

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**S. B. No. 266**

**Senator Schuring**

**Cosponsors: Senators Wagoner, Cates, Buehrer, Gibbs, Grendell, Goodman,  
Schaffer, Widener, Faber, Husted**

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**A B I L L**

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

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

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

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

As used in this chapter: 17

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

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

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

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

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

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

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

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

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

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

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

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

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

(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) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent"

under section 152 of the Internal Revenue Code but for the fact 113  
that the person fails to meet the income and support limitations 114  
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 115

(d) For purposes of division (A)(11) of this section, 116  
"medical care" has the meaning given in section 213 of the 117  
Internal Revenue Code, subject to the special rules, limitations, 118  
and exclusions set forth therein, and "qualified long-term care" 119  
has the same meaning given in section 7702B(c) of the Internal 120  
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 121  
of this section, "dependent" includes a person who otherwise would 122  
be a "qualifying relative" and thus a "dependent" under section 123  
152 of the Internal Revenue Code but for the fact that the person 124  
fails to meet the income and support limitations under section 125  
152(d)(1)(B) and (C) of the Internal Revenue Code. 126

(12)(a) Deduct any amount included in federal adjusted gross 127  
income solely because the amount represents a reimbursement or 128  
refund of expenses that in any year the taxpayer had deducted as 129  
an itemized deduction pursuant to section 63 of the Internal 130  
Revenue Code and applicable United States department of the 131  
treasury regulations. The deduction otherwise allowed under 132  
division (A)(12)(a) of this section shall be reduced to the extent 133  
the reimbursement is attributable to an amount the taxpayer 134  
deducted under this section in any taxable year. 135

(b) Add any amount not otherwise included in Ohio adjusted 136  
gross income for any taxable year to the extent that the amount is 137  
attributable to the recovery during the taxable year of any amount 138  
deducted or excluded in computing federal or Ohio adjusted gross 139  
income in any taxable year. 140

(13) Deduct any portion of the deduction described in section 141  
1341(a)(2) of the Internal Revenue Code, for repaying previously 142  
reported income received under a claim of right, that meets both 143  
of the following requirements: 144

(a) It is allowable for repayment of an item that was 145  
included in the taxpayer's adjusted gross income for a prior 146  
taxable year and did not qualify for a credit under division (A) 147  
or (B) of section 5747.05 of the Revised Code for that year; 148

(b) It does not otherwise reduce the taxpayer's adjusted 149  
gross income for the current or any other taxable year. 150

(14) Deduct an amount equal to the deposits made to, and net 151  
investment earnings of, a medical savings account during the 152  
taxable year, in accordance with section 3924.66 of the Revised 153  
Code. The deduction allowed by division (A)(14) of this section 154  
does not apply to medical savings account deposits and earnings 155  
otherwise deducted or excluded for the current or any other 156  
taxable year from the taxpayer's federal adjusted gross income. 157

(15)(a) Add an amount equal to the funds withdrawn from a 158  
medical savings account during the taxable year, and the net 159  
investment earnings on those funds, when the funds withdrawn were 160  
used for any purpose other than to reimburse an account holder 161  
for, or to pay, eligible medical expenses, in accordance with 162  
section 3924.66 of the Revised Code; 163

(b) Add the amounts distributed from a medical savings 164  
account under division (A)(2) of section 3924.68 of the Revised 165  
Code during the taxable year. 166

(16) Add any amount claimed as a credit under section 167  
5747.059 of the Revised Code to the extent that such amount 168  
satisfies either of the following: 169

(a) The amount was deducted or excluded from the computation 170  
of the taxpayer's federal adjusted gross income as required to be 171  
reported for the taxpayer's taxable year under the Internal 172  
Revenue Code; 173

(b) The amount resulted in a reduction of the taxpayer's 174  
federal adjusted gross income as required to be reported for any 175

of the taxpayer's taxable years under the Internal Revenue Code. 176

(17) Deduct the amount contributed by the taxpayer to an 177  
individual development account program established by a county 178  
department of job and family services pursuant to sections 329.11 179  
to 329.14 of the Revised Code for the purpose of matching funds 180  
deposited by program participants. On request of the tax 181  
commissioner, the taxpayer shall provide any information that, in 182  
the tax commissioner's opinion, is necessary to establish the 183  
amount deducted under division (A)(17) of this section. 184

(18) Beginning in taxable year 2001 but not for any taxable 185  
year beginning after December 31, 2005, if the taxpayer is married 186  
and files a joint return and the combined federal adjusted gross 187  
income of the taxpayer and the taxpayer's spouse for the taxable 188  
year does not exceed one hundred thousand dollars, or if the 189  
taxpayer is single and has a federal adjusted gross income for the 190  
taxable year not exceeding fifty thousand dollars, deduct amounts 191  
paid during the taxable year for qualified tuition and fees paid 192  
to an eligible institution for the taxpayer, the taxpayer's 193  
spouse, or any dependent of the taxpayer, who is a resident of 194  
this state and is enrolled in or attending a program that 195  
culminates in a degree or diploma at an eligible institution. The 196  
deduction may be claimed only to the extent that qualified tuition 197  
and fees are not otherwise deducted or excluded for any taxable 198  
year from federal or Ohio adjusted gross income. The deduction may 199  
not be claimed for educational expenses for which the taxpayer 200  
claims a credit under section 5747.27 of the Revised Code. 201

(19) Add any reimbursement received during the taxable year 202  
of any amount the taxpayer deducted under division (A)(18) of this 203  
section in any previous taxable year to the extent the amount is 204  
not otherwise included in Ohio adjusted gross income. 205

(20)(a)(i) Add five-sixths of the amount of depreciation 206  
expense allowed by subsection (k) of section 168 of the Internal 207

Revenue Code, including the taxpayer's proportionate or 208  
distributive share of the amount of depreciation expense allowed 209  
by that subsection to a pass-through entity in which the taxpayer 210  
has a direct or indirect ownership interest. 211

(ii) Add five-sixths of the amount of qualifying section 179 212  
depreciation expense, including a person's proportionate or 213  
distributive share of the amount of qualifying section 179 214  
depreciation expense allowed to any pass-through entity in which 215  
the person has a direct or indirect ownership. For the purposes of 216  
this division, "qualifying section 179 depreciation expense" means 217  
the difference between (I) the amount of depreciation expense 218  
directly or indirectly allowed to the taxpayer under section 179 219  
of the Internal Revenue Code, and (II) the amount of depreciation 220  
expense directly or indirectly allowed to the taxpayer under 221  
section 179 of the Internal Revenue Code as that section existed 222  
on December 31, 2002. 223

The tax commissioner, under procedures established by the 224  
commissioner, may waive the add-backs related to a pass-through 225  
entity if the taxpayer owns, directly or indirectly, less than 226  
five per cent of the pass-through entity. 227

(b) Nothing in division (A)(20) of this section shall be 228  
construed to adjust or modify the adjusted basis of any asset. 229

(c) To the extent the add-back required under division 230  
(A)(20)(a) of this section is attributable to property generating 231  
nonbusiness income or loss allocated under section 5747.20 of the 232  
Revised Code, the add-back shall be situated to the same location 233  
as the nonbusiness income or loss generated by the property for 234  
the purpose of determining the credit under division (A) of 235  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 236  
be apportioned, subject to one or more of the four alternative 237  
methods of apportionment enumerated in section 5747.21 of the 238  
Revised Code. 239



(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 271  
in computing federal or Ohio adjusted gross income for the taxable 272  
year, the amount the taxpayer received during the taxable year as 273  
a death benefit paid by the adjutant general under section 5919.33 274  
of the Revised Code. 275

(24) Deduct, to the extent included in federal adjusted gross 276  
income and not otherwise allowable as a deduction or exclusion in 277  
computing federal or Ohio adjusted gross income for the taxable 278  
year, military pay and allowances received by the taxpayer during 279  
the taxable year for active duty service in the United States 280  
army, air force, navy, marine corps, or coast guard or reserve 281  
components thereof or the national guard. The deduction may not be 282  
claimed for military pay and allowances received by the taxpayer 283  
while the taxpayer is stationed in this state. 284

(25) Deduct, to the extent not otherwise allowable as a 285  
deduction or exclusion in computing federal or Ohio adjusted gross 286  
income for the taxable year and not otherwise compensated for by 287  
any other source, the amount of qualified organ donation expenses 288  
incurred by the taxpayer during the taxable year, not to exceed 289  
ten thousand dollars. A taxpayer may deduct qualified organ 290  
donation expenses only once for all taxable years beginning with 291  
taxable years beginning in 2007. 292

For the purposes of division (A)(25) of this section: 293

(a) "Human organ" means all or any portion of a human liver, 294  
pancreas, kidney, intestine, or lung, and any portion of human 295  
bone marrow. 296

(b) "Qualified organ donation expenses" means travel 297  
expenses, lodging expenses, and wages and salary forgone by a 298  
taxpayer in connection with the taxpayer's donation, while living, 299  
of one or more of the taxpayer's human organs to another human 300  
being. 301

(26) Deduct, to the extent not otherwise deducted or excluded 302  
in computing federal or Ohio adjusted gross income for the taxable 303  
year, amounts received by the taxpayer as retired military 304  
personnel pay for service in the United States army, navy, air 305  
force, coast guard, or marine corps or reserve components thereof, 306  
or the national guard, or received by the surviving spouse or 307  
former spouse of such a taxpayer under the survivor benefit plan 308  
on account of such a taxpayer's death. If the taxpayer receives 309  
income on account of retirement paid under the federal civil 310  
service retirement system or federal employees retirement system, 311  
or under any successor retirement program enacted by the congress 312  
of the United States that is established and maintained for 313  
retired employees of the United States government, and such 314  
retirement income is based, in whole or in part, on credit for the 315  
taxpayer's military service, the deduction allowed under this 316  
division shall include only that portion of such retirement income 317  
that is attributable to the taxpayer's military service, to the 318  
extent that portion of such retirement income is otherwise 319  
included in federal adjusted gross income and is not otherwise 320  
deducted under this section. Any amount deducted under division 321  
(A)(26) of this section is not included in a taxpayer's adjusted 322  
gross income for the purposes of section 5747.055 of the Revised 323  
Code. No amount may be deducted under division (A)(26) of this 324  
section on the basis of which a credit was claimed under section 325  
5747.055 of the Revised Code. 326

(27) Deduct, to the extent not otherwise deducted or excluded 327  
in computing federal or Ohio adjusted gross income for the taxable 328  
year, the amount the taxpayer received during the taxable year 329  
from the military injury relief fund created in section 5101.98 of 330  
the Revised Code. 331

(28) Deduct, to the extent not otherwise deducted or excluded 332  
in computing federal or Ohio adjusted gross income for the taxable 333

year, the amount the taxpayer received as a veterans bonus during 334  
the taxable year from the Ohio department of veterans services as 335  
authorized by Section 2r of Article VIII, Ohio Constitution. 336

(29) Deduct or add amounts, as provided in division (B) of 337  
section 5747.014 of the Revised Code, related to Ohio-based 338  
reinvestments. 339

(B) "Business income" means income, including gain or loss, 340  
arising from transactions, activities, and sources in the regular 341  
course of a trade or business and includes income, gain, or loss 342  
from real property, tangible property, and intangible property if 343  
the acquisition, rental, management, and disposition of the 344  
property constitute integral parts of the regular course of a 345  
trade or business operation. "Business income" includes income, 346  
including gain or loss, from a partial or complete liquidation of 347  
a business, including, but not limited to, gain or loss from the 348  
sale or other disposition of goodwill. 349

(C) "Nonbusiness income" means all income other than business 350  
income and may include, but is not limited to, compensation, rents 351  
and royalties from real or tangible personal property, capital 352  
gains, interest, dividends and distributions, patent or copyright 353  
royalties, or lottery winnings, prizes, and awards. 354

(D) "Compensation" means any form of remuneration paid to an 355  
employee for personal services. 356

(E) "Fiduciary" means a guardian, trustee, executor, 357  
administrator, receiver, conservator, or any other person acting 358  
in any fiduciary capacity for any individual, trust, or estate. 359

(F) "Fiscal year" means an accounting period of twelve months 360  
ending on the last day of any month other than December. 361

(G) "Individual" means any natural person. 362

(H) "Internal Revenue Code" means the "Internal Revenue Code 363

of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 364

(I) "Resident" means any of the following, provided that 365  
division (I)(3) of this section applies only to taxable years of a 366  
trust beginning in 2002 or thereafter: 367

(1) An individual who is domiciled in this state, subject to 368  
section 5747.24 of the Revised Code; 369

(2) The estate of a decedent who at the time of death was 370  
domiciled in this state. The domicile tests of section 5747.24 of 371  
the Revised Code are not controlling for purposes of division 372  
(I)(2) of this section. 373

(3) A trust that, in whole or part, resides in this state. If 374  
only part of a trust resides in this state, the trust is a 375  
resident only with respect to that part. 376

For the purposes of division (I)(3) of this section: 377

(a) A trust resides in this state for the trust's current 378  
taxable year to the extent, as described in division (I)(3)(d) of 379  
this section, that the trust consists directly or indirectly, in 380  
whole or in part, of assets, net of any related liabilities, that 381  
were transferred, or caused to be transferred, directly or 382  
indirectly, to the trust by any of the following: 383

(i) A person, a court, or a governmental entity or 384  
instrumentality on account of the death of a decedent, but only if 385  
the trust is described in division (I)(3)(e)(i) or (ii) of this 386  
section; 387

(ii) A person who was domiciled in this state for the 388  
purposes of this chapter when the person directly or indirectly 389  
transferred assets to an irrevocable trust, but only if at least 390  
one of the trust's qualifying beneficiaries is domiciled in this 391  
state for the purposes of this chapter during all or some portion 392  
of the trust's current taxable year; 393

(iii) A person who was domiciled in this state for the 394  
purposes of this chapter when the trust document or instrument or 395  
part of the trust document or instrument became irrevocable, but 396  
only if at least one of the trust's qualifying beneficiaries is a 397  
resident domiciled in this state for the purposes of this chapter 398  
during all or some portion of the trust's current taxable year. If 399  
a trust document or instrument became irrevocable upon the death 400  
of a person who at the time of death was domiciled in this state 401  
for purposes of this chapter, that person is a person described in 402  
division (I)(3)(a)(iii) of this section. 403

(b) A trust is irrevocable to the extent that the transferor 404  
is not considered to be the owner of the net assets of the trust 405  
under sections 671 to 678 of the Internal Revenue Code. 406

(c) With respect to a trust other than a charitable lead 407  
trust, "qualifying beneficiary" has the same meaning as "potential 408  
current beneficiary" as defined in section 1361(e)(2) of the 409  
Internal Revenue Code, and with respect to a charitable lead trust 410  
"qualifying beneficiary" is any current, future, or contingent 411  
beneficiary, but with respect to any trust "qualifying 412  
beneficiary" excludes a person or a governmental entity or 413  
instrumentality to any of which a contribution would qualify for 414  
the charitable deduction under section 170 of the Internal Revenue 415  
Code. 416

(d) For the purposes of division (I)(3)(a) of this section, 417  
the extent to which a trust consists directly or indirectly, in 418  
whole or in part, of assets, net of any related liabilities, that 419  
were transferred directly or indirectly, in whole or part, to the 420  
trust by any of the sources enumerated in that division shall be 421  
ascertained by multiplying the fair market value of the trust's 422  
assets, net of related liabilities, by the qualifying ratio, which 423  
shall be computed as follows: 424

(i) The first time the trust receives assets, the numerator 425

of the qualifying ratio is the fair market value of those assets 426  
at that time, net of any related liabilities, from sources 427  
enumerated in division (I)(3)(a) of this section. The denominator 428  
of the qualifying ratio is the fair market value of all the 429  
trust's assets at that time, net of any related liabilities. 430

(ii) Each subsequent time the trust receives assets, a 431  
revised qualifying ratio shall be computed. The numerator of the 432  
revised qualifying ratio is the sum of (1) the fair market value 433  
of the trust's assets immediately prior to the subsequent 434  
transfer, net of any related liabilities, multiplied by the 435  
qualifying ratio last computed without regard to the subsequent 436  
transfer, and (2) the fair market value of the subsequently 437  
transferred assets at the time transferred, net of any related 438  
liabilities, from sources enumerated in division (I)(3)(a) of this 439  
section. The denominator of the revised qualifying ratio is the 440  
fair market value of all the trust's assets immediately after the 441  
subsequent transfer, net of any related liabilities. 442

(iii) Whether a transfer to the trust is by or from any of 443  
the sources enumerated in division (I)(3)(a) of this section shall 444  
be ascertained without regard to the domicile of the trust's 445  
beneficiaries. 446

(e) For the purposes of division (I)(3)(a)(i) of this 447  
section: 448

(i) A trust is described in division (I)(3)(e)(i) of this 449  
section if the trust is a testamentary trust and the testator of 450  
that testamentary trust was domiciled in this state at the time of 451  
the testator's death for purposes of the taxes levied under 452  
Chapter 5731. of the Revised Code. 453

(ii) A trust is described in division (I)(3)(e)(ii) of this 454  
section if the transfer is a qualifying transfer described in any 455  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 456

irrevocable inter vivos trust, and at least one of the trust's 457  
qualifying beneficiaries is domiciled in this state for purposes 458  
of this chapter during all or some portion of the trust's current 459  
taxable year. 460

(f) For the purposes of division (I)(3)(e)(ii) of this 461  
section, a "qualifying transfer" is a transfer of assets, net of 462  
any related liabilities, directly or indirectly to a trust, if the 463  
transfer is described in any of the following: 464

(i) The transfer is made to a trust, created by the decedent 465  
before the decedent's death and while the decedent was domiciled 466  
in this state for the purposes of this chapter, and, prior to the 467  
death of the decedent, the trust became irrevocable while the 468  
decedent was domiciled in this state for the purposes of this 469  
chapter. 470

(ii) The transfer is made to a trust to which the decedent, 471  
prior to the decedent's death, had directly or indirectly 472  
transferred assets, net of any related liabilities, while the 473  
decedent was domiciled in this state for the purposes of this 474  
chapter, and prior to the death of the decedent the trust became 475  
irrevocable while the decedent was domiciled in this state for the 476  
purposes of this chapter. 477

(iii) The transfer is made on account of a contractual 478  
relationship existing directly or indirectly between the 479  
transferor and either the decedent or the estate of the decedent 480  
at any time prior to the date of the decedent's death, and the 481  
decedent was domiciled in this state at the time of death for 482  
purposes of the taxes levied under Chapter 5731. of the Revised 483  
Code. 484

(iv) The transfer is made to a trust on account of a 485  
contractual relationship existing directly or indirectly between 486  
the transferor and another person who at the time of the 487



decedent's death was domiciled in this state for purposes of this 488  
chapter. 489

(v) The transfer is made to a trust on account of the will of 490  
a testator who was domiciled in this state at the time of the 491  
testator's death for purposes of the taxes levied under Chapter 492  
5731. of the Revised Code. 493

(vi) The transfer is made to a trust created by or caused to 494  
be created by a court, and the trust was directly or indirectly 495  
created in connection with or as a result of the death of an 496  
individual who, for purposes of the taxes levied under Chapter 497  
5731. of the Revised Code, was domiciled in this state at the time 498  
of the individual's death. 499

(g) The tax commissioner may adopt rules to ascertain the 500  
part of a trust residing in this state. 501

(J) "Nonresident" means an individual or estate that is not a 502  
resident. An individual who is a resident for only part of a 503  
taxable year is a nonresident for the remainder of that taxable 504  
year. 505

(K) "Pass-through entity" has the same meaning as in section 506  
5733.04 of the Revised Code. 507

(L) "Return" means the notifications and reports required to 508  
be filed pursuant to this chapter for the purpose of reporting the 509  
tax due and includes declarations of estimated tax when so 510  
required. 511

(M) "Taxable year" means the calendar year or the taxpayer's 512  
fiscal year ending during the calendar year, or fractional part 513  
thereof, upon which the adjusted gross income is calculated 514  
pursuant to this chapter. 515

(N) "Taxpayer" means any person subject to the tax imposed by 516  
section 5747.02 of the Revised Code or any pass-through entity 517

that makes the election under division (D) of section 5747.08 of 518  
the Revised Code. 519

(O) "Dependents" means dependents as defined in the Internal 520  
Revenue Code and as claimed in the taxpayer's federal income tax 521  
return for the taxable year or which the taxpayer would have been 522  
permitted to claim had the taxpayer filed a federal income tax 523  
return. 524

(P) "Principal county of employment" means, in the case of a 525  
nonresident, the county within the state in which a taxpayer 526  
performs services for an employer or, if those services are 527  
performed in more than one county, the county in which the major 528  
portion of the services are performed. 529

(Q) As used in sections 5747.50 to 5747.55 of the Revised 530  
Code: 531

(1) "Subdivision" means any county, municipal corporation, 532  
park district, or township. 533

(2) "Essential local government purposes" includes all 534  
functions that any subdivision is required by general law to 535  
exercise, including like functions that are exercised under a 536  
charter adopted pursuant to the Ohio Constitution. 537

(R) "Overpayment" means any amount already paid that exceeds 538  
the figure determined to be the correct amount of the tax. 539

(S) "Taxable income" or "Ohio taxable income" applies only to 540  
estates and trusts, and means federal taxable income, as defined 541  
and used in the Internal Revenue Code, adjusted as follows: 542

(1) Add interest or dividends, net of ordinary, necessary, 543  
and reasonable expenses not deducted in computing federal taxable 544  
income, on obligations or securities of any state or of any 545  
political subdivision or authority of any state, other than this 546  
state and its subdivisions and authorities, but only to the extent 547

that such net amount is not otherwise includible in Ohio taxable 548  
income and is described in either division (S)(1)(a) or (b) of 549  
this section: 550

(a) The net amount is not attributable to the S portion of an 551  
electing small business trust and has not been distributed to 552  
beneficiaries for the taxable year; 553

(b) The net amount is attributable to the S portion of an 554  
electing small business trust for the taxable year. 555

(2) Add interest or dividends, net of ordinary, necessary, 556  
and reasonable expenses not deducted in computing federal taxable 557  
income, on obligations of any authority, commission, 558  
instrumentality, territory, or possession of the United States to 559  
the extent that the interest or dividends are exempt from federal 560  
income taxes but not from state income taxes, but only to the 561  
extent that such net amount is not otherwise includible in Ohio 562  
taxable income and is described in either division (S)(1)(a) or 563  
(b) of this section; 564

(3) Add the amount of personal exemption allowed to the 565  
estate pursuant to section 642(b) of the Internal Revenue Code; 566

(4) Deduct interest or dividends, net of related expenses 567  
deducted in computing federal taxable income, on obligations of 568  
the United States and its territories and possessions or of any 569  
authority, commission, or instrumentality of the United States to 570  
the extent that the interest or dividends are exempt from state 571  
taxes under the laws of the United States, but only to the extent 572  
that such amount is included in federal taxable income and is 573  
described in either division (S)(1)(a) or (b) of this section; 574

(5) Deduct the amount of wages and salaries, if any, not 575  
otherwise allowable as a deduction but that would have been 576  
allowable as a deduction in computing federal taxable income for 577  
the taxable year, had the targeted jobs credit allowed under 578

sections 38, 51, and 52 of the Internal Revenue Code not been in 579  
effect, but only to the extent such amount relates either to 580  
income included in federal taxable income for the taxable year or 581  
to income of the S portion of an electing small business trust for 582  
the taxable year; 583

(6) Deduct any interest or interest equivalent, net of 584  
related expenses deducted in computing federal taxable income, on 585  
public obligations and purchase obligations, but only to the 586  
extent that such net amount relates either to income included in 587  
federal taxable income for the taxable year or to income of the S 588  
portion of an electing small business trust for the taxable year; 589

(7) Add any loss or deduct any gain resulting from sale, 590  
exchange, or other disposition of public obligations to the extent 591  
that such loss has been deducted or such gain has been included in 592  
computing either federal taxable income or income of the S portion 593  
of an electing small business trust for the taxable year; 594

(8) Except in the case of the final return of an estate, add 595  
any amount deducted by the taxpayer on both its Ohio estate tax 596  
return pursuant to section 5731.14 of the Revised Code, and on its 597  
federal income tax return in determining federal taxable income; 598

(9)(a) Deduct any amount included in federal taxable income 599  
solely because the amount represents a reimbursement or refund of 600  
expenses that in a previous year the decedent had deducted as an 601  
itemized deduction pursuant to section 63 of the Internal Revenue 602  
Code and applicable treasury regulations. The deduction otherwise 603  
allowed under division (S)(9)(a) of this section shall be reduced 604  
to the extent the reimbursement is attributable to an amount the 605  
taxpayer or decedent deducted under this section in any taxable 606  
year. 607

(b) Add any amount not otherwise included in Ohio taxable 608  
income for any taxable year to the extent that the amount is 609

attributable to the recovery during the taxable year of any amount 610  
deducted or excluded in computing federal or Ohio taxable income 611  
in any taxable year, but only to the extent such amount has not 612  
been distributed to beneficiaries for the taxable year. 613

(10) Deduct any portion of the deduction described in section 614  
1341(a)(2) of the Internal Revenue Code, for repaying previously 615  
reported income received under a claim of right, that meets both 616  
of the following requirements: 617

(a) It is allowable for repayment of an item that was 618  
included in the taxpayer's taxable income or the decedent's 619  
adjusted gross income for a prior taxable year and did not qualify 620  
for a credit under division (A) or (B) of section 5747.05 of the 621  
Revised Code for that year. 622

(b) It does not otherwise reduce the taxpayer's taxable 623  
income or the decedent's adjusted gross income for the current or 624  
any other taxable year. 625

(11) Add any amount claimed as a credit under section 626  
5747.059 of the Revised Code to the extent that the amount 627  
satisfies either of the following: 628

(a) The amount was deducted or excluded from the computation 629  
of the taxpayer's federal taxable income as required to be 630  
reported for the taxpayer's taxable year under the Internal 631  
Revenue Code; 632

(b) The amount resulted in a reduction in the taxpayer's 633  
federal taxable income as required to be reported for any of the 634  
taxpayer's taxable years under the Internal Revenue Code. 635

(12) Deduct any amount, net of related expenses deducted in 636  
computing federal taxable income, that a trust is required to 637  
report as farm income on its federal income tax return, but only 638  
if the assets of the trust include at least ten acres of land 639  
satisfying the definition of "land devoted exclusively to 640

agricultural use" under section 5713.30 of the Revised Code, 641  
regardless of whether the land is valued for tax purposes as such 642  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 643  
trust is a pass-through entity investor, section 5747.231 of the 644  
Revised Code applies in ascertaining if the trust is eligible to 645  
claim the deduction provided by division (S)(12) of this section 646  
in connection with the pass-through entity's farm income. 647

Except for farm income attributable to the S portion of an 648  
electing small business trust, the deduction provided by division 649  
(S)(12) of this section is allowed only to the extent that the 650  
trust has not distributed such farm income. Division (S)(12) of 651  
this section applies only to taxable years of a trust beginning in 652  
2002 or thereafter. 653

(13) Add the net amount of income described in section 641(c) 654  
of the Internal Revenue Code to the extent that amount is not 655  
included in federal taxable income. 656

(14) Add or deduct the amount the taxpayer would be required 657  
to add or deduct under division (A)(20) or (21) of this section if 658  
the taxpayer's Ohio taxable income were computed in the same 659  
manner as an individual's Ohio adjusted gross income is computed 660  
under this section. In the case of a trust, division (S)(14) of 661  
this section applies only to any of the trust's taxable years 662  
beginning in 2002 or thereafter. 663

(T) "School district income" and "school district income tax" 664  
have the same meanings as in section 5748.01 of the Revised Code. 665

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 666  
of this section, "public obligations," "purchase obligations," and 667  
"interest or interest equivalent" have the same meanings as in 668  
section 5709.76 of the Revised Code. 669

(V) "Limited liability company" means any limited liability 670  
company formed under Chapter 1705. of the Revised Code or under 671

the laws of any other state. 672

(W) "Pass-through entity investor" means any person who, 673  
during any portion of a taxable year of a pass-through entity, is 674  
a partner, member, shareholder, or equity investor in that 675  
pass-through entity. 676

(X) "Banking day" has the same meaning as in section 1304.01 677  
of the Revised Code. 678

(Y) "Month" means a calendar month. 679

(Z) "Quarter" means the first three months, the second three 680  
months, the third three months, or the last three months of the 681  
taxpayer's taxable year. 682

(AA)(1) "Eligible institution" means a state university or 683  
state institution of higher education as defined in section 684  
3345.011 of the Revised Code, or a private, nonprofit college, 685  
university, or other post-secondary institution located in this 686  
state that possesses a certificate of authorization issued by the 687  
Ohio board of regents pursuant to Chapter 1713. of the Revised 688  
Code or a certificate of registration issued by the state board of 689  
career colleges and schools under Chapter 3332. of the Revised 690  
Code. 691

(2) "Qualified tuition and fees" means tuition and fees 692  
imposed by an eligible institution as a condition of enrollment or 693  
attendance, not exceeding two thousand five hundred dollars in 694  
each of the individual's first two years of post-secondary 695  
education. If the individual is a part-time student, "qualified 696  
tuition and fees" includes tuition and fees paid for the academic 697  
equivalent of the first two years of post-secondary education 698  
during a maximum of five taxable years, not exceeding a total of 699  
five thousand dollars. "Qualified tuition and fees" does not 700  
include: 701

(a) Expenses for any course or activity involving sports, 702

games, or hobbies unless the course or activity is part of the 703  
individual's degree or diploma program; 704

(b) The cost of books, room and board, student activity fees, 705  
athletic fees, insurance expenses, or other expenses unrelated to 706  
the individual's academic course of instruction; 707

(c) Tuition, fees, or other expenses paid or reimbursed 708  
through an employer, scholarship, grant in aid, or other 709  
educational benefit program. 710

(BB)(1) "Modified business income" means the business income 711  
included in a trust's Ohio taxable income after such taxable 712  
income is first reduced by the qualifying trust amount, if any. 713

(2) "Qualifying trust amount" of a trust means capital gains 714  
and losses from the sale, exchange, or other disposition of equity 715  
or ownership interests in, or debt obligations of, a qualifying 716  
investee to the extent included in the trust's Ohio taxable 717  
income, but only if the following requirements are satisfied: 718

(a) The book value of the qualifying investee's physical 719  
assets in this state and everywhere, as of the last day of the 720  
qualifying investee's fiscal or calendar year ending immediately 721  
prior to the date on which the trust recognizes the gain or loss, 722  
is available to the trust. 723

(b) The requirements of section 5747.011 of the Revised Code 724  
are satisfied for the trust's taxable year in which the trust 725  
recognizes the gain or loss. 726

Any gain or loss that is not a qualifying trust amount is 727  
modified business income, qualifying investment income, or 728  
modified nonbusiness income, as the case may be. 729

(3) "Modified nonbusiness income" means a trust's Ohio 730  
taxable income other than modified business income, other than the 731  
qualifying trust amount, and other than qualifying investment 732



income, as defined in section 5747.012 of the Revised Code, to the 733  
extent such qualifying investment income is not otherwise part of 734  
modified business income. 735

(4) "Modified Ohio taxable income" applies only to trusts, 736  
and means the sum of the amounts described in divisions (BB)(4)(a) 737  
to (c) of this section: 738

(a) The fraction, calculated under section 5747.013, and 739  
applying section 5747.231 of the Revised Code, multiplied by the 740  
sum of the following amounts: 741

(i) The trust's modified business income; 742

(ii) The trust's qualifying investment income, as defined in 743  
section 5747.012 of the Revised Code, but only to the extent the 744  
qualifying investment income does not otherwise constitute 745  
modified business income and does not otherwise constitute a 746  
qualifying trust amount. 747

(b) The qualifying trust amount multiplied by a fraction, the 748  
numerator of which is the sum of the book value of the qualifying 749  
investee's physical assets in this state on the last day of the 750  
qualifying investee's fiscal or calendar year ending immediately 751  
prior to the day on which the trust recognizes the qualifying 752  
trust amount, and the denominator of which is the sum of the book 753  
value of the qualifying investee's total physical assets 754  
everywhere on the last day of the qualifying investee's fiscal or 755  
calendar year ending immediately prior to the day on which the 756  
trust recognizes the qualifying trust amount. If, for a taxable 757  
year, the trust recognizes a qualifying trust amount with respect 758  
to more than one qualifying investee, the amount described in 759  
division (BB)(4)(b) of this section shall equal the sum of the 760  
products so computed for each such qualifying investee. 761

(c)(i) With respect to a trust or portion of a trust that is 762  
a resident as ascertained in accordance with division (I)(3)(d) of 763

this section, its modified nonbusiness income. 764

(ii) With respect to a trust or portion of a trust that is 765  
not a resident as ascertained in accordance with division 766  
(I)(3)(d) of this section, the amount of its modified nonbusiness 767  
income satisfying the descriptions in divisions (B)(2) to (5) of 768  
section 5747.20 of the Revised Code, except as otherwise provided 769  
in division (BB)(4)(c)(ii) of this section. With respect to a 770  
trust or portion of a trust that is not a resident as ascertained 771  
in accordance with division (I)(3)(d) of this section, the trust's 772  
portion of modified nonbusiness income recognized from the sale, 773  
exchange, or other disposition of a debt interest in or equity 774  
interest in a section 5747.212 entity, as defined in section 775  
5747.212 of the Revised Code, without regard to division (A) of 776  
that section, shall not be allocated to this state in accordance 777  
with section 5747.20 of the Revised Code but shall be apportioned 778  
to this state in accordance with division (B) of section 5747.212 779  
of the Revised Code without regard to division (A) of that 780  
section. 781

If the allocation and apportionment of a trust's income under 782  
divisions (BB)(4)(a) and (c) of this section do not fairly 783  
represent the modified Ohio taxable income of the trust in this 784  
state, the alternative methods described in division (C) of 785  
section 5747.21 of the Revised Code may be applied in the manner 786  
and to the same extent provided in that section. 787

(5)(a) Except as set forth in division (BB)(5)(b) of this 788  
section, "qualifying investee" means a person in which a trust has 789  
an equity or ownership interest, or a person or unit of government 790  
the debt obligations of either of which are owned by a trust. For 791  
the purposes of division (BB)(2)(a) of this section and for the 792  
purpose of computing the fraction described in division (BB)(4)(b) 793  
of this section, all of the following apply: 794

(i) If the qualifying investee is a member of a qualifying 795

controlled group on the last day of the qualifying investee's 796  
fiscal or calendar year ending immediately prior to the date on 797  
which the trust recognizes the gain or loss, then "qualifying 798  
investee" includes all persons in the qualifying controlled group 799  
on such last day. 800

(ii) If the qualifying investee, or if the qualifying 801  
investee and any members of the qualifying controlled group of 802  
which the qualifying investee is a member on the last day of the 803  
qualifying investee's fiscal or calendar year ending immediately 804  
prior to the date on which the trust recognizes the gain or loss, 805  
separately or cumulatively own, directly or indirectly, on the 806  
last day of the qualifying investee's fiscal or calendar year 807  
ending immediately prior to the date on which the trust recognizes 808  
the qualifying trust amount, more than fifty per cent of the 809  
equity of a pass-through entity, then the qualifying investee and 810  
the other members are deemed to own the proportionate share of the 811  
pass-through entity's physical assets which the pass-through 812  
entity directly or indirectly owns on the last day of the 813  
pass-through entity's calendar or fiscal year ending within or 814  
with the last day of the qualifying investee's fiscal or calendar 815  
year ending immediately prior to the date on which the trust 816  
recognizes the qualifying trust amount. 817

(iii) For the purposes of division (BB)(5)(a)(iii) of this 818  
section, "upper level pass-through entity" means a pass-through 819  
entity directly or indirectly owning any equity of another 820  
pass-through entity, and "lower level pass-through entity" means 821  
that other pass-through entity. 822

An upper level pass-through entity, whether or not it is also 823  
a qualifying investee, is deemed to own, on the last day of the 824  
upper level pass-through entity's calendar or fiscal year, the 825  
proportionate share of the lower level pass-through entity's 826  
physical assets that the lower level pass-through entity directly 827

or indirectly owns on the last day of the lower level pass-through 828  
entity's calendar or fiscal year ending within or with the last 829  
day of the upper level pass-through entity's fiscal or calendar 830  
year. If the upper level pass-through entity directly and 831  
indirectly owns less than fifty per cent of the equity of the 832  
lower level pass-through entity on each day of the upper level 833  
pass-through entity's calendar or fiscal year in which or with 834  
which ends the calendar or fiscal year of the lower level 835  
pass-through entity and if, based upon clear and convincing 836  
evidence, complete information about the location and cost of the 837  
physical assets of the lower pass-through entity is not available 838  
to the upper level pass-through entity, then solely for purposes 839  
of ascertaining if a gain or loss constitutes a qualifying trust 840  
amount, the upper level pass-through entity shall be deemed as 841  
owning no equity of the lower level pass-through entity for each 842  
day during the upper level pass-through entity's calendar or 843  
fiscal year in which or with which ends the lower level 844  
pass-through entity's calendar or fiscal year. Nothing in division 845  
(BB)(5)(a)(iii) of this section shall be construed to provide for 846  
any deduction or exclusion in computing any trust's Ohio taxable 847  
income. 848

(b) With respect to a trust that is not a resident for the 849  
taxable year and with respect to a part of a trust that is not a 850  
resident for the taxable year, "qualifying investee" for that 851  
taxable year does not include a C corporation if both of the 852  
following apply: 853

(i) During the taxable year the trust or part of the trust 854  
recognizes a gain or loss from the sale, exchange, or other 855  
disposition of equity or ownership interests in, or debt 856  
obligations of, the C corporation. 857

(ii) Such gain or loss constitutes nonbusiness income. 858

(6) "Available" means information is such that a person is 859

able to learn of the information by the due date plus extensions, 860  
if any, for filing the return for the taxable year in which the 861  
trust recognizes the gain or loss. 862

(CC) "Qualifying controlled group" has the same meaning as in 863  
section 5733.04 of the Revised Code. 864

(DD) "Related member" has the same meaning as in section 865  
5733.042 of the Revised Code. 866

(EE)(1) For the purposes of division (EE) of this section: 867

(a) "Qualifying person" means any person other than a 868  
qualifying corporation. 869

(b) "Qualifying corporation" means any person classified for 870  
federal income tax purposes as an association taxable as a 871  
corporation, except either of the following: 872

(i) A corporation that has made an election under subchapter 873  
S, chapter one, subtitle A, of the Internal Revenue Code for its 874  
taxable year ending within, or on the last day of, the investor's 875  
taxable year; 876

(ii) A subsidiary that is wholly owned by any corporation 877  
that has made an election under subchapter S, chapter one, 878  
subtitle A of the Internal Revenue Code for its taxable year 879  
ending within, or on the last day of, the investor's taxable year. 880

(2) For the purposes of this chapter, unless expressly stated 881  
otherwise, no qualifying person indirectly owns any asset directly 882  
or indirectly owned by any qualifying corporation. 883

(FF) For purposes of this chapter and Chapter 5751. of the 884  
Revised Code: 885

(1) "Trust" does not include a qualified pre-income tax 886  
trust. 887

(2) A "qualified pre-income tax trust" is any pre-income tax 888  
trust that makes a qualifying pre-income tax trust election as 889

described in division (FF)(3) of this section. 890

(3) A "qualifying pre-income tax trust election" is an 891  
election by a pre-income tax trust to subject to the tax imposed 892  
by section 5751.02 of the Revised Code the pre-income tax trust 893  
and all pass-through entities of which the trust owns or controls, 894  
directly, indirectly, or constructively through related interests, 895  
five per cent or more of the ownership or equity interests. The 896  
trustee shall notify the tax commissioner in writing of the 897  
election on or before April 15, 2006. The election, if timely 898  
made, shall be effective on and after January 1, 2006, and shall 899  
apply for all tax periods and tax years until revoked by the 900  
trustee of the trust. 901

(4) A "pre-income tax trust" is a trust that satisfies all of 902  
the following requirements: 903

(a) The document or instrument creating the trust was 904  
executed by the grantor before January 1, 1972; 905

(b) The trust became irrevocable upon the creation of the 906  
trust; and 907

(c) The grantor was domiciled in this state at the time the 908  
trust was created. 909

Sec. 5747.014. (A) For purposes of this section, division 910  
(A)(29) of section 5747.01 of the Revised Code, and section 911  
5747.02 of the Revised Code: 912

(1) "Modified capital gain" means a capital gain realized 913  
from the sale, exchange, or other disposition of non-Ohio-based 914  
investments to the extent included in federal adjusted gross 915  
income and not otherwise deducted or excluded in computing Ohio 916  
adjusted gross income. 917

(2) "Modified capital loss" means a capital loss realized 918  
from the sale, exchange, or other disposition of non-Ohio-based 919

investments to the extent included in the computation of federal 920  
adjusted gross income. 921

(3) "Net modified capital gain" means the excess of modified 922  
capital gains over modified capital losses, plus any capital gain 923  
distributions included in federal adjusted gross income but only 924  
to the extent the taxpayer can prove to the satisfaction of the 925  
tax commissioner that the capital gain distributions relate to the 926  
sale, exchange, or other disposition of a non-Ohio-based 927  
investment. 928

(4) "Ohio-based reinvestment" means an investment in any of 929  
the following: 930

(a) Publicly traded shares of a business incorporated under 931  
the laws of this state that maintains its corporate headquarters 932  
in this state at the time the taxpayer made the investment; 933

(b) Pass-through entities, the majority of the equity 934  
ownership interests of which are owned directly by persons subject 935  
to the tax levied under section 5747.02 of the Revised Code at the 936  
time the taxpayer made the investment; 937

(c) Public obligations issued by this state or subdivisions, 938  
as those terms are defined in section 5709.76 of the Revised Code; 939

(d) Tangible personal property used in business and 940  
physically located in this state at the time the taxpayer made the 941  
investment; 942

(e) Real property located in this state. 943

(5) A "non-Ohio-based investment" means any investment other 944  
than an Ohio-based reinvestment. 945

(B) In computing Ohio adjusted gross income under division 946  
(A) of section 5747.01 of the Revised Code, the following amounts 947  
shall be deducted or added under division (A)(29) of that section: 948

(1) Deduct Ohio-based reinvestments to the extent not 949

otherwise deducted or excluded in computing federal or Ohio 950  
adjusted gross income. The amount deducted under division (B)(1) 951  
of this section shall not exceed net modified capital gains for 952  
the taxable year. 953

(2)(a) Subject to division (B)(2)(b) of this section, add an 954  
amount equal to Ohio-based reinvestments sold or otherwise 955  
disposed of during the taxable year and within three years after 956  
the Ohio-based reinvestment was made to the extent a deduction was 957  
taken for the reinvestment in the current or a prior taxable year, 958  
plus ten per cent of that amount, and interest on that amount from 959  
the first day of January following the day the Ohio-based 960  
reinvestment was made computed at the rate per annum required 961  
under section 5703.47 of the Revised Code. 962

For the purposes of division (B)(2)(a) of this section and 963  
section 5747.13 of the Revised Code, the return subject to 964  
assessment shall be the return for the taxable year that includes 965  
the last day of the end of the three-year period beginning on the 966  
day the Ohio-based reinvestment was made. 967

(b) Any addition required under division (B)(2)(a) of this 968  
section shall be reduced by any amount the taxpayer invests in an 969  
Ohio-based reinvestment during the taxable year, ten per cent of 970  
that amount, and interest on that amount computed as provided in 971  
that division. The amount of the reduction shall not exceed the 972  
amount otherwise required to be added under division (B)(2)(a) of 973  
this section. No reduction shall be allowed under division 974  
(B)(2)(b) of this section for any amount deducted under division 975  
(B)(1) of this section for the same taxable year. 976

**Sec. 5747.02.** (A) For the purpose of providing revenue for 977  
the support of schools and local government functions, to provide 978  
relief to property taxpayers, to provide revenue for the general 979  
revenue fund, and to meet the expenses of administering the tax 980



levied by this chapter, there is hereby levied on every 981  
 individual, trust, and estate residing in or earning or receiving 982  
 income in this state, on every individual, trust, and estate 983  
 earning or receiving lottery winnings, prizes, or awards pursuant 984  
 to Chapter 3770. of the Revised Code, and on every individual, 985  
 trust, and estate otherwise having nexus with or in this state 986  
 under the Constitution of the United States, an annual tax 987  
 measured in the case of individuals by the sum of Ohio adjusted 988  
 gross income and Ohio-based reinvestments less an exemption for 989  
 the taxpayer, the taxpayer's spouse, and each dependent as 990  
 provided in section 5747.025 of the Revised Code; measured in the 991  
 case of trusts by modified Ohio taxable income under division (D) 992  
 of this section; and measured in the case of estates by Ohio 993  
 taxable income. ~~The~~ 994

~~(1) The tax imposed by this section on the balance thus 995  
 obtained is hereby levied as follows: 996~~

~~(1) For taxable years beginning in 2004: 997~~

~~OHIO ADJUSTED GROSS INCOME LESS 998~~

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR 999~~

~~MODIFIED OHIO 1000~~

~~TAXABLE INCOME (TRUSTS) 1001~~

~~OR 1002~~

~~OHIO TAXABLE INCOME (ESTATES) TAX 1003~~

~~\$5,000 or less .743% 1004~~

~~More than \$5,000 but not more 1005  
 than \$10,000 \$37.15 plus 1.486% of the amount  
 in excess of \$5,000~~

~~More than \$10,000 but not more 1006  
 than \$15,000 \$111.45 plus 2.972% of the  
 amount in excess of \$10,000~~

~~More than \$15,000 but not more 1007  
 than \$20,000 \$260.05 plus 3.715% of the  
 amount in excess of \$15,000~~

~~More than \$20,000 but not more 1008  
 \$445.80 plus 4.457% of the~~

<del>than \$40,000</del>	<del>amount in excess of \$20,000</del>	
<del>More than \$40,000 but not more than \$80,000</del>	<del>\$1,337.20 plus 5.201% of the amount in excess of \$40,000</del>	<del>1009</del>
<del>More than \$80,000 but not more than \$100,000</del>	<del>\$3,417.60 plus 5.943% of the amount in excess of \$80,000</del>	<del>1010</del>
<del>More than \$100,000 but not more than \$200,000</del>	<del>\$4,606.20 plus 6.9% of the amount in excess of \$100,000</del>	<del>1011</del>
<del>More than \$200,000</del>	<del>\$11,506.20 plus 7.5% of the amount in excess of \$200,000</del>	<del>1012</del>
<del>(2) For taxable years beginning in 2005:</del>		<del>1013</del>
<del>OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)</del>		<del>1014</del>
<del>OR</del>		<del>1015</del>
<del>MODIFIED OHIO TAXABLE INCOME (TRUSTS)</del>		<del>1016</del>
<del>OR</del>		<del>1017</del>
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	<del>1018</del>
<del>\$5,000 or less</del>	<del>.712%</del>	<del>1019</del>
<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>	<del>1020</del>
<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>	<del>1021</del>
<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>	<del>1022</del>
<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>	<del>1023</del>
<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>	<del>1024</del>
<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>	<del>1025</del>
<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>	<del>1026</del>
<del>More than \$200,000</del>	<del>\$11,022.90 plus 7.185% of the</del>	<del>1027</del>
		<del>1028</del>

	<del>amount in excess of \$200,000</del>	
<del>(3) For taxable years beginning in 2006:</del>		1029
<del>OHIO ADJUSTED GROSS INCOME LESS</del>		1030
<del>EXEMPTIONS (INDIVIDUALS)</del>		
<del>OR</del>		1031
<del>MODIFIED OHIO</del>		1032
<del>TAXABLE INCOME (TRUSTS)</del>		1033
<del>OR</del>		1034
<del>OHIO TAXABLE INCOME (ESTATES)</del>	<del>TAX</del>	1035
<del>\$5,000 or less</del>	<del>-.681%</del>	1036
<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>	1037
<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>	1038
<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>	1039
<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>	1040
<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>	1041
<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>	1042
<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>	1043
<del>More than \$200,000</del>	<del>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</del>	1044
<del>(4) For taxable years beginning in 2007:</del>		1045
<del>OHIO ADJUSTED GROSS INCOME LESS</del>		1046
<del>EXEMPTIONS (INDIVIDUALS)</del>		
<del>OR</del>		1047
<del>MODIFIED OHIO</del>		1048
<del>TAXABLE INCOME (TRUSTS)</del>		1049

OR		1050
OHIO TAXABLE INCOME (ESTATES)	TAX	1051
<del>\$5,000 or less</del>	<del>-.649%</del>	1052
<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>	1053
<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>	1054
<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>	1055
<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>	1056
<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>	1057
<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>	1058
<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>	1059
<del>More than \$200,000</del>	<del>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</del>	1060
<del>(5) For taxable years beginning in 2008, 2009, or 2010:</del>		1061
<del>OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)</del>		1062
OR		1063
MODIFIED OHIO		1064
TAXABLE INCOME (TRUSTS)		1065
OR		1066
OHIO TAXABLE INCOME (ESTATES)	TAX	1067
<u>individuals for taxable years beginning in or after 2010 shall be</u>		1068
<u>the sum of the tax amounts computed under division (A)(1)(a) and</u>		1069
<u>division (A)(1)(b) or (c) of this section where "INCOME" does not</u>		1070
<u>include Ohio-based reinvestments, or shall be the tax amount</u>		1071
<u>computed under division (A)(1)(b) or (c) of this section where</u>		1072
<u>"INCOME" includes Ohio-based reinvestments, whichever computation</u>		1073

produces the lower tax amount. If the computation where "INCOME" does not include Ohio-based reinvestments applies, the total amount of exemptions allowed under section 5747.025 of the Revised Code shall be applied first against adjusted gross income, and if the total amount of the exemptions exceeds adjusted gross income, the excess shall be applied against Ohio-based reinvestments. If the computation where "INCOME" includes Ohio-based reinvestments applies, the total amount of exemptions allowed under section 5747.025 of the Revised Code shall be applied against the sum of adjusted gross income and Ohio-based reinvestments.

The tax imposed by this section on estates and trusts for taxable years beginning in or after 2010 shall be the tax amounts computed under division (A)(1)(b) or (c) of this section, as applicable to the taxable year.

(a) The tax imposed on Ohio-based reinvestments of individuals shall be two and one-half per cent of the Ohio-based reinvestment.

(b) The tax imposed on Ohio adjusted gross income of individuals, modified Ohio taxable income of trusts, and Ohio taxable income of estates for taxable years beginning in 2010 shall be computed as follows:

<u>INCOME</u>	<u>TAX</u>	
\$5,000 or less	.618%	1095
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1096
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	1097
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	1098
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1099
More than \$40,000 but not more	\$1,112.50 plus 4.327% of the	1100
		1101

than \$80,000	amount in excess of \$40,000	
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	1102
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1103
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1104

~~(6) For taxable years beginning in 2011 or thereafter:~~ 1105

~~OHIO ADJUSTED GROSS INCOME LESS~~ 1106

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR~~ 1107

~~MODIFIED OHIO~~ 1108

~~TAXABLE INCOME (TRUSTS)~~ 1109

~~OR~~ 1110

~~OHIO TAXABLE INCOME (ESTATES)~~ ~~TAX~~ 1111

(c) The tax imposed on Ohio adjusted gross income of individuals, modified Ohio taxable income of trusts, and Ohio taxable income of estates for taxable years beginning in or after 2011 shall be computed as follows: 1112  
1113  
1114  
1115

<u>INCOME</u>	<u>TAX</u>	
\$5,000 or less	.587%	1117
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1118
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1119
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1120
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1121
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1122
More than \$80,000 but not more	\$2,700.00 plus 4.695% of the	1123

than \$100,000	amount in excess of \$80,000	
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1124
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1125

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

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

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

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created

under section 715.691, or a joint economic development district 1153  
created under section 715.70 or 715.71 or sections 715.72 to 1154  
715.81 of the Revised Code from levying a tax on income. 1155

(D) This division applies only to taxable years of a trust 1156  
beginning in 2002 or thereafter. 1157

(1) The tax imposed by this section on a trust shall be 1158  
computed by multiplying the Ohio modified taxable income of the 1159  
trust by the rates prescribed by division (A)(1)(b) or (c) of this 1160  
section as applicable to the taxable year. 1161

(2) A nonresident trust may claim a credit against the tax 1162  
computed under division (D) of this section equal to the lesser of 1163  
(1) the tax paid to another state or the District of Columbia on 1164  
the nonresident trust's modified nonbusiness income, other than 1165  
the portion of the nonresident trust's nonbusiness income that is 1166  
qualifying investment income as defined in section 5747.012 of the 1167  
Revised Code, or (2) the effective tax rate, based on modified 1168  
Ohio taxable income, multiplied by the nonresident trust's 1169  
modified nonbusiness income other than the portion of the 1170  
nonresident trust's nonbusiness income that is qualifying 1171  
investment income. The credit applies before any other applicable 1172  
credits. 1173

(3) The credits enumerated in divisions (A)(1) to (13) of 1174  
section 5747.98 of the Revised Code do not apply to a trust 1175  
subject to division (D) of this section. Any credits enumerated in 1176  
other divisions of section 5747.98 of the Revised Code apply to a 1177  
trust subject to division (D) of this section. To the extent that 1178  
the trust distributes income for the taxable year for which a 1179  
credit is available to the trust, the credit shall be shared by 1180  
the trust and its beneficiaries. The tax commissioner and the 1181  
trust shall be guided by applicable regulations of the United 1182  
States treasury regarding the sharing of credits. 1183



(E) For the purposes of this section, "trust" means any trust 1184  
described in Subchapter J of Chapter 1 of the Internal Revenue 1185  
Code, excluding trusts that are not irrevocable as defined in 1186  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1187  
have no modified Ohio taxable income for the taxable year, 1188  
charitable remainder trusts, qualified funeral trusts and preneed 1189  
funeral contract trusts established pursuant to sections 4717.31 1190  
to 4717.38 of the Revised Code that are not qualified funeral 1191  
trusts, endowment and perpetual care trusts, qualified settlement 1192  
trusts and funds, designated settlement trusts and funds, and 1193  
trusts exempted from taxation under section 501(a) of the Internal 1194  
Revenue Code. 1195

**Section 2.** That existing sections 5747.01 and 5747.02 of the 1196  
Revised Code are hereby repealed. 1197

**Section 3.** The amendment by this act of sections 5747.01 and 1198  
5747.02 of the Revised Code, and the enactment by this act of 1199  
section 5747.014 of the Revised Code, apply to taxable years 1200  
beginning on or after January 1, 2010. 1201