code apply to a trust 1113  
subject to this division. To the extent that the trust distributes 1114  
income for the taxable year for which a credit is available to the 1115  
trust, the credit shall be shared by the trust and its 1116  
beneficiaries. The tax commissioner and the trust shall be guided 1117

by applicable regulations of the United States treasury regarding 1118  
the sharing of credits. 1119

(E) For the purposes of this section, "trust" means any trust 1120  
described in Subchapter J of Chapter 1 of the Internal Revenue 1121  
Code, excluding trusts that are not irrevocable as defined in 1122  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1123  
have no modified Ohio taxable income for the taxable year, 1124  
charitable remainder trusts, qualified funeral trusts and preneed 1125  
funeral contract trusts established pursuant to section 1111.19 of 1126  
the Revised Code that are not qualified funeral trusts, endowment 1127  
and perpetual care trusts, qualified settlement trusts and funds, 1128  
designated settlement trusts and funds, and trusts exempted from 1129  
taxation under section 501(a) of the Internal Revenue Code. 1130

**Section 2.** That existing sections 5747.01 and 5747.02 of the 1131  
Revised Code are hereby repealed. 1132

**Section 3.** The amendment by this act of sections 5747.01 and 1133  
5747.02 of the Revised Code, and the enactment by this act of 1134  
section 5747.014 of the Revised Code, apply to taxable years 1135  
beginning on or after January 1, 2007. 1136