

**As Introduced**

**128th General Assembly  
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**S. B. No. 258**

**Senator Grendell**

**Cosponsors: Senators Hughes, Buehrer**

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**A B I L L**

To amend sections 5747.01, 5747.02, and 5747.055 of 1  
the Revised Code to reduce the maximum effective 2  
income tax rate applicable to unearned income of 3  
persons age 70 1/2 years or older to 1%. 4

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

**Section 1.** That sections 5747.01, 5747.02, and 5747.055 of 5  
the Revised Code be 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 any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	20 21 22
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	23 24 25 26 27
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	28 29 30 31 32 33
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	34 35
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	36 37 38 39
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross	40 41 42 43 44 45 46 47 48 49 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 80  
deduction or exclusion in computing federal or Ohio adjusted gross 81

income for the taxable year, the amount the taxpayer paid during 82  
the taxable year for medical care insurance and qualified 83  
long-term care insurance for the taxpayer, the taxpayer's spouse, 84  
and dependents. No deduction for medical care insurance under 85  
division (A)(11) of this section shall be allowed either to any 86  
taxpayer who is eligible to participate in any subsidized health 87  
plan maintained by any employer of the taxpayer or of the 88  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 89  
application would be entitled to, benefits under part A of Title 90  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 91  
301, as amended. For the purposes of division (A)(11)(a) of this 92  
section, "subsidized health plan" means a healthplan for which 93  
the employer pays any portion of the plan's cost. The deduction 94  
allowed under division (A)(11)(a) of this section shall be the net 95  
of any related premium refunds, related premium reimbursements, or 96  
related insurance premium dividends received during the taxable 97  
year. 98

(b) Deduct, to the extent not otherwise deducted or excluded 99  
in computing federal or Ohio adjusted gross income during the 100  
taxable year, the amount the taxpayer paid during the taxable 101  
year, not compensated for by any insurance or otherwise, for 102  
medical care of the taxpayer, the taxpayer's spouse, and 103  
dependents, to the extent the expenses exceed seven and one-half 104  
per cent of the taxpayer's federal adjusted gross income. 105

(c) Deduct, to the extent not otherwise deducted or excluded 106  
in computing federal or Ohio adjusted gross income, any amount 107  
included in federal adjusted gross income under section 105 or not 108  
excluded under section 106 of the Internal Revenue Code solely 109  
because it relates to an accident and health plan for a person who 110  
otherwise would be a "qualifying relative" and thus a "dependent" 111  
under section 152 of the Internal Revenue Code but for the fact 112  
that the person fails to meet the income and support limitations 113

under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 114

(d) For purposes of division (A)(11) of this section, 115  
"medical care" has the meaning given in section 213 of the 116  
Internal Revenue Code, subject to the special rules, limitations, 117  
and exclusions set forth therein, and "qualified long-term care" 118  
has the same meaning given in section 7702B(c) of the Internal 119  
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 120  
of this section, "dependent" includes a person who otherwise would 121  
be a "qualifying relative" and thus a "dependent" under section 122  
152 of the Internal Revenue Code but for the fact that the person 123  
fails to meet the income and support limitations under section 124  
152(d)(1)(B) and (C) of the Internal Revenue Code. 125

(12)(a) Deduct any amount included in federal adjusted gross 126  
income solely because the amount represents a reimbursement or 127  
refund of expenses that in any year the taxpayer had deducted as 128  
an itemized deduction pursuant to section 63 of the Internal 129  
Revenue Code and applicable United States department of the 130  
treasury regulations. The deduction otherwise allowed under 131  
division (A)(12)(a) of this section shall be reduced to the extent 132  
the reimbursement is attributable to an amount the taxpayer 133  
deducted under this section in any taxable year. 134

(b) Add any amount not otherwise included in Ohio adjusted 135  
gross income for any taxable year to the extent that the amount is 136  
attributable to the recovery during the taxable year of any amount 137  
deducted or excluded in computing federal or Ohio adjusted gross 138  
income in any taxable year. 139

(13) Deduct any portion of the deduction described in section 140  
1341(a)(2) of the Internal Revenue Code, for repaying previously 141  
reported income received under a claim of right, that meets both 142  
of the following requirements: 143

(a) It is allowable for repayment of an item that was 144

included in the taxpayer's adjusted gross income for a prior	145
taxable year and did not qualify for a credit under division (A)	146
or (B) of section 5747.05 of the Revised Code for that year;	147
(b) It does not otherwise reduce the taxpayer's adjusted	148
gross income for the current or any other taxable year.	149
(14) Deduct an amount equal to the deposits made to, and net	150
investment earnings of, a medical savings account during the	151
taxable year, in accordance with section 3924.66 of the Revised	152
Code. The deduction allowed by division (A)(14) of this section	153
does not apply to medical savings account deposits and earnings	154
otherwise deducted or excluded for the current or any other	155
taxable year from the taxpayer's federal adjusted gross income.	156
(15)(a) Add an amount equal to the funds withdrawn from a	157
medical savings account during the taxable year, and the net	158
investment earnings on those funds, when the funds withdrawn were	159
used for any purpose other than to reimburse an account holder	160
for, or to pay, eligible medical expenses, in accordance with	161
section 3924.66 of the Revised Code;	162
(b) Add the amounts distributed from a medical savings	163
account under division (A)(2) of section 3924.68 of the Revised	164
Code during the taxable year.	165
(16) Add any amount claimed as a credit under section	166
5747.059 of the Revised Code to the extent that such amount	167
satisfies either of the following:	168
(a) The amount was deducted or excluded from the computation	169
of the taxpayer's federal adjusted gross income as required to be	170
reported for the taxpayer's taxable year under the Internal	171
Revenue Code;	172
(b) The amount resulted in a reduction of the taxpayer's	173
federal adjusted gross income as required to be reported for any	174
of the taxpayer's taxable years under the Internal Revenue Code.	175

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

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

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

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or

distributive share of the amount of depreciation expense allowed 208  
by that subsection to a pass-through entity in which the taxpayer 209  
has a direct or indirect ownership interest. 210

(ii) Add five-sixths of the amount of qualifying section 179 211  
depreciation expense, including a person's proportionate or 212  
distributive share of the amount of qualifying section 179 213  
depreciation expense allowed to any pass-through entity in which 214  
the person has a direct or indirect ownership. For the purposes of 215  
this division, "qualifying section 179 depreciation expense" means 216  
the difference between (I) the amount of depreciation expense 217  
directly or indirectly allowed to the taxpayer under section 179 218  
of the Internal Revenue Code, and (II) the amount of depreciation 219  
expense directly or indirectly allowed to the taxpayer under 220  
section 179 of the Internal Revenue Code as that section existed 221  
on December 31, 2002. 222

The tax commissioner, under procedures established by the 223  
commissioner, may waive the add-backs related to a pass-through 224  
entity if the taxpayer owns, directly or indirectly, less than 225  
five per cent of the pass-through entity. 226

(b) Nothing in division (A)(20) of this section shall be 227  
construed to adjust or modify the adjusted basis of any asset. 228

(c) To the extent the add-back required under division 229  
(A)(20)(a) of this section is attributable to property generating 230  
nonbusiness income or loss allocated under section 5747.20 of the 231  
Revised Code, the add-back shall be situated to the same location 232  
as the nonbusiness income or loss generated by the property for 233  
the purpose of determining the credit under division (A) of 234  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 235  
be apportioned, subject to one or more of the four alternative 236  
methods of apportionment enumerated in section 5747.21 of the 237  
Revised Code. 238



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

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

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

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

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

(23) Deduct, to the extent not otherwise deducted or excluded 270  
in computing federal or Ohio adjusted gross income for the taxable 271  
year, the amount the taxpayer received during the taxable year as 272  
a death benefit paid by the adjutant general under section 5919.33 273  
of the Revised Code. 274

(24) Deduct, to the extent included in federal adjusted gross 275  
income and not otherwise allowable as a deduction or exclusion in 276  
computing federal or Ohio adjusted gross income for the taxable 277  
year, military pay and allowances received by the taxpayer during 278  
the taxable year for active duty service in the United States 279  
army, air force, navy, marine corps, or coast guard or reserve 280  
components thereof or the national guard. The deduction may not be 281  
claimed for military pay and allowances received by the taxpayer 282  
while the taxpayer is stationed in this state. 283

(25) Deduct, to the extent not otherwise allowable as a 284  
deduction or exclusion in computing federal or Ohio adjusted gross 285  
income for the taxable year and not otherwise compensated for by 286  
any other source, the amount of qualified organ donation expenses 287  
incurred by the taxpayer during the taxable year, not to exceed 288  
ten thousand dollars. A taxpayer may deduct qualified organ 289  
donation expenses only once for all taxable years beginning with 290  
taxable years beginning in 2007. 291

For the purposes of division (A)(25) of this section: 292

(a) "Human organ" means all or any portion of a human liver, 293  
pancreas, kidney, intestine, or lung, and any portion of human 294  
bone marrow. 295

(b) "Qualified organ donation expenses" means travel 296  
expenses, lodging expenses, and wages and salary forgone by a 297  
taxpayer in connection with the taxpayer's donation, while living, 298  
of one or more of the taxpayer's human organs to another human 299  
being. 300

(26) Deduct, to the extent not otherwise deducted or excluded 301  
in computing federal or Ohio adjusted gross income for the taxable 302  
year, amounts received by the taxpayer as retired military 303  
personnel pay for service in the United States army, navy, air 304  
force, coast guard, or marine corps or reserve components thereof, 305  
or the national guard, or received by the surviving spouse or 306  
former spouse of such a taxpayer under the survivor benefit plan 307  
on account of such a taxpayer's death. If the taxpayer receives 308  
income on account of retirement paid under the federal civil 309  
service retirement system or federal employees retirement system, 310  
or under any successor retirement program enacted by the congress 311  
of the United States that is established and maintained for 312  
retired employees of the United States government, and such 313  
retirement income is based, in whole or in part, on credit for the 314  
taxpayer's military service, the deduction allowed under this 315  
division shall include only that portion of such retirement income 316  
that is attributable to the taxpayer's military service, to the 317  
extent that portion of such retirement income is otherwise 318  
included in federal adjusted gross income and is not otherwise 319  
deducted under this section. Any amount deducted under division 320  
(A)(26) of this section is not included in a taxpayer's adjusted 321  
gross income for the purposes of section 5747.055 of the Revised 322  
Code. No amount may be deducted under division (A)(26) of this 323  
section on the basis of which a credit was claimed under section 324  
5747.055 of the Revised Code. 325

(27) Deduct, to the extent not otherwise deducted or excluded 326  
in computing federal or Ohio adjusted gross income for the taxable 327  
year, the amount the taxpayer received during the taxable year 328  
from the military injury relief fund created in section 5101.98 of 329  
the Revised Code. 330

(28) Deduct, to the extent not otherwise deducted or excluded 331  
in computing federal or Ohio adjusted gross income for the taxable 332

year, the amount the taxpayer received as a veterans bonus during 333  
the taxable year from the Ohio department of veterans services as 334  
authorized by Section 2r of Article VIII, Ohio Constitution. 335

(29) In the case of an individual taxpayer who has attained 336  
seventy and one-half years of age on or before the last day of the 337  
taxpayer's taxable year that begins in or after 2010, the taxpayer 338  
may elect to deduct, to the extent not otherwise deducted or 339  
excluded in computing federal or Ohio adjusted gross income, all 340  
items of income included in federal adjusted gross income that are 341  
not earned income. As used in division (A)(29) of this section, 342  
"earned income" means wages, salaries, tips, deferred 343  
compensation, and other employee compensation, and net earnings 344  
from self-employment as defined in section 1402(a) of the Internal 345  
Revenue Code. 346

For the purposes of any other section of the Revised Code 347  
that refers to "adjusted gross income" as defined in division (A) 348  
of this section, the reference shall be considered to include the 349  
sum of adjusted gross income and any amount deducted under 350  
division (A)(29) of this section, unless the reference expressly 351  
provides otherwise or the context clearly indicates otherwise. 352

(B) "Business income" means income, including gain or loss, 353  
arising from transactions, activities, and sources in the regular 354  
course of a trade or business and includes income, gain, or loss 355  
from real property, tangible property, and intangible property if 356  
the acquisition, rental, management, and disposition of the 357  
property constitute integral parts of the regular course of a 358  
trade or business operation. "Business income" includes income, 359  
including gain or loss, from a partial or complete liquidation of 360  
a business, including, but not limited to, gain or loss from the 361  
sale or other disposition of goodwill. 362

(C) "Nonbusiness income" means all income other than business 363  
income and may include, but is not limited to, compensation, rents 364

and royalties from real or tangible personal property, capital 365  
gains, interest, dividends and distributions, patent or copyright 366  
royalties, or lottery winnings, prizes, and awards. 367

(D) "Compensation" means any form of remuneration paid to an 368  
employee for personal services. 369

(E) "Fiduciary" means a guardian, trustee, executor, 370  
administrator, receiver, conservator, or any other person acting 371  
in any fiduciary capacity for any individual, trust, or estate. 372

(F) "Fiscal year" means an accounting period of twelve months 373  
ending on the last day of any month other than December. 374

(G) "Individual" means any natural person. 375

(H) "Internal Revenue Code" means the "Internal Revenue Code 376  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 377

(I) "Resident" means any of the following, provided that 378  
division (I)(3) of this section applies only to taxable years of a 379  
trust beginning in 2002 or thereafter: 380

(1) An individual who is domiciled in this state, subject to 381  
section 5747.24 of the Revised Code; 382

(2) The estate of a decedent who at the time of death was 383  
domiciled in this state. The domicile tests of section 5747.24 of 384  
the Revised Code are not controlling for purposes of division 385  
(I)(2) of this section. 386

(3) A trust that, in whole or part, resides in this state. If 387  
only part of a trust resides in this state, the trust is a 388  
resident only with respect to that part. 389

For the purposes of division (I)(3) of this section: 390

(a) A trust resides in this state for the trust's current 391  
taxable year to the extent, as described in division (I)(3)(d) of 392  
this section, that the trust consists directly or indirectly, in 393  
whole or in part, of assets, net of any related liabilities, that 394

were transferred, or caused to be transferred, directly or 395  
indirectly, to the trust by any of the following: 396

(i) A person, a court, or a governmental entity or 397  
instrumentality on account of the death of a decedent, but only if 398  
the trust is described in division (I)(3)(e)(i) or (ii) of this 399  
section; 400

(ii) A person who was domiciled in this state for the 401  
purposes of this chapter when the person directly or indirectly 402  
transferred assets to an irrevocable trust, but only if at least 403  
one of the trust's qualifying beneficiaries is domiciled in this 404  
state for the purposes of this chapter during all or some portion 405  
of the trust's current taxable year; 406

(iii) A person who was domiciled in this state for the 407  
purposes of this chapter when the trust document or instrument or 408  
part of the trust document or instrument became irrevocable, but 409  
only if at least one of the trust's qualifying beneficiaries is a 410  
resident domiciled in this state for the purposes of this chapter 411  
during all or some portion of the trust's current taxable year. If 412  
a trust document or instrument became irrevocable upon the death 413  
of a person who at the time of death was domiciled in this state 414  
for purposes of this chapter, that person is a person described in 415  
division (I)(3)(a)(iii) of this section. 416

(b) A trust is irrevocable to the extent that the transferor 417  
is not considered to be the owner of the net assets of the trust 418  
under sections 671 to 678 of the Internal Revenue Code. 419

(c) With respect to a trust other than a charitable lead 420  
trust, "qualifying beneficiary" has the same meaning as "potential 421  
current beneficiary" as defined in section 1361(e)(2) of the 422  
Internal Revenue Code, and with respect to a charitable lead trust 423  
"qualifying beneficiary" is any current, future, or contingent 424  
beneficiary, but with respect to any trust "qualifying 425

beneficiary" excludes a person or a governmental entity or 426  
instrumentality to any of which a contribution would qualify for 427  
the charitable deduction under section 170 of the Internal Revenue 428  
Code. 429

(d) For the purposes of division (I)(3)(a) of this section, 430  
the extent to which a trust consists directly or indirectly, in 431  
whole or in part, of assets, net of any related liabilities, that 432  
were transferred directly or indirectly, in whole or part, to the 433  
trust by any of the sources enumerated in that division shall be 434  
ascertained by multiplying the fair market value of the trust's 435  
assets, net of related liabilities, by the qualifying ratio, which 436  
shall be computed as follows: 437

(i) The first time the trust receives assets, the numerator 438  
of the qualifying ratio is the fair market value of those assets 439  
at that time, net of any related liabilities, from sources 440  
enumerated in division (I)(3)(a) of this section. The denominator 441  
of the qualifying ratio is the fair market value of all the 442  
trust's assets at that time, net of any related liabilities. 443

(ii) Each subsequent time the trust receives assets, a 444  
revised qualifying ratio shall be computed. The numerator of the 445  
revised qualifying ratio is the sum of (1) the fair market value 446  
of the trust's assets immediately prior to the subsequent 447  
transfer, net of any related liabilities, multiplied by the 448  
qualifying ratio last computed without regard to the subsequent 449  
transfer, and (2) the fair market value of the subsequently 450  
transferred assets at the time transferred, net of any related 451  
liabilities, from sources enumerated in division (I)(3)(a) of this 452  
section. The denominator of the revised qualifying ratio is the 453  
fair market value of all the trust's assets immediately after the 454  
subsequent transfer, net of any related liabilities. 455

(iii) Whether a transfer to the trust is by or from any of 456  
the sources enumerated in division (I)(3)(a) of this section shall 457

be ascertained without regard to the domicile of the trust's 458  
beneficiaries. 459

(e) For the purposes of division (I)(3)(a)(i) of this 460  
section: 461

(i) A trust is described in division (I)(3)(e)(i) of this 462  
section if the trust is a testamentary trust and the testator of 463  
that testamentary trust was domiciled in this state at the time of 464  
the testator's death for purposes of the taxes levied under 465  
Chapter 5731. of the Revised Code. 466

(ii) A trust is described in division (I)(3)(e)(ii) of this 467  
section if the transfer is a qualifying transfer described in any 468  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 469  
irrevocable inter vivos trust, and at least one of the trust's 470  
qualifying beneficiaries is domiciled in this state for purposes 471  
of this chapter during all or some portion of the trust's current 472  
taxable year. 473

(f) For the purposes of division (I)(3)(e)(ii) of this 474  
section, a "qualifying transfer" is a transfer of assets, net of 475  
any related liabilities, directly or indirectly to a trust, if the 476  
transfer is described in any of the following: 477

(i) The transfer is made to a trust, created by the decedent 478  
before the decedent's death and while the decedent was domiciled 479  
in this state for the purposes of this chapter, and, prior to the 480  
death of the decedent, the trust became irrevocable while the 481  
decedent was domiciled in this state for the purposes of this 482  
chapter. 483

(ii) The transfer is made to a trust to which the decedent, 484  
prior to the decedent's death, had directly or indirectly 485  
transferred assets, net of any related liabilities, while the 486  
decedent was domiciled in this state for the purposes of this 487  
chapter, and prior to the death of the decedent the trust became 488



irrevocable while the decedent was domiciled in this state for the 489  
purposes of this chapter. 490

(iii) The transfer is made on account of a contractual 491  
relationship existing directly or indirectly between the 492  
transferor and either the decedent or the estate of the decedent 493  
at any time prior to the date of the decedent's death, and the 494  
decedent was domiciled in this state at the time of death for 495  
purposes of the taxes levied under Chapter 5731. of the Revised 496  
Code. 497

(iv) The transfer is made to a trust on account of a 498  
contractual relationship existing directly or indirectly between 499  
the transferor and another person who at the time of the 500  
decedent's death was domiciled in this state for purposes of this 501  
chapter. 502

(v) The transfer is made to a trust on account of the will of 503  
a testator who was domiciled in this state at the time of the 504  
testator's death for purposes of the taxes levied under Chapter 505  
5731. of the Revised Code. 506

(vi) The transfer is made to a trust created by or caused to 507  
be created by a court, and the trust was directly or indirectly 508  
created in connection with or as a result of the death of an 509  
individual who, for purposes of the taxes levied under Chapter 510  
5731. of the Revised Code, was domiciled in this state at the time 511  
of the individual's death. 512

(g) The tax commissioner may adopt rules to ascertain the 513  
part of a trust residing in this state. 514

(J) "Nonresident" means an individual or estate that is not a 515  
resident. An individual who is a resident for only part of a 516  
taxable year is a nonresident for the remainder of that taxable 517  
year. 518

(K) "Pass-through entity" has the same meaning as in section 519

5733.04 of the Revised Code. 520

(L) "Return" means the notifications and reports required to 521  
be filed pursuant to this chapter for the purpose of reporting the 522  
tax due and includes declarations of estimated tax when so 523  
required. 524

(M) "Taxable year" means the calendar year or the taxpayer's 525  
fiscal year ending during the calendar year, or fractional part 526  
thereof, upon which the adjusted gross income is calculated 527  
pursuant to this chapter. 528

(N) "Taxpayer" means any person subject to the tax imposed by 529  
section 5747.02 of the Revised Code or any pass-through entity 530  
that makes the election under division (D) of section 5747.08 of 531  
the Revised Code. 532

(O) "Dependents" means dependents as defined in the Internal 533  
Revenue Code and as claimed in the taxpayer's federal income tax 534  
return for the taxable year or which the taxpayer would have been 535  
permitted to claim had the taxpayer filed a federal income tax 536  
return. 537

(P) "Principal county of employment" means, in the case of a 538  
nonresident, the county within the state in which a taxpayer 539  
performs services for an employer or, if those services are 540  
performed in more than one county, the county in which the major 541  
portion of the services are performed. 542

(Q) As used in sections 5747.50 to 5747.55 of the Revised 543  
Code: 544

(1) "Subdivision" means any county, municipal corporation, 545  
park district, or township. 546

(2) "Essential local government purposes" includes all 547  
functions that any subdivision is required by general law to 548  
exercise, including like functions that are exercised under a 549

charter adopted pursuant to the Ohio Constitution. 550

(R) "Overpayment" means any amount already paid that exceeds 551  
the figure determined to be the correct amount of the tax. 552

(S) "Taxable income" or "Ohio taxable income" applies only to 553  
estates and trusts, and means federal taxable income, as defined 554  
and used in the Internal Revenue Code, adjusted as follows: 555

(1) Add interest or dividends, net of ordinary, necessary, 556  
and reasonable expenses not deducted in computing federal taxable 557  
income, on obligations or securities of any state or of any 558  
political subdivision or authority of any state, other than this 559  
state and its subdivisions and authorities, but only to the extent 560  
that such net amount is not otherwise includible in Ohio taxable 561  
income and is described in either division (S)(1)(a) or (b) of 562  
this section: 563

(a) The net amount is not attributable to the S portion of an 564  
electing small business trust and has not been distributed to 565  
beneficiaries for the taxable year; 566

(b) The net amount is attributable to the S portion of an 567  
electing small business trust for the taxable year. 568

(2) Add interest or dividends, net of ordinary, necessary, 569  
and reasonable expenses not deducted in computing federal taxable 570  
income, on obligations of any authority, commission, 571  
instrumentality, territory, or possession of the United States to 572  
the extent that the interest or dividends are exempt from federal 573  
income taxes but not from state income taxes, but only to the 574  
extent that such net amount is not otherwise includible in Ohio 575  
taxable income and is described in either division (S)(1)(a) or 576  
(b) of this section; 577

(3) Add the amount of personal exemption allowed to the 578  
estate pursuant to section 642(b) of the Internal Revenue Code; 579

(4) Deduct interest or dividends, net of related expenses 580  
deducted in computing federal taxable income, on obligations of 581  
the United States and its territories and possessions or of any 582  
authority, commission, or instrumentality of the United States to 583  
the extent that the interest or dividends are exempt from state 584  
taxes under the laws of the United States, but only to the extent 585  
that such amount is included in federal taxable income and is 586  
described in either division (S)(1)(a) or (b) of this section; 587

(5) Deduct the amount of wages and salaries, if any, not 588  
otherwise allowable as a deduction but that would have been 589  
allowable as a deduction in computing federal taxable income for 590  
the taxable year, had the targeted jobs credit allowed under 591  
sections 38, 51, and 52 of the Internal Revenue Code not been in 592  
effect, but only to the extent such amount relates either to 593  
income included in federal taxable income for the taxable year or 594  
to income of the S portion of an electing small business trust for 595  
the taxable year; 596

(6) Deduct any interest or interest equivalent, net of 597  
related expenses deducted in computing federal taxable income, on 598  
public obligations and purchase obligations, but only to the 599  
extent that such net amount relates either to income included in 600  
federal taxable income for the taxable year or to income of the S 601  
portion of an electing small business trust for the taxable year; 602

(7) Add any loss or deduct any gain resulting from sale, 603  
exchange, or other disposition of public obligations to the extent 604  
that such loss has been deducted or such gain has been included in 605  
computing either federal taxable income or income of the S portion 606  
of an electing small business trust for the taxable year; 607

(8) Except in the case of the final return of an estate, add 608  
any amount deducted by the taxpayer on both its Ohio estate tax 609  
return pursuant to section 5731.14 of the Revised Code, and on its 610  
federal income tax return in determining federal taxable income; 611

(9)(a) Deduct any amount included in federal taxable income 612  
solely because the amount represents a reimbursement or refund of 613  
expenses that in a previous year the decedent had deducted as an 614  
itemized deduction pursuant to section 63 of the Internal Revenue 615  
Code and applicable treasury regulations. The deduction otherwise 616  
allowed under division (S)(9)(a) of this section shall be reduced 617  
to the extent the reimbursement is attributable to an amount the 618  
taxpayer or decedent deducted under this section in any taxable 619  
year. 620

(b) Add any amount not otherwise included in Ohio taxable 621  
income for any taxable year to the extent that the amount is 622  
attributable to the recovery during the taxable year of any amount 623  
deducted or excluded in computing federal or Ohio taxable income 624  
in any taxable year, but only to the extent such amount has not 625  
been distributed to beneficiaries for the taxable year. 626

(10) Deduct any portion of the deduction described in section 627  
1341(a)(2) of the Internal Revenue Code, for repaying previously 628  
reported income received under a claim of right, that meets both 629  
of the following requirements: 630

(a) It is allowable for repayment of an item that was 631  
included in the taxpayer's taxable income or the decedent's 632  
adjusted gross income for a prior taxable year and did not qualify 633  
for a credit under division (A) or (B) of section 5747.05 of the 634  
Revised Code for that year. 635

(b) It does not otherwise reduce the taxpayer's taxable 636  
income or the decedent's adjusted gross income for the current or 637  
any other taxable year. 638

(11) Add any amount claimed as a credit under section 639  
5747.059 of the Revised Code to the extent that the amount 640  
satisfies either of the following: 641

(a) The amount was deducted or excluded from the computation 642

of the taxpayer's federal taxable income as required to be 643  
reported for the taxpayer's taxable year under the Internal 644  
Revenue Code; 645

(b) The amount resulted in a reduction in the taxpayer's 646  
federal taxable income as required to be reported for any of the 647  
taxpayer's taxable years under the Internal Revenue Code. 648

(12) Deduct any amount, net of related expenses deducted in 649  
computing federal taxable income, that a trust is required to 650  
report as farm income on its federal income tax return, but only 651  
if the assets of the trust include at least ten acres of land 652  
satisfying the definition of "land devoted exclusively to 653  
agricultural use" under section 5713.30 of the Revised Code, 654  
regardless of whether the land is valued for tax purposes as such 655  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 656  
trust is a pass-through entity investor, section 5747.231 of the 657  
Revised Code applies in ascertaining if the trust is eligible to 658  
claim the deduction provided by division (S)(12) of this section 659  
in connection with the pass-through entity's farm income. 660

Except for farm income attributable to the S portion of an 661  
electing small business trust, the deduction provided by division 662  
(S)(12) of this section is allowed only to the extent that the 663  
trust has not distributed such farm income. Division (S)(12) of 664  
this section applies only to taxable years of a trust beginning in 665  
2002 or thereafter. 666

(13) Add the net amount of income described in section 641(c) 667  
of the Internal Revenue Code to the extent that amount is not 668  
included in federal taxable income. 669

(14) Add or deduct the amount the taxpayer would be required 670  
to add or deduct under division (A)(20) or (21) of this section if 671  
the taxpayer's Ohio taxable income were computed in the same 672  
manner as an individual's Ohio adjusted gross income is computed 673

under this section. In the case of a trust, division (S)(14) of 674  
this section applies only to any of the trust's taxable years 675  
beginning in 2002 or thereafter. 676

(T) "School district income" and "school district income tax" 677  
have the same meanings as in section 5748.01 of the Revised Code. 678

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 679  
of this section, "public obligations," "purchase obligations," and 680  
"interest or interest equivalent" have the same meanings as in 681  
section 5709.76 of the Revised Code. 682

(V) "Limited liability company" means any limited liability 683  
company formed under Chapter 1705. of the Revised Code or under 684  
the laws of any other state. 685

(W) "Pass-through entity investor" means any person who, 686  
during any portion of a taxable year of a pass-through entity, is 687  
a partner, member, shareholder, or equity investor in that 688  
pass-through entity. 689

(X) "Banking day" has the same meaning as in section 1304.01 690  
of the Revised Code. 691

(Y) "Month" means a calendar month. 692

(Z) "Quarter" means the first three months, the second three 693  
months, the third three months, or the last three months of the 694  
taxpayer's taxable year. 695

(AA)(1) "Eligible institution" means a state university or 696  
state institution of higher education as defined in section 697  
3345.011 of the Revised Code, or a private, nonprofit college, 698  
university, or other post-secondary institution located in this 699  
state that possesses a certificate of authorization issued by the 700  
Ohio board of regents pursuant to Chapter 1713. of the Revised 701  
Code or a certificate of registration issued by the state board of 702  
career colleges and schools under Chapter 3332. of the Revised 703

Code.	704
(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:	705 706 707 708 709 710 711 712 713 714
(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;	715 716 717
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;	718 719 720
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.	721 722 723
(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	724 725 726
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	727 728 729 730 731
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately	732 733 734



prior to the date on which the trust recognizes the gain or loss, 735  
is available to the trust. 736

(b) The requirements of section 5747.011 of the Revised Code 737  
are satisfied for the trust's taxable year in which the trust 738  
recognizes the gain or loss. 739

Any gain or loss that is not a qualifying trust amount is 740  
modified business income, qualifying investment income, or 741  
modified nonbusiness income, as the case may be. 742

(3) "Modified nonbusiness income" means a trust's Ohio 743  
taxable income other than modified business income, other than the 744  
qualifying trust amount, and other than qualifying investment 745  
income, as defined in section 5747.012 of the Revised Code, to the 746  
extent such qualifying investment income is not otherwise part of 747  
modified business income. 748

(4) "Modified Ohio taxable income" applies only to trusts, 749  
and means the sum of the amounts described in divisions (BB)(4)(a) 750  
to (c) of this section: 751

(a) The fraction, calculated under section 5747.013, and 752  
applying section 5747.231 of the Revised Code, multiplied by the 753  
sum of the following amounts: 754

(i) The trust's modified business income; 755

(ii) The trust's qualifying investment income, as defined in 756  
section 5747.012 of the Revised Code, but only to the extent the 757  
qualifying investment income does not otherwise constitute 758  
modified business income and does not otherwise constitute a 759  
qualifying trust amount. 760

(b) The qualifying trust amount multiplied by a fraction, the 761  
numerator of which is the sum of the book value of the qualifying 762  
investee's physical assets in this state on the last day of the 763  
qualifying investee's fiscal or calendar year ending immediately 764

prior to the day on which the trust recognizes the qualifying 765  
trust amount, and the denominator of which is the sum of the book 766  
value of the qualifying investee's total physical assets 767  
everywhere on the last day of the qualifying investee's fiscal or 768  
calendar year ending immediately prior to the day on which the 769  
trust recognizes the qualifying trust amount. If, for a taxable 770  
year, the trust recognizes a qualifying trust amount with respect 771  
to more than one qualifying investee, the amount described in 772  
division (BB)(4)(b) of this section shall equal the sum of the 773  
products so computed for each such qualifying investee. 774

(c)(i) With respect to a trust or portion of a trust that is 775  
a resident as ascertained in accordance with division (I)(3)(d) of 776  
this section, its modified nonbusiness income. 777

(ii) With respect to a trust or portion of a trust that is 778  
not a resident as ascertained in accordance with division 779  
(I)(3)(d) of this section, the amount of its modified nonbusiness 780  
income satisfying the descriptions in divisions (B)(2) to (5) of 781  
section 5747.20 of the Revised Code, except as otherwise provided 782  
in division (BB)(4)(c)(ii) of this section. With respect to a 783  
trust or portion of a trust that is not a resident as ascertained 784  
in accordance with division (I)(3)(d) of this section, the trust's 785  
portion of modified nonbusiness income recognized from the sale, 786  
exchange, or other disposition of a debt interest in or equity 787  
interest in a section 5747.212 entity, as defined in section 788  
5747.212 of the Revised Code, without regard to division (A) of 789  
that section, shall not be allocated to this state in accordance 790  
with section 5747.20 of the Revised Code but shall be apportioned 791  
to this state in accordance with division (B) of section 5747.212 792  
of the Revised Code without regard to division (A) of that 793  
section. 794

If the allocation and apportionment of a trust's income under 795  
divisions (BB)(4)(a) and (c) of this section do not fairly 796

represent the modified Ohio taxable income of the trust in this 797  
state, the alternative methods described in division (C) of 798  
section 5747.21 of the Revised Code may be applied in the manner 799  
and to the same extent provided in that section. 800

(5)(a) Except as set forth in division (BB)(5)(b) of this 801  
section, "qualifying investee" means a person in which a trust has 802  
an equity or ownership interest, or a person or unit of government 803  
the debt obligations of either of which are owned by a trust. For 804  
the purposes of division (BB)(2)(a) of this section and for the 805  
purpose of computing the fraction described in division (BB)(4)(b) 806  
of this section, all of the following apply: 807

(i) If the qualifying investee is a member of a qualifying 808  
controlled group on the last day of the qualifying investee's 809  
fiscal or calendar year ending immediately prior to the date on 810  
which the trust recognizes the gain or loss, then "qualifying 811  
investee" includes all persons in the qualifying controlled group 812  
on such last day. 813

(ii) If the qualifying investee, or if the qualifying 814  
investee and any members of the qualifying controlled group of 815  
which the qualifying investee is a member on the last day of the 816  
qualifying investee's fiscal or calendar year ending immediately 817  
prior to the date on which the trust recognizes the gain or loss, 818  
separately or cumulatively own, directly or indirectly, on the 819  
last day of the qualifying investee's fiscal or calendar year 820  
ending immediately prior to the date on which the trust recognizes 821  
the qualifying trust amount, more than fifty per cent of the 822  
equity of a pass-through entity, then the qualifying investee and 823  
the other members are deemed to own the proportionate share of the 824  
pass-through entity's physical assets which the pass-through 825  
entity directly or indirectly owns on the last day of the 826  
pass-through entity's calendar or fiscal year ending within or 827  
with the last day of the qualifying investee's fiscal or calendar 828

year ending immediately prior to the date on which the trust 829  
recognizes the qualifying trust amount. 830

(iii) For the purposes of division (BB)(5)(a)(iii) of this 831  
section, "upper level pass-through entity" means a pass-through 832  
entity directly or indirectly owning any equity of another 833  
pass-through entity, and "lower level pass-through entity" means 834  
that other pass-through entity. 835

An upper level pass-through entity, whether or not it is also 836  
a qualifying investee, is deemed to own, on the last day of the 837  
upper level pass-through entity's calendar or fiscal year, the 838  
proportionate share of the lower level pass-through entity's 839  
physical assets that the lower level pass-through entity directly 840  
or indirectly owns on the last day of the lower level pass-through 841  
entity's calendar or fiscal year ending within or with the last 842  
day of the upper level pass-through entity's fiscal or calendar 843  
year. If the upper level pass-through entity directly and 844  
indirectly owns less than fifty per cent of the equity of the 845  
lower level pass-through entity on each day of the upper level 846  
pass-through entity's calendar or fiscal year in which or with 847  
which ends the calendar or fiscal year of the lower level 848  
pass-through entity and if, based upon clear and convincing 849  
evidence, complete information about the location and cost of the 850  
physical assets of the lower pass-through entity is not available 851  
to the upper level pass-through entity, then solely for purposes 852  
of ascertaining if a gain or loss constitutes a qualifying trust 853  
amount, the upper level pass-through entity shall be deemed as 854  
owning no equity of the lower level pass-through entity for each 855  
day during the upper level pass-through entity's calendar or 856  
fiscal year in which or with which ends the lower level 857  
pass-through entity's calendar or fiscal year. Nothing in division 858  
(BB)(5)(a)(iii) of this section shall be construed to provide for 859  
any deduction or exclusion in computing any trust's Ohio taxable 860

income. 861

(b) With respect to a trust that is not a resident for the 862  
taxable year and with respect to a part of a trust that is not a 863  
resident for the taxable year, "qualifying investee" for that 864  
taxable year does not include a C corporation if both of the 865  
following apply: 866

(i) During the taxable year the trust or part of the trust 867  
recognizes a gain or loss from the sale, exchange, or other 868  
disposition of equity or ownership interests in, or debt 869  
obligations of, the C corporation. 870

(ii) Such gain or loss constitutes nonbusiness income. 871

(6) "Available" means information is such that a person is 872  
able to learn of the information by the due date plus extensions, 873  
if any, for filing the return for the taxable year in which the 874  
trust recognizes the gain or loss. 875

(CC) "Qualifying controlled group" has the same meaning as in 876  
section 5733.04 of the Revised Code. 877

(DD) "Related member" has the same meaning as in section 878  
5733.042 of the Revised Code. 879

(EE)(1) For the purposes of division (EE) of this section: 880

(a) "Qualifying person" means any person other than a 881  
qualifying corporation. 882

(b) "Qualifying corporation" means any person classified for 883  
federal income tax purposes as an association taxable as a 884  
corporation, except either of the following: 885

(i) A corporation that has made an election under subchapter 886  
S, chapter one, subtitle A, of the Internal Revenue Code for its 887  
taxable year ending within, or on the last day of, the investor's 888  
taxable year; 889

(ii) A subsidiary that is wholly owned by any corporation 890

that has made an election under subchapter S, chapter one, 891  
subtitle A of the Internal Revenue Code for its taxable year 892  
ending within, or on the last day of, the investor's taxable year. 893

(2) For the purposes of this chapter, unless expressly stated 894  
otherwise, no qualifying person indirectly owns any asset directly 895  
or indirectly owned by any qualifying corporation. 896

(FF) For purposes of this chapter and Chapter 5751. of the 897  
Revised Code: 898

(1) "Trust" does not include a qualified pre-income tax 899  
trust. 900

(2) A "qualified pre-income tax trust" is any pre-income tax 901  
trust that makes a qualifying pre-income tax trust election as 902  
described in division (FF)(3) of this section. 903

(3) A "qualifying pre-income tax trust election" is an 904  
election by a pre-income tax trust to subject to the tax imposed 905  
by section 5751.02 of the Revised Code the pre-income tax trust 906  
and all pass-through entities of which the trust owns or controls, 907  
directly, indirectly, or constructively through related interests, 908  
five per cent or more of the ownership or equity interests. The 909  
trustee shall notify the tax commissioner in writing of the 910  
election on or before April 15, 2006. The election, if timely 911  
made, shall be effective on and after January 1, 2006, and shall 912  
apply for all tax periods and tax years until revoked by the 913  
trustee of the trust. 914

(4) A "pre-income tax trust" is a trust that satisfies all of 915  
the following requirements: 916

(a) The document or instrument creating the trust was 917  
executed by the grantor before January 1, 1972; 918

(b) The trust became irrevocable upon the creation of the 919  
trust; and 920

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

**Sec. 5747.02.** (A) For the purposes of this section, "adjusted gross income" or "Ohio adjusted gross income" excludes any amount deducted under division (A)(29) of section 5747.01 of the Revised Code.

For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income and income subject to the adjustment under division (A)(29) of section 5747.01 of the Revised Code less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. ~~The~~ For taxpayers electing the deduction allowed under division (A)(29) of section 5747.01 of the Revised Code, the exemptions provided in section 5747.025 of the Revised Code shall be applied first against adjusted gross income taking account of that deduction. If the sum of the applicable exemptions exceeds such adjusted gross income, the excess shall be applied against the amount deducted under that division.

The tax imposed by this section on the balance thus obtained 952  
is hereby levied as follows: 953

(1) For taxable years beginning in 2004: 954

~~OHIO ADJUSTED GROSS INCOME LESS~~ 955

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR~~ 956

~~MODIFIED OHIO~~ 957

~~TAXABLE INCOME (TRUSTS)~~ 958

~~OR~~ 959

~~OHIO TAXABLE INCOME (ESTATES)~~ ~~TAX~~ 960

~~\$5,000 or less .743%~~ 961

~~More than \$5,000 but not more than \$10,000 \$37.15 plus 1.486% of the amount in excess of \$5,000~~ 962

~~More than \$10,000 but not more than \$15,000 \$111.45 plus 2.972% of the amount in excess of \$10,000~~ 963

~~More than \$15,000 but not more than \$20,000 \$260.05 plus 3.715% of the amount in excess of \$15,000~~ 964

~~More than \$20,000 but not more than \$40,000 \$445.80 plus 4.457% of the amount in excess of \$20,000~~ 965

~~More than \$40,000 but not more than \$80,000 \$1,337.20 plus 5.201% of the amount in excess of \$40,000~~ 966

~~More than \$80,000 but not more than \$100,000 \$3,417.60 plus 5.943% of the amount in excess of \$80,000~~ 967

~~More than \$100,000 but not more than \$200,000 \$4,606.20 plus 6.9% of the amount in excess of \$100,000~~ 968

~~More than \$200,000 \$11,506.20 plus 7.5% of the amount in excess of \$200,000~~ 969

~~(2) For taxable years beginning in 2005:~~ 970

~~OHIO ADJUSTED GROSS INCOME LESS~~ 971

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR~~ 972

~~MODIFIED OHIO~~ 973



<del>TAXABLE INCOME (TRUSTS)</del>		974
<del>OR</del>		975
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	976
<del>\$5,000 or less</del>	<del>.712%</del>	977
<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>	978
<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>	979
<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>	980
<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>	981
<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>	982
<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>	983
<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>	984
<del>More than \$200,000</del>	<del>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</del>	985
<del>(3) For taxable years beginning in 2006:</del>		986
<del>OHIO ADJUSTED GROSS INCOME LESS</del>		987
<del>EXEMPTIONS (INDIVIDUALS)</del>		
<del>OR</del>		988
<del>MODIFIED OHIO</del>		989
<del>TAXABLE INCOME (TRUSTS)</del>		990
<del>OR</del>		991
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	992
<del>\$5,000 or less</del>	<del>.681%</del>	993
<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>	994
<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>	995

<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>	996
<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>	997
<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>	998
<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>	999
<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>	1000
<del>More than \$200,000</del>	<del>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</del>	1001
<del>(4) For taxable years beginning in 2007:</del>		1002
<del>OHIO ADJUSTED GROSS INCOME LESS</del>		1003
<del>EXEMPTIONS (INDIVIDUALS)</del>		
<del>OR</del>		1004
<del>MODIFIED OHIO</del>		1005
<del>TAXABLE INCOME (TRUSTS)</del>		1006
<del>OR</del>		1007
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	1008
<del>\$5,000 or less</del>	<del>-.649%</del>	1009
<del>More than \$5,000 but not more than \$10,000</del>	<del>\$32.45 plus 1.299% of the amount in excess of \$5,000</del>	1010
<del>More than \$10,000 but not more than \$15,000</del>	<del>\$97.40 plus 2.598% of the amount in excess of \$10,000</del>	1011
<del>More than \$15,000 but not more than \$20,000</del>	<del>\$227.30 plus 3.247% of the amount in excess of \$15,000</del>	1012
<del>More than \$20,000 but not more than \$40,000</del>	<del>\$389.65 plus 3.895% of the amount in excess of \$20,000</del>	1013
<del>More than \$40,000 but not more than \$80,000</del>	<del>\$1,168.65 plus 4.546% of the amount in excess of \$40,000</del>	1014
<del>More than \$80,000 but not more than \$100,000</del>	<del>\$2,987.05 plus 5.194% of the amount in excess of \$80,000</del>	1015

<del>More than \$100,000 but not more than \$200,000</del>	<del>\$4,025.85 plus 6.031% of the amount in excess of \$100,000</del>	1016
<del>More than \$200,000</del>	<del>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</del>	1017
<del>(5) For taxable years beginning in 2008, or 2009, or 2010:</del>		1018
OHIO ADJUSTED GROSS INCOME LESS		1019
EXEMPTIONS (INDIVIDUALS)		
OR		1020
MODIFIED OHIO		1021
TAXABLE INCOME (TRUSTS)		1022
OR		1023
OHIO TAXABLE INCOME (ESTATES)	TAX	1024
\$5,000 or less	.618%	1025
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1026
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	1027
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	1028
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1029
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1030
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1031
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1032
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1033
<del>(6)(2) For taxable years beginning in 2010, the sum of one</del>		1034
<del>one-hundredth of the difference between any amount deducted under</del>		1035
<del>division (A)(29) of section 5747.01 of the Revised Code and any</del>		1036
<del>excess personal exemption, plus the following:</del>		1037

<u>OHIO ADJUSTED GROSS INCOME LESS</u>		1038
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		1039
<u>MODIFIED OHIO</u>		1040
<u>TAXABLE INCOME (TRUSTS)</u>		1041
<u>OR</u>		1042
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	1043
<u>\$5,000 or less</u>	<u>.618%</u>	1044
<u>More than \$5,000 but not more</u>	<u>\$30.90 plus 1.236% of the amount</u>	1045
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$92.70 plus 2.473% of the amount</u>	1046
<u>than \$15,000</u>	<u>in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$216.35 plus 3.091% of the</u>	1047
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$370.90 plus 3.708% of the</u>	1048
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,112.50 plus 4.327% of the</u>	1049
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$2,843.30 plus 4.945% of the</u>	1050
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$3,832.30 plus 5.741% of the</u>	1051
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the</u>	1052
	<u>amount in excess of \$200,000</u>	
<u>(3) For taxable years beginning in 2011 or thereafter <u>the sum</u></u>		1053
<u>of one one-hundredth of the difference between any amount deducted</u>		1054
<u>under division (A)(29) of section 5747.01 of the Revised Code and</u>		1055
<u>any excess personal exemption, plus the following:</u>		1056
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		1057
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		1058
<u>MODIFIED OHIO</u>		1059
<u>TAXABLE INCOME (TRUSTS)</u>		1060

OR		1061
OHIO TAXABLE INCOME (ESTATES)	TAX	1062
\$5,000 or less	.587%	1063
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1064
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1065
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1066
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1067
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1068
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	1069
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1070
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1071

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 1086  
the amount resulting from the adjustment would be less than the 1087  
amount resulting from the adjustment in the preceding year. 1088

(B) If the director of budget and management makes a 1089  
certification to the tax commissioner under division (B) of 1090  
section 131.44 of the Revised Code, the amount of tax as 1091  
determined under division (A) of this section shall be reduced by 1092  
the percentage prescribed in that certification for taxable years 1093  
beginning in the calendar year in which that certification is 1094  
made. 1095

(C) The levy of this tax on income does not prevent a 1096  
municipal corporation, a joint economic development zone created 1097  
under section 715.691, or a joint economic development district 1098  
created under section 715.70 or 715.71 or sections 715.72 to 1099  
715.81 of the Revised Code from levying a tax on income. 1100

(D) This division applies only to taxable years of a trust 1101  
beginning in 2002 or thereafter. 1102

(1) The tax imposed by this section on a trust shall be 1103  
computed by multiplying the Ohio modified taxable income of the 1104  
trust by the rates prescribed by division (A) of this section. 1105

(2) A nonresident trust may claim a credit against the tax 1106  
computed under division (D) of this section equal to the lesser of 1107  
(1) the tax paid to another state or the District of Columbia on 1108  
the nonresident trust's modified nonbusiness income, other than 1109  
the portion of the nonresident trust's nonbusiness income that is 1110  
qualifying investment income as defined in section 5747.012 of the 1111  
Revised Code, or (2) the effective tax rate, based on modified 1112  
Ohio taxable income, multiplied by the nonresident trust's 1113  
modified nonbusiness income other than the portion of the 1114  
nonresident trust's nonbusiness income that is qualifying 1115  
investment income. The credit applies before any other applicable 1116

credits. 1117

(3) The credits enumerated in divisions (A)(1) to (13) of 1118  
section 5747.98 of the Revised Code do not apply to a trust 1119  
subject to division (D) of this section. Any credits enumerated in 1120  
other divisions of section 5747.98 of the Revised Code apply to a 1121  
trust subject to division (D) of this section. To the extent that 1122  
the trust distributes income for the taxable year for which a 1123  
credit is available to the trust, the credit shall be shared by 1124  
the trust and its beneficiaries. The tax commissioner and the 1125  
trust shall be guided by applicable regulations of the United 1126  
States treasury regarding the sharing of credits. 1127

(E) For the purposes of this section, "trust" means any trust 1128  
described in Subchapter J of Chapter 1 of the Internal Revenue 1129  
Code, excluding trusts that are not irrevocable as defined in 1130  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1131  
have no modified Ohio taxable income for the taxable year, 1132  
charitable remainder trusts, qualified funeral trusts and preneed 1133  
funeral contract trusts established pursuant to sections 4717.31 1134  
to 4717.38 of the Revised Code that are not qualified funeral 1135  
trusts, endowment and perpetual care trusts, qualified settlement 1136  
trusts and funds, designated settlement trusts and funds, and 1137  
trusts exempted from taxation under section 501(a) of the Internal 1138  
Revenue Code. 1139

**Sec. 5747.055.** (A) As a taxpayer who deducted an amount under 1140  
division (A)(29) of section 5747.01 of the Revised Code for a 1141  
taxable year may not claim a credit under this section for that 1142  
taxable year. 1143

As used in this section "retirement income" means retirement 1144  
benefits, annuities, or distributions that are made from or 1145  
pursuant to a pension, retirement, or profit-sharing plan and 1146  
that: 1147

(1) In the case of an individual, are received by the individual on account of retirement and are included in the individual's adjusted gross income;

(2) In the case of an estate, are payable to the estate for the benefit of the surviving spouse of the decedent and are included in the estate's taxable income.

(B) A credit shall be allowed against the tax imposed by section 5747.02 of the Revised Code for taxpayers who received retirement income during the taxable year. Only one such credit shall be allowed for each return, and the amount of the credit shall be computed in accordance with the following schedule, subject to the limitation provided in division (F) of this section:

AMOUNT OF RETIREMENT INCOME RECEIVED DURING THE TAXABLE YEAR	CREDIT FOR THE TAXABLE YEAR
\$500 or less	\$ 0
Over \$500 but not more than \$1,500	\$ 25
Over \$1,500 but not more than \$3,000	\$ 50
Over \$3,000 but not more than \$5,000	\$ 80
Over \$5,000 but not more than \$8,000	\$130
Over \$8,000	\$200

(C) At the election of a taxpayer who receives a lump-sum distribution from a pension, retirement, or profit-sharing plan within one taxable year, the credit allowed by this section for that year shall be computed as follows:

(1) Divide the amount of retirement income received during the taxable year by the taxpayer's expected remaining life on the last day of the taxable year, as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year that includes the last day of the taxable year;



(2) Using the quotient thus obtained as the amount of 1179  
retirement income received during the taxable year, compute the 1180  
credit for the taxable year in accordance with division (B) of 1181  
this section; 1182

(3) Multiply the credit thus obtained by the taxpayer's 1183  
expected remaining life. The product thus obtained shall be the 1184  
credit under this division for the taxable year. A taxpayer who 1185  
elects to receive a credit under this division is not entitled to 1186  
receive a credit under this section for any subsequent year except 1187  
as provided in divisions (D) and (E) of this section. 1188

(D) If the credit under division (C) or (E) of this section 1189  
exceeds the tax due for the taxable year after allowing for any 1190  
other credit that precedes that credit in the order required under 1191  
section 5747.98 of the Revised Code, the taxpayer may elect to 1192  
receive a credit for each subsequent taxable year. The amount of 1193  
the credit for each such year shall be computed as follows: 1194

(1) Determine the amount by which the unused credit elected 1195  
under division (C) or (E) of this section exceeded the tax due for 1196  
the taxable year after allowing for any preceding credit in the 1197  
required order; 1198

(2) Divide the amount of such excess by one year less than 1199  
the taxpayer's expected remaining life on the last day of the 1200  
taxable year of the distribution for which the credit was allowed 1201  
under division (C) or (E) of this section. The quotient thus 1202  
obtained shall be the credit for each subsequent year. 1203

(E) If subsequent to the receipt of a lump-sum distribution 1204  
and an election under division (C) of this section an individual 1205  
receives another lump-sum distribution within one taxable year, 1206  
the taxpayer may elect to receive a credit for that taxable year. 1207  
The credit shall equal the lesser of: 1208

(1) A credit computed in the manner prescribed in division 1209

(C) of this section; 1210

(2) The amount of credit, if any, to which the taxpayer would 1211  
otherwise be entitled for the taxable year under division (D) of 1212  
this section times the taxpayer's expected remaining life on the 1213  
last day of the taxable year. A taxpayer who elects to receive a 1214  
credit under this division is not entitled to a credit under this 1215  
section for any subsequent year except as provided in division (D) 1216  
of this section. 1217

(F) In the case of a taxpayer who elected to take an 1218  
exclusion under division (A)(1) or (3) of former section 5747.01 1219  
of the Revised Code based upon the taxpayer's expected remaining 1220  
life, and who was entitled immediately preceding ~~the effective~~ 1221  
~~date of this section~~ July 1, 1983, under division (A)(2) or (3) of 1222  
such section to a further exclusion, any credit computed in 1223  
accordance with the schedule in division (B) of this section, 1224  
including the credit computed under division (C)(2) of this 1225  
section, shall not exceed the credit available upon an amount of 1226  
retirement income received during the taxable year equal to the 1227  
sum of such former exclusion plus four thousand dollars. 1228

(G) The credits allowed by this section shall be claimed in 1229  
the order required under section 5747.98 of the Revised Code. The 1230  
tax commissioner may require a taxpayer to furnish any information 1231  
necessary to support a claim for credit under this section, and no 1232  
credit shall be allowed unless such information is provided. 1233

**Section 2.** That existing sections 5747.01, 5747.02, and 1234  
5747.055 of the Revised Code are hereby repealed. 1235