

**As Introduced**

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**S. B. No. 284**

**Senator Bocchieri**

**Cosponsors: Senators Mason, Seitz, Miller, R., Miller, D., Schuring, Mumper,  
Smith, Roberts, Padgett, Faber, Morano, Buehrer, Grendell, Cates, Kearney,  
Schaffer, Wagoner**

—

**A B I L L**

To amend section 5747.01 of the Revised Code to 1  
exempt from the personal income tax grants 2  
provided to individuals from the Military Injury 3  
Relief Fund. 4

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

**Section 1.** That section 5747.01 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 5747.01.** Except as otherwise expressly provided or 7  
clearly appearing from the context, any term used in this chapter 8  
that is not otherwise defined in this section has the same meaning 9  
as when used in a comparable context in the laws of the United 10  
States relating to federal income taxes or if not used in a 11  
comparable context in those laws, has the same meaning as in 12  
section 5733.40 of the Revised Code. Any reference in this chapter 13  
to the Internal Revenue Code includes other laws of the United 14  
States relating to federal income taxes. 15

As used in this chapter: 16

(A) "Adjusted gross income" or "Ohio adjusted gross income" 17  
means federal adjusted gross income, as defined and used in the 18  
Internal Revenue Code, adjusted as provided in this section: 19

(1) Add interest or dividends on obligations or securities of 20  
any state or of any political subdivision or authority of any 21  
state, other than this state and its subdivisions and authorities. 22

(2) Add interest or dividends on obligations of any 23  
authority, commission, instrumentality, territory, or possession 24  
of the United States to the extent that the interest or dividends 25  
are exempt from federal income taxes but not from state income 26  
taxes. 27

(3) Deduct interest or dividends on obligations of the United 28  
States and its territories and possessions or of any authority, 29  
commission, or instrumentality of the United States to the extent 30  
that the interest or dividends are included in federal adjusted 31  
gross income but exempt from state income taxes under the laws of 32  
the United States. 33

(4) Deduct disability and survivor's benefits to the extent 34  
included in federal adjusted gross income. 35

(5) Deduct benefits under Title II of the Social Security Act 36  
and tier 1 railroad retirement benefits to the extent included in 37  
federal adjusted gross income under section 86 of the Internal 38  
Revenue Code. 39

(6) In the case of a taxpayer who is a beneficiary of a trust 40  
that makes an accumulation distribution as defined in section 665 41  
of the Internal Revenue Code, add, for the beneficiary's taxable 42  
years beginning before 2002, the portion, if any, of such 43  
distribution that does not exceed the undistributed net income of 44  
the trust for the three taxable years preceding the taxable year 45  
in which the distribution is made to the extent that the portion 46  
was not included in the trust's taxable income for any of the 47

trust's taxable years beginning in 2002 or thereafter. 48

"Undistributed net income of a trust" means the taxable income of 49  
the trust increased by (a)(i) the additions to adjusted gross 50  
income required under division (A) of this section and (ii) the 51  
personal exemptions allowed to the trust pursuant to section 52  
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 53  
deductions to adjusted gross income required under division (A) of 54  
this section, (ii) the amount of federal income taxes attributable 55  
to such income, and (iii) the amount of taxable income that has 56  
been included in the adjusted gross income of a beneficiary by 57  
reason of a prior accumulation distribution. Any undistributed net 58  
income included in the adjusted gross income of a beneficiary 59  
shall reduce the undistributed net income of the trust commencing 60  
with the earliest years of the accumulation period. 61

(7) Deduct the amount of wages and salaries, if any, not 62  
otherwise allowable as a deduction but that would have been 63  
allowable as a deduction in computing federal adjusted gross 64  
income for the taxable year, had the targeted jobs credit allowed 65  
and determined under sections 38, 51, and 52 of the Internal 66  
Revenue Code not been in effect. 67

(8) Deduct any interest or interest equivalent on public 68  
obligations and purchase obligations to the extent that the 69  
interest or interest equivalent is included in federal adjusted 70  
gross income. 71

(9) Add any loss or deduct any gain resulting from the sale, 72  
exchange, or other disposition of public obligations to the extent 73  
that the loss has been deducted or the gain has been included in 74  
computing federal adjusted gross income. 75

(10) Deduct or add amounts, as provided under section 5747.70 76  
of the Revised Code, related to contributions to variable college 77  
savings program accounts made or tuition units purchased pursuant 78  
to Chapter 3334. of the Revised Code. 79

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

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

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

(12)(a) Deduct any amount included in federal adjusted gross 112  
income solely because the amount represents a reimbursement or 113  
refund of expenses that in any year the taxpayer had deducted as 114  
an itemized deduction pursuant to section 63 of the Internal 115  
Revenue Code and applicable United States department of the 116  
treasury regulations. The deduction otherwise allowed under 117  
division (A)(12)(a) of this section shall be reduced to the extent 118  
the reimbursement is attributable to an amount the taxpayer 119  
deducted under this section in any taxable year. 120

(b) Add any amount not otherwise included in Ohio adjusted 121  
gross income for any taxable year to the extent that the amount is 122  
attributable to the recovery during the taxable year of any amount 123  
deducted or excluded in computing federal or Ohio adjusted gross 124  
income in any taxable year. 125

(13) Deduct any portion of the deduction described in section 126  
1341(a)(2) of the Internal Revenue Code, for repaying previously 127  
reported income received under a claim of right, that meets both 128  
of the following requirements: 129

(a) It is allowable for repayment of an item that was 130  
included in the taxpayer's adjusted gross income for a prior 131  
taxable year and did not qualify for a credit under division (A) 132  
or (B) of section 5747.05 of the Revised Code for that year; 133

(b) It does not otherwise reduce the taxpayer's adjusted 134  
gross income for the current or any other taxable year. 135

(14) Deduct an amount equal to the deposits made to, and net 136  
investment earnings of, a medical savings account during the 137  
taxable year, in accordance with section 3924.66 of the Revised 138  
Code. The deduction allowed by division (A)(14) of this section 139  
does not apply to medical savings account deposits and earnings 140  
otherwise deducted or excluded for the current or any other 141  
taxable year from the taxpayer's federal adjusted gross income. 142

(15)(a) Add an amount equal to the funds withdrawn from a 143  
medical savings account during the taxable year, and the net 144  
investment earnings on those funds, when the funds withdrawn were 145  
used for any purpose other than to reimburse an account holder 146  
for, or to pay, eligible medical expenses, in accordance with 147  
section 3924.66 of the Revised Code; 148

(b) Add the amounts distributed from a medical savings 149  
account under division (A)(2) of section 3924.68 of the Revised 150  
Code during the taxable year. 151

(16) Add any amount claimed as a credit under section 152  
5747.059 of the Revised Code to the extent that such amount 153  
satisfies either of the following: 154

(a) The amount was deducted or excluded from the computation 155  
of the taxpayer's federal adjusted gross income as required to be 156  
reported for the taxpayer's taxable year under the Internal 157  
Revenue Code; 158

(b) The amount resulted in a reduction of the taxpayer's 159  
federal adjusted gross income as required to be reported for any 160  
of the taxpayer's taxable years under the Internal Revenue Code. 161

(17) Deduct the amount contributed by the taxpayer to an 162  
individual development account program established by a county 163  
department of job and family services pursuant to sections 329.11 164  
to 329.14 of the Revised Code for the purpose of matching funds 165  
deposited by program participants. On request of the tax 166  
commissioner, the taxpayer shall provide any information that, in 167  
the tax commissioner's opinion, is necessary to establish the 168  
amount deducted under division (A)(17) of this section. 169

(18) Beginning in taxable year 2001 but not for any taxable 170  
year beginning after December 31, 2005, if the taxpayer is married 171  
and files a joint return and the combined federal adjusted gross 172  
income of the taxpayer and the taxpayer's spouse for the taxable 173

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

(19) Add any reimbursement received during the taxable year 187  
of any amount the taxpayer deducted under division (A)(18) of this 188  
section in any previous taxable year to the extent the amount is 189  
not otherwise included in Ohio adjusted gross income. 190

(20)(a)(i) Add five-sixths of the amount of depreciation 191  
expense allowed by subsection (k) of section 168 of the Internal 192  
Revenue Code, including the taxpayer's proportionate or 193  
distributive share of the amount of depreciation expense allowed 194  
by that subsection to a pass-through entity in which the taxpayer 195  
has a direct or indirect ownership interest. 196

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

expense directly or indirectly allowed to the taxpayer under 206  
section 179 of the Internal Revenue Code as that section existed 207  
on December 31, 2002. 208

The tax commissioner, under procedures established by the 209  
commissioner, may waive the add-backs related to a pass-through 210  
entity if the taxpayer owns, directly or indirectly, less than 211  
five per cent of the pass-through entity. 212

(b) Nothing in division (A)(20) of this section shall be 213  
construed to adjust or modify the adjusted basis of any asset. 214

(c) To the extent the add-back required under division 215  
(A)(20)(a) of this section is attributable to property generating 216  
nonbusiness income or loss allocated under section 5747.20 of the 217  
Revised Code, the add-back shall be situated to the same location 218  
as the nonbusiness income or loss generated by the property for 219  
the purpose of determining the credit under division (A) of 220  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 221  
be apportioned, subject to one or more of the four alternative 222  
methods of apportionment enumerated in section 5747.21 of the 223  
Revised Code. 224

(d) For the purposes of division (A) of this section, net 225  
operating loss carryback and carryforward shall not include 226  
five-sixths of the allowance of any net operating loss deduction 227  
carryback or carryforward to the taxable year to the extent such 228  
loss resulted from depreciation allowed by section 168(k) of the 229  
Internal Revenue Code and by the qualifying section 179 230  
depreciation expense amount. 231

(21)(a) If the taxpayer was required to add an amount under 232  
division (A)(20)(a) of this section for a taxable year, deduct 233  
one-fifth of the amount so added for each of the five succeeding 234  
taxable years. 235

(b) If the amount deducted under division (A)(21)(a) of this 236



section is attributable to an add-back allocated under division 237  
(A)(20)(c) of this section, the amount deducted shall be sitused 238  
to the same location. Otherwise, the add-back shall be apportioned 239  
using the apportionment factors for the taxable year in which the 240  
deduction is taken, subject to one or more of the four alternative 241  
methods of apportionment enumerated in section 5747.21 of the 242  
Revised Code. 243

(c) No deduction is available under division (A)(21)(a) of 244  
this section with regard to any depreciation allowed by section 245  
168(k) of the Internal Revenue Code and by the qualifying section 246  
179 depreciation expense amount to the extent that such 247  
depreciation resulted in or increased a federal net operating loss 248  
carryback or carryforward to a taxable year to which division 249  
(A)(20)(d) of this section does not apply. 250

(22) Deduct, to the extent not otherwise deducted or excluded 251  
in computing federal or Ohio adjusted gross income for the taxable 252  
year, the amount the taxpayer received during the taxable year as 253  
reimbursement for life insurance premiums under section 5919.31 of 254  
the Revised Code. 255

(23) Deduct, to the extent not otherwise deducted or excluded 256  
in computing federal or Ohio adjusted gross income for the taxable 257  
year, the amount the taxpayer received during the taxable year as 258  
a death benefit paid by the adjutant general under section 5919.33 259  
of the Revised Code. 260

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

while the taxpayer is stationed in this state. 269

(25) Deduct, to the extent not otherwise allowable as a 270  
deduction or exclusion in computing federal or Ohio adjusted gross 271  
income for the taxable year and not otherwise compensated for by 272  
any other source, the amount of qualified organ donation expenses 273  
incurred by the taxpayer during the taxable year, not to exceed 274  
ten thousand dollars. A taxpayer may deduct qualified organ 275  
donation expenses only once for all taxable years beginning with 276  
taxable years beginning in 2007. 277

For the purposes of division (A)(25) of this section: 278

(a) "Human organ" means all or any portion of a human liver, 279  
pancreas, kidney, intestine, or lung, and any portion of human 280  
bone marrow. 281

(b) "Qualified organ donation expenses" means travel 282  
expenses, lodging expenses, and wages and salary forgone by a 283  
taxpayer in connection with the taxpayer's donation, while living, 284  
of one or more of the taxpayer's human organs to another human 285  
being. 286

(26) Deduct, to the extent not otherwise deducted or excluded 287  
in computing federal or Ohio adjusted gross income for the taxable 288  
year, the amount the taxpayer received during the taxable year 289  
from the military injury relief fund created in section 5101.98 of 290  
the Revised Code. 291

(B) "Business income" means income, including gain or loss, 292  
arising from transactions, activities, and sources in the regular 293  
course of a trade or business and includes income, gain, or loss 294  
from real property, tangible property, and intangible property if 295  
the acquisition, rental, management, and disposition of the 296  
property constitute integral parts of the regular course of a 297  
trade or business operation. "Business income" includes income, 298  
including gain or loss, from a partial or complete liquidation of 299

a business, including, but not limited to, gain or loss from the 300  
sale or other disposition of goodwill. 301

(C) "Nonbusiness income" means all income other than business 302  
income and may include, but is not limited to, compensation, rents 303  
and royalties from real or tangible personal property, capital 304  
gains, interest, dividends and distributions, patent or copyright 305  
royalties, or lottery winnings, prizes, and awards. 306

(D) "Compensation" means any form of remuneration paid to an 307  
employee for personal services. 308

(E) "Fiduciary" means a guardian, trustee, executor, 309  
administrator, receiver, conservator, or any other person acting 310  
in any fiduciary capacity for any individual, trust, or estate. 311

(F) "Fiscal year" means an accounting period of twelve months 312  
ending on the last day of any month other than December. 313

(G) "Individual" means any natural person. 314

(H) "Internal Revenue Code" means the "Internal Revenue Code 315  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 316

(I) "Resident" means any of the following, provided that 317  
division (I)(3) of this section applies only to taxable years of a 318  
trust beginning in 2002 or thereafter: 319

(1) An individual who is domiciled in this state, subject to 320  
section 5747.24 of the Revised Code; 321

(2) The estate of a decedent who at the time of death was 322  
domiciled in this state. The domicile tests of section 5747.24 of 323  
the Revised Code are not controlling for purposes of division 324  
(I)(2) of this section. 325

(3) A trust that, in whole or part, resides in this state. If 326  
only part of a trust resides in this state, the trust is a 327  
resident only with respect to that part. 328

For the purposes of division (I)(3) of this section: 329

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

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

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

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

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

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential

current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that 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 393  
subsequent transfer, net of any related liabilities. 394

(iii) Whether a transfer to the trust is by or from any of 395  
the sources enumerated in division (I)(3)(a) of this section shall 396  
be ascertained without regard to the domicile of the trust's 397  
beneficiaries. 398

(e) For the purposes of division (I)(3)(a)(i) of this 399  
section: 400

(i) A trust is described in division (I)(3)(e)(i) of this 401  
section if the trust is a testamentary trust and the testator of 402  
that testamentary trust was domiciled in this state at the time of 403  
the testator's death for purposes of the taxes levied under 404  
Chapter 5731. of the Revised Code. 405

(ii) A trust is described in division (I)(3)(e)(ii) of this 406  
section if the transfer is a qualifying transfer described in any 407  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 408  
irrevocable inter vivos trust, and at least one of the trust's 409  
qualifying beneficiaries is domiciled in this state for purposes 410  
of this chapter during all or some portion of the trust's current 411  
taxable year. 412

(f) For the purposes of division (I)(3)(e)(ii) of this 413  
section, a "qualifying transfer" is a transfer of assets, net of 414  
any related liabilities, directly or indirectly to a trust, if the 415  
transfer is described in any of the following: 416

(i) The transfer is made to a trust, created by the decedent 417  
before the decedent's death and while the decedent was domiciled 418  
in this state for the purposes of this chapter, and, prior to the 419  
death of the decedent, the trust became irrevocable while the 420  
decedent was domiciled in this state for the purposes of this 421  
chapter. 422

(ii) The transfer is made to a trust to which the decedent, 423

prior to the decedent's death, had directly or indirectly 424  
transferred assets, net of any related liabilities, while the 425  
decedent was domiciled in this state for the purposes of this 426  
chapter, and prior to the death of the decedent the trust became 427  
irrevocable while the decedent was domiciled in this state for the 428  
purposes of this chapter. 429

(iii) The transfer is made on account of a contractual 430  
relationship existing directly or indirectly between the 431  
transferor and either the decedent or the estate of the decedent 432  
at any time prior to the date of the decedent's death, and the 433  
decedent was domiciled in this state at the time of death for 434  
purposes of the taxes levied under Chapter 5731. of the Revised 435  
Code. 436

(iv) The transfer is made to a trust on account of a 437  
contractual relationship existing directly or indirectly between 438  
the transferor and another person who at the time of the 439  
decedent's death was domiciled in this state for purposes of this 440  
chapter. 441

(v) The transfer is made to a trust on account of the will of 442  
a testator. 443

(vi) The transfer is made to a trust created by or caused to 444  
be created by a court, and the trust was directly or indirectly 445  
created in connection with or as a result of the death of an 446  
individual who, for purposes of the taxes levied under Chapter 447  
5731. of the Revised Code, was domiciled in this state at the time 448  
of the individual's death. 449

(g) The tax commissioner may adopt rules to ascertain the 450  
part of a trust residing in this state. 451

(J) "Nonresident" means an individual or estate that is not a 452  
resident. An individual who is a resident for only part of a 453  
taxable year is a nonresident for the remainder of that taxable 454

year.	455
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	456 457
(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.	458 459 460 461
(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.	462 463 464 465
(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.	466 467 468 469
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	470 471 472 473 474
(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.	475 476 477 478 479
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	480 481
(1) "Subdivision" means any county, municipal corporation, park district, or township.	482 483
(2) "Essential local government purposes" includes all	484



functions that any subdivision is required by general law to 485  
exercise, including like functions that are exercised under a 486  
charter adopted pursuant to the Ohio Constitution. 487

(R) "Overpayment" means any amount already paid that exceeds 488  
the figure determined to be the correct amount of the tax. 489

(S) "Taxable income" or "Ohio taxable income" applies only to 490  
estates and trusts, and means federal taxable income, as defined 491  
and used in the Internal Revenue Code, adjusted as follows: 492

(1) Add interest or dividends, net of ordinary, necessary, 493  
and reasonable expenses not deducted in computing federal taxable 494  
income, on obligations or securities of any state or of any 495  
political subdivision or authority of any state, other than this 496  
state and its subdivisions and authorities, but only to the extent 497  
that such net amount is not otherwise includible in Ohio taxable 498  
income and is described in either division (S)(1)(a) or (b) of 499  
this section: 500

(a) The net amount is not attributable to the S portion of an 501  
electing small business trust and has not been distributed to 502  
beneficiaries for the taxable year; 503

(b) The net amount is attributable to the S portion of an 504  
electing small business trust for the taxable year. 505

(2) Add interest or dividends, net of ordinary, necessary, 506  
and reasonable expenses not deducted in computing federal taxable 507  
income, on obligations of any authority, commission, 508  
instrumentality, territory, or possession of the United States to 509  
the extent that the interest or dividends are exempt from federal 510  
income taxes but not from state income taxes, but only to the 511  
extent that such net amount is not otherwise includible in Ohio 512  
taxable income and is described in either division (S)(1)(a) or 513  
(b) of this section; 514

(3) Add the amount of personal exemption allowed to the 515

estate pursuant to section 642(b) of the Internal Revenue Code; 516

(4) Deduct interest or dividends, net of related expenses 517  
deducted in computing federal taxable income, on obligations of 518  
the United States and its territories and possessions or of any 519  
authority, commission, or instrumentality of the United States to 520  
the extent that the interest or dividends are exempt from state 521  
taxes under the laws of the United States, but only to the extent 522  
that such amount is included in federal taxable income and is 523  
described in either division (S)(1)(a) or (b) of this section; 524

(5) Deduct the amount of wages and salaries, if any, not 525  
otherwise allowable as a deduction but that would have been 526  
allowable as a deduction in computing federal taxable income for 527  
the taxable year, had the targeted jobs credit allowed under 528  
sections 38, 51, and 52 of the Internal Revenue Code not been in 529  
effect, but only to the extent such amount relates either to 530  
income included in federal taxable income for the taxable year or 531  
to income of the S portion of an electing small business trust for 532  
the taxable year; 533

(6) Deduct any interest or interest equivalent, net of 534  
related expenses deducted in computing federal taxable income, on 535  
public obligations and purchase obligations, but only to the 536  
extent that such net amount relates either to income included in 537  
federal taxable income for the taxable year or to income of the S 538  
portion of an electing small business trust for the taxable year; 539

(7) Add any loss or deduct any gain resulting from sale, 540  
exchange, or other disposition of public obligations to the extent 541  
that such loss has been deducted or such gain has been included in 542  
computing either federal taxable income or income of the S portion 543  
of an electing small business trust for the taxable year; 544

(8) Except in the case of the final return of an estate, add 545  
any amount deducted by the taxpayer on both its Ohio estate tax 546

return pursuant to section 5731.14 of the Revised Code, and on its 547  
federal income tax return in determining federal taxable income; 548

(9)(a) Deduct any amount included in federal taxable income 549  
solely because the amount represents a reimbursement or refund of 550  
expenses that in a previous year the decedent had deducted as an 551  
itemized deduction pursuant to section 63 of the Internal Revenue 552  
Code and applicable treasury regulations. The deduction otherwise 553  
allowed under division (S)(9)(a) of this section shall be reduced 554  
to the extent the reimbursement is attributable to an amount the 555  
taxpayer or decedent deducted under this section in any taxable 556  
year. 557

(b) Add any amount not otherwise included in Ohio taxable 558  
income for any taxable year to the extent that the amount is 559  
attributable to the recovery during the taxable year of any amount 560  
deducted or excluded in computing federal or Ohio taxable income 561  
in any taxable year, but only to the extent such amount has not 562  
been distributed to beneficiaries for the taxable year. 563

(10) Deduct any portion of the deduction described in section 564  
1341(a)(2) of the Internal Revenue Code, for repaying previously 565  
reported income received under a claim of right, that meets both 566  
of the following requirements: 567

(a) It is allowable for repayment of an item that was 568  
included in the taxpayer's taxable income or the decedent's 569  
adjusted gross income for a prior taxable year and did not qualify 570  
for a credit under division (A) or (B) of section 5747.05 of the 571  
Revised Code for that year. 572

(b) It does not otherwise reduce the taxpayer's taxable 573  
income or the decedent's adjusted gross income for the current or 574  
any other taxable year. 575

(11) Add any amount claimed as a credit under section 576  
5747.059 of the Revised Code to the extent that the amount 577

satisfies either of the following: 578

(a) The amount was deducted or excluded from the computation 579  
of the taxpayer's federal taxable income as required to be 580  
reported for the taxpayer's taxable year under the Internal 581  
Revenue Code; 582

(b) The amount resulted in a reduction in the taxpayer's 583  
federal taxable income as required to be reported for any of the 584  
taxpayer's taxable years under the Internal Revenue Code. 585

(12) Deduct any amount, net of related expenses deducted in 586  
computing federal taxable income, that a trust is required to 587  
report as farm income on its federal income tax return, but only 588  
if the assets of the trust include at least ten acres of land 589  
satisfying the definition of "land devoted exclusively to 590  
agricultural use" under section 5713.30 of the Revised Code, 591  
regardless of whether the land is valued for tax purposes as such 592  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 593  
trust is a pass-through entity investor, section 5747.231 of the 594  
Revised Code applies in ascertaining if the trust is eligible to 595  
claim the deduction provided by division (S)(12) of this section 596  
in connection with the pass-through entity's farm income. 597

Except for farm income attributable to the S portion of an 598  
electing small business trust, the deduction provided by division 599  
(S)(12) of this section is allowed only to the extent that the 600  
trust has not distributed such farm income. Division (S)(12) of 601  
this section applies only to taxable years of a trust beginning in 602  
2002 or thereafter. 603

(13) Add the net amount of income described in section 641(c) 604  
of the Internal Revenue Code to the extent that amount is not 605  
included in federal taxable income. 606

(14) Add or deduct the amount the taxpayer would be required 607  
to add or deduct under division (A)(20) or (21) of this section if 608

the taxpayer's Ohio taxable income were computed in the same 609  
manner as an individual's Ohio adjusted gross income is computed 610  
under this section. In the case of a trust, division (S)(14) of 611  
this section applies only to any of the trust's taxable years 612  
beginning in 2002 or thereafter. 613

(T) "School district income" and "school district income tax" 614  
have the same meanings as in section 5748.01 of the Revised Code. 615

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 616  
of this section, "public obligations," "purchase obligations," and 617  
"interest or interest equivalent" have the same meanings as in 618  
section 5709.76 of the Revised Code. 619

(V) "Limited liability company" means any limited liability 620  
company formed under Chapter 1705. of the Revised Code or under 621  
the laws of any other state. 622

(W) "Pass-through entity investor" means any person who, 623  
during any portion of a taxable year of a pass-through entity, is 624  
a partner, member, shareholder, or equity investor in that 625  
pass-through entity. 626

(X) "Banking day" has the same meaning as in section 1304.01 627  
of the Revised Code. 628

(Y) "Month" means a calendar month. 629

(Z) "Quarter" means the first three months, the second three 630  
months, the third three months, or the last three months of the 631  
taxpayer's taxable year. 632

(AA)(1) "Eligible institution" means a state university or 633  
state institution of higher education as defined in section 634  
3345.011 of the Revised Code, or a private, nonprofit college, 635  
university, or other post-secondary institution located in this 636  
state that possesses a certificate of authorization issued by the 637  
Ohio board of regents pursuant to Chapter 1713. of the Revised 638

Code or a certificate of registration issued by the state board of 639  
career colleges and schools under Chapter 3332. of the Revised 640  
Code. 641

(2) "Qualified tuition and fees" means tuition and fees 642  
imposed by an eligible institution as a condition of enrollment or 643  
attendance, not exceeding two thousand five hundred dollars in 644  
each of the individual's first two years of post-secondary 645  
education. If the individual is a part-time student, "qualified 646  
tuition and fees" includes tuition and fees paid for the academic 647  
equivalent of the first two years of post-secondary education 648  
during a maximum of five taxable years, not exceeding a total of 649  
five thousand dollars. "Qualified tuition and fees" does not 650  
include: 651

(a) Expenses for any course or activity involving sports, 652  
games, or hobbies unless the course or activity is part of the 653  
individual's degree or diploma program; 654

(b) The cost of books, room and board, student activity fees, 655  
athletic fees, insurance expenses, or other expenses unrelated to 656  
the individual's academic course of instruction; 657

(c) Tuition, fees, or other expenses paid or reimbursed 658  
through an employer, scholarship, grant in aid, or other 659  
educational benefit program. 660

(BB)(1) "Modified business income" means the business income 661  
included in a trust's Ohio taxable income after such taxable 662  
income is first reduced by the qualifying trust amount, if any. 663

(2) "Qualifying trust amount" of a trust means capital gains 664  
and losses from the sale, exchange, or other disposition of equity 665  
or ownership interests in, or debt obligations of, a qualifying 666  
investee to the extent included in the trust's Ohio taxable 667  
income, but only if the following requirements are satisfied: 668

(a) The book value of the qualifying investee's physical 669

assets in this state and everywhere, as of the last day of the 670  
qualifying investee's fiscal or calendar year ending immediately 671  
prior to the date on which the trust recognizes the gain or loss, 672  
is available to the trust. 673

(b) The requirements of section 5747.011 of the Revised Code 674  
are satisfied for the trust's taxable year in which the trust 675  
recognizes the gain or loss. 676

Any gain or loss that is not a qualifying trust amount is 677  
modified business income, qualifying investment income, or 678  
modified nonbusiness income, as the case may be. 679

(3) "Modified nonbusiness income" means a trust's Ohio 680  
taxable income other than modified business income, other than the 681  
qualifying trust amount, and other than qualifying investment 682  
income, as defined in section 5747.012 of the Revised Code, to the 683  
extent such qualifying investment income is not otherwise part of 684  
modified business income. 685

(4) "Modified Ohio taxable income" applies only to trusts, 686  
and means the sum of the amounts described in divisions (BB)(4)(a) 687  
to (c) of this section: 688

(a) The fraction, calculated under section 5747.013, and 689  
applying section 5747.231 of the Revised Code, multiplied by the 690  
sum of the following amounts: 691

(i) The trust's modified business income; 692

(ii) The trust's qualifying investment income, as defined in 693  
section 5747.012 of the Revised Code, but only to the extent the 694  
qualifying investment income does not otherwise constitute 695  
modified business income and does not otherwise constitute a 696  
qualifying trust amount. 697

(b) The qualifying trust amount multiplied by a fraction, the 698  
numerator of which is the sum of the book value of the qualifying 699

investee's physical assets in this state on the last day of the 700  
qualifying investee's fiscal or calendar year ending immediately 701  
prior to the day on which the trust recognizes the qualifying 702  
trust amount, and the denominator of which is the sum of the book 703  
value of the qualifying investee's total physical assets 704  
everywhere on the last day of the qualifying investee's fiscal or 705  
calendar year ending immediately prior to the day on which the 706  
trust recognizes the qualifying trust amount. If, for a taxable 707  
year, the trust recognizes a qualifying trust amount with respect 708  
to more than one qualifying investee, the amount described in 709  
division (BB)(4)(b) of this section shall equal the sum of the 710  
products so computed for each such qualifying investee. 711

(c)(i) With respect to a trust or portion of a trust that is 712  
a resident as ascertained in accordance with division (I)(3)(d) of 713  
this section, its modified nonbusiness income. 714

(ii) With respect to a trust or portion of a trust that is 715  
not a resident as ascertained in accordance with division 716  
(I)(3)(d) of this section, the amount of its modified nonbusiness 717  
income satisfying the descriptions in divisions (B)(2) to (5) of 718  
section 5747.20 of the Revised Code, except as otherwise provided 719  
in division (BB)(4)(c)(ii) of this section. With respect to a 720  
trust or portion of a trust that is not a resident as ascertained 721  
in accordance with division (I)(3)(d) of this section, the trust's 722  
portion of modified nonbusiness income recognized from the sale, 723  
exchange, or other disposition of a debt interest in or equity 724  
interest in a section 5747.212 entity, as defined in section 725  
5747.212 of the Revised Code, without regard to division (A) of 726  
that section, shall not be allocated to this state in accordance 727  
with section 5747.20 of the Revised Code but shall be apportioned 728  
to this state in accordance with division (B) of section 5747.212 729  
of the Revised Code without regard to division (A) of that 730  
section. 731



If the allocation and apportionment of a trust's income under 732  
divisions (BB)(4)(a) and (c) of this section do not fairly 733  
represent the modified Ohio taxable income of the trust in this 734  
state, the alternative methods described in division (C) of 735  
section 5747.21 of the Revised Code may be applied in the manner 736  
and to the same extent provided in that section. 737

(5)(a) Except as set forth in division (BB)(5)(b) of this 738  
section, "qualifying investee" means a person in which a trust has 739  
an equity or ownership interest, or a person or unit of government 740  
the debt obligations of either of which are owned by a trust. For 741  
the purposes of division (BB)(2)(a) of this section and for the 742  
purpose of computing the fraction described in division (BB)(4)(b) 743  
of this section, all of the following apply: 744

(i) If the qualifying investee is a member of a qualifying 745  
controlled group on the last day of the qualifying investee's 746  
fiscal or calendar year ending immediately prior to the date on 747  
which the trust recognizes the gain or loss, then "qualifying 748  
investee" includes all persons in the qualifying controlled group 749  
on such last day. 750

(ii) If the qualifying investee, or if the qualifying 751  
investee and any members of the qualifying controlled group of 752  
which the qualifying investee is a member on the last day of the 753  
qualifying investee's fiscal or calendar year ending immediately 754  
prior to the date on which the trust recognizes the gain or loss, 755  
separately or cumulatively own, directly or indirectly, on the 756  
last day of the qualifying investee's fiscal or calendar year 757  
ending immediately prior to the date on which the trust recognizes 758  
the qualifying trust amount, more than fifty per cent of the 759  
equity of a pass-through entity, then the qualifying investee and 760  
the other members are deemed to own the proportionate share of the 761  
pass-through entity's physical assets which the pass-through 762  
entity directly or indirectly owns on the last day of the 763

pass-through entity's calendar or fiscal year ending within or 764  
with the last day of the qualifying investee's fiscal or calendar 765  
year ending immediately prior to the date on which the trust 766  
recognizes the qualifying trust amount. 767

(iii) For the purposes of division (BB)(5)(a)(iii) of this 768  
section, "upper level pass-through entity" means a pass-through 769  
entity directly or indirectly owning any equity of another 770  
pass-through entity, and "lower level pass-through entity" means 771  
that other pass-through entity. 772

An upper level pass-through entity, whether or not it is also 773  
a qualifying investee, is deemed to own, on the last day of the 774  
upper level pass-through entity's calendar or fiscal year, the 775  
proportionate share of the lower level pass-through entity's 776  
physical assets that the lower level pass-through entity directly 777  
or indirectly owns on the last day of the lower level pass-through 778  
entity's calendar or fiscal year ending within or with the last 779  
day of the upper level pass-through entity's fiscal or calendar 780  
year. If the upper level pass-through entity directly and 781  
indirectly owns less than fifty per cent of the equity of the 782  
lower level pass-through entity on each day of the upper level 783  
pass-through entity's calendar or fiscal year in which or with 784  
which ends the calendar or fiscal year of the lower level 785  
pass-through entity and if, based upon clear and convincing 786  
evidence, complete information about the location and cost of the 787  
physical assets of the lower pass-through entity is not available 788  
to the upper level pass-through entity, then solely for purposes 789  
of ascertaining if a gain or loss constitutes a qualifying trust 790  
amount, the upper level pass-through entity shall be deemed as 791  
owning no equity of the lower level pass-through entity for each 792  
day during the upper level pass-through entity's calendar or 793  
fiscal year in which or with which ends the lower level 794  
pass-through entity's calendar or fiscal year. Nothing in division 795

(BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income. 796  
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(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply: 799  
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(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation. 804  
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(ii) Such gain or loss constitutes nonbusiness income. 808

(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. 809  
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(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code. 813  
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(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 815  
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(EE)(1) For the purposes of division (EE) of this section: 817

(a) "Qualifying person" means any person other than a qualifying corporation. 818  
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(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following: 820  
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(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 823  
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taxable year;	826
(ii) A subsidiary that is wholly owned by any corporation	827
that has made an election under subchapter S, chapter one,	828
subtitle A of the Internal Revenue Code for its taxable year	829
ending within, or on the last day of, the investor's taxable year.	830
(2) For the purposes of this chapter, unless expressly stated	831
otherwise, no qualifying person indirectly owns any asset directly	832
or indirectly owned by any qualifying corporation.	833
(FF) For purposes of this chapter and Chapter 5751. of the	834
Revised Code:	835
(1) "Trust" does not include a qualified pre-income tax	836
trust.	837
(2) A "qualified pre-income tax trust" is any pre-income tax	838
trust that makes a qualifying pre-income tax trust election as	839
described in division (FF)(3) of this section.	840
(3) A "qualifying pre-income tax trust election" is an	841
election by a pre-income tax trust to subject to the tax imposed	842
by section 5751.02 of the Revised Code the pre-income tax trust	843
and all pass-through entities of which the trust owns or controls,	844
directly, indirectly, or constructively through related interests,	845
five per cent or more of the ownership or equity interests. The	846
trustee shall notify the tax commissioner in writing of the	847
election on or before April 15, 2006. The election, if timely	848
made, shall be effective on and after January 1, 2006, and shall	849
apply for all tax periods and tax years until revoked by the	850
trustee of the trust.	851
(4) A "pre-income tax trust" is a trust that satisfies all of	852
the following requirements:	853
(a) The document or instrument creating the trust was	854
executed by the grantor before January 1, 1972;	855

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

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

**Section 2.** That existing section 5747.01 of the Revised Code is hereby repealed.

**Section 3.** That the amendment of section 5747.01 of the Revised Code by this act applies to taxable years beginning on or after January 1, 2008.