

As Introduced

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Representative Hollington

**Cosponsors: Representatives Boose, Blair, Gonzales, Martin, Derickson,
Kozlowski, Young, Slaby, Ruhl, Combs, Baker**

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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%, beginning 4
in 2013. 5

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

Section 1. That sections 5747.01, 5747.02, and 5747.055 of 6
the Revised Code be amended to read as follows: 7

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

As used in this chapter: 17

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

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

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

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

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

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

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

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

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

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

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

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

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

(11)(a) Deduct, to the extent not otherwise allowable as a 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, to the extent not otherwise deducted or excluded 337
in computing federal or Ohio adjusted gross income for the taxable 338
year, any loss from wagering transactions that is allowed as an 339
itemized deduction under section 165 of the Internal Revenue Code 340
and that the taxpayer deducted in computing federal taxable 341
income. 342

(30) In the case of an individual taxpayer who has attained 343
seventy and one-half years of age on or before the last day of the 344
taxpayer's taxable year that begins in or after 2013, the taxpayer 345
may elect to deduct, to the extent not otherwise deducted or 346
excluded in computing federal or Ohio adjusted gross income, all 347
items of income included in federal adjusted gross income that are 348
not earned income. As used in division (A)(30) of this section, 349
"earned income" means wages, salaries, tips, deferred 350
compensation, and other employee compensation, and net earnings 351
from self-employment as defined in section 1402(a) of the Internal 352
Revenue Code. 353

For the purposes of any other section of the Revised Code 354
that refers to "adjusted gross income" as defined in division (A) 355
of this section, the reference shall be considered to include the 356
sum of adjusted gross income and any amount deducted under 357
division (A)(30) of this section, unless the reference expressly 358
provides otherwise or the context clearly indicates otherwise. 359

(B) "Business income" means income, including gain or loss, 360
arising from transactions, activities, and sources in the regular 361
course of a trade or business and includes income, gain, or loss 362
from real property, tangible property, and intangible property if 363
the acquisition, rental, management, and disposition of the 364
property constitute integral parts of the regular course of a 365

trade or business operation. "Business income" includes income, 366
including gain or loss, from a partial or complete liquidation of 367
a business, including, but not limited to, gain or loss from the 368
sale or other disposition of goodwill. 369

(C) "Nonbusiness income" means all income other than business 370
income and may include, but is not limited to, compensation, rents 371
and royalties from real or tangible personal property, capital 372
gains, interest, dividends and distributions, patent or copyright 373
royalties, or lottery winnings, prizes, and awards. 374

(D) "Compensation" means any form of remuneration paid to an 375
employee for personal services. 376

(E) "Fiduciary" means a guardian, trustee, executor, 377
administrator, receiver, conservator, or any other person acting 378
in any fiduciary capacity for any individual, trust, or estate. 379

(F) "Fiscal year" means an accounting period of twelve months 380
ending on the last day of any month other than December. 381

(G) "Individual" means any natural person. 382

(H) "Internal Revenue Code" means the "Internal Revenue Code 383
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 384

(I) "Resident" means any of the following, provided that 385
division (I)(3) of this section applies only to taxable years of a 386
trust beginning in 2002 or thereafter: 387

(1) An individual who is domiciled in this state, subject to 388
section 5747.24 of the Revised Code; 389

(2) The estate of a decedent who at the time of death was 390
domiciled in this state. The domicile tests of section 5747.24 of 391
the Revised Code are not controlling for purposes of division 392
(I)(2) of this section. 393

(3) A trust that, in whole or part, resides in this state. If 394
only part of a trust resides in this state, the trust is a 395

resident only with respect to that part. 396

For the purposes of division (I)(3) of this section: 397

(a) A trust resides in this state for the trust's current 398
taxable year to the extent, as described in division (I)(3)(d) of 399
this section, that the trust consists directly or indirectly, in 400
whole or in part, of assets, net of any related liabilities, that 401
were transferred, or caused to be transferred, directly or 402
indirectly, to the trust by any of the following: 403

(i) A person, a court, or a governmental entity or 404
instrumentality on account of the death of a decedent, but only if 405
the trust is described in division (I)(3)(e)(i) or (ii) of this 406
section; 407

(ii) A person who was domiciled in this state for the 408
purposes of this chapter when the person directly or indirectly 409
transferred assets to an irrevocable trust, but only if at least 410
one of the trust's qualifying beneficiaries is domiciled in this 411
state for the purposes of this chapter during all or some portion 412
of the trust's current taxable year; 413

(iii) A person who was domiciled in this state for the 414
purposes of this chapter when the trust document or instrument or 415
part of the trust document or instrument became irrevocable, but 416
only if at least one of the trust's qualifying beneficiaries is a 417
resident domiciled in this state for the purposes of this chapter 418
during all or some portion of the trust's current taxable year. If 419
a trust document or instrument became irrevocable upon the death 420
of a person who at the time of death was domiciled in this state 421
for purposes of this chapter, that person is a person described in 422
division (I)(3)(a)(iii) of this section. 423

(b) A trust is irrevocable to the extent that the transferor 424
is not considered to be the owner of the net assets of the trust 425
under sections 671 to 678 of the Internal Revenue Code. 426

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

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

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

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

liabilities, from sources enumerated in division (I)(3)(a) of this 459
section. The denominator of the revised qualifying ratio is the 460
fair market value of all the trust's assets immediately after the 461
subsequent transfer, net of any related liabilities. 462

(iii) Whether a transfer to the trust is by or from any of 463
the sources enumerated in division (I)(3)(a) of this section shall 464
be ascertained without regard to the domicile of the trust's 465
beneficiaries. 466

(e) For the purposes of division (I)(3)(a)(i) of this 467
section: 468

(i) A trust is described in division (I)(3)(e)(i) of this 469
section if the trust is a testamentary trust and the testator of 470
that testamentary trust was domiciled in this state at the time of 471
the testator's death for purposes of the taxes levied under 472
Chapter 5731. of the Revised Code. 473

(ii) A trust is described in division (I)(3)(e)(ii) of this 474
section if the transfer is a qualifying transfer described in any 475
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 476
irrevocable inter vivos trust, and at least one of the trust's 477
qualifying beneficiaries is domiciled in this state for purposes 478
of this chapter during all or some portion of the trust's current 479
taxable year. 480

(f) For the purposes of division (I)(3)(e)(ii) of this 481
section, a "qualifying transfer" is a transfer of assets, net of 482
any related liabilities, directly or indirectly to a trust, if the 483
transfer is described in any of the following: 484

(i) The transfer is made to a trust, created by the decedent 485
before the decedent's death and while the decedent was domiciled 486
in this state for the purposes of this chapter, and, prior to the 487
death of the decedent, the trust became irrevocable while the 488
decedent was domiciled in this state for the purposes of this 489

chapter. 490

(ii) The transfer is made to a trust to which the decedent, 491
prior to the decedent's death, had directly or indirectly 492
transferred assets, net of any related liabilities, while the 493
decedent was domiciled in this state for the purposes of this 494
chapter, and prior to the death of the decedent the trust became 495
irrevocable while the decedent was domiciled in this state for the 496
purposes of this chapter. 497

(iii) The transfer is made on account of a contractual 498
relationship existing directly or indirectly between the 499
transferor and either the decedent or the estate of the decedent 500
at any time prior to the date of the decedent's death, and the 501
decedent was domiciled in this state at the time of death for 502
purposes of the taxes levied under Chapter 5731. of the Revised 503
Code. 504

(iv) The transfer is made to a trust on account of a 505
contractual relationship existing directly or indirectly between 506
the transferor and another person who at the time of the 507
decedent's death was domiciled in this state for purposes of this 508
chapter. 509

(v) The transfer is made to a trust on account of the will of 510
a testator who was domiciled in this state at the time of the 511
testator's death for purposes of the taxes levied under Chapter 512
5731. of the Revised Code. 513

(vi) The transfer is made to a trust created by or caused to 514
be created by a court, and the trust was directly or indirectly 515
created in connection with or as a result of the death of an 516
individual who, for purposes of the taxes levied under Chapter 517
5731. of the Revised Code, was domiciled in this state at the time 518
of the individual's death. 519

(g) The tax commissioner may adopt rules to ascertain the 520

part of a trust residing in this state.	521
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	522 523 524 525
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	526 527
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	528 529 530 531
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	532 533 534 535
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.	536 537 538 539
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	540 541 542 543 544
(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.	545 546 547 548 549
(Q) As used in sections 5747.50 to 5747.55 of the Revised	550

Code:	551
(1) "Subdivision" means any county, municipal corporation, park district, or township.	552 553
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	554 555 556 557
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	558 559
(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:	560 561 562
(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:	563 564 565 566 567 568 569 570
(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;	571 572 573
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	574 575
(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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	576 577 578 579 580

income taxes but not from state income taxes, but only to the 581
extent that such net amount is not otherwise includible in Ohio 582
taxable income and is described in either division (S)(1)(a) or 583
(b) of this section; 584

(3) Add the amount of personal exemption allowed to the 585
estate pursuant to section 642(b) of the Internal Revenue Code; 586

(4) Deduct interest or dividends, net of related expenses 587
deducted in computing federal taxable income, on obligations of 588
the United States and its territories and possessions or of any 589
authority, commission, or instrumentality of the United States to 590
the extent that the interest or dividends are exempt from state 591
taxes under the laws of the United States, but only to the extent 592
that such amount is included in federal taxable income and is 593
described in either division (S)(1)(a) or (b) of this section; 594

(5) Deduct the amount of wages and salaries, if any, not 595
otherwise allowable as a deduction but that would have been 596
allowable as a deduction in computing federal taxable income for 597
the taxable year, had the targeted jobs credit allowed under 598
sections 38, 51, and 52 of the Internal Revenue Code not been in 599
effect, but only to the extent such amount relates either to 600
income included in federal taxable income for the taxable year or 601
to income of the S portion of an electing small business trust for 602
the taxable year; 603

(6) Deduct any interest or interest equivalent, net of 604
related expenses deducted in computing federal taxable income, on 605
public obligations and purchase obligations, but only to the 606
extent that such net amount relates either to income included in 607
federal taxable income for the taxable year or to income of the S 608
portion of an electing small business trust for the taxable year; 609

(7) Add any loss or deduct any gain resulting from sale, 610
exchange, or other disposition of public obligations to the extent 611

that such loss has been deducted or such gain has been included in 612
computing either federal taxable income or income of the S portion 613
of an electing small business trust for the taxable year; 614

(8) Except in the case of the final return of an estate, add 615
any amount deducted by the taxpayer on both its Ohio estate tax 616
return pursuant to section 5731.14 of the Revised Code, and on its 617
federal income tax return in determining federal taxable income; 618

(9)(a) Deduct any amount included in federal taxable income 619
solely because the amount represents a reimbursement or refund of 620
expenses that in a previous year the decedent had deducted as an 621
itemized deduction pursuant to section 63 of the Internal Revenue 622
Code and applicable treasury regulations. The deduction otherwise 623
allowed under division (S)(9)(a) of this section shall be reduced 624
to the extent the reimbursement is attributable to an amount the 625
taxpayer or decedent deducted under this section in any taxable 626
year. 627

(b) Add any amount not otherwise included in Ohio taxable 628
income for any taxable year to the extent that the amount is 629
attributable to the recovery during the taxable year of any amount 630
deducted or excluded in computing federal or Ohio taxable income 631
in any taxable year, but only to the extent such amount has not 632
been distributed to beneficiaries for the taxable year. 633

(10) Deduct any portion of the deduction described in section 634
1341(a)(2) of the Internal Revenue Code, for repaying previously 635
reported income received under a claim of right, that meets both 636
of the following requirements: 637

(a) It is allowable for repayment of an item that was 638
included in the taxpayer's taxable income or the decedent's 639
adjusted gross income for a prior taxable year and did not qualify 640
for a credit under division (A) or (B) of section 5747.05 of the 641
Revised Code for that year. 642

(b) It does not otherwise reduce the taxpayer's taxable 643
income or the decedent's adjusted gross income for the current or 644
any other taxable year. 645

(11) Add any amount claimed as a credit under section 646
5747.059 of the Revised Code to the extent that the amount 647
satisfies either of the following: 648

(a) The amount was deducted or excluded from the computation 649
of the taxpayer's federal taxable income as required to be 650
reported for the taxpayer's taxable year under the Internal 651
Revenue Code; 652

(b) The amount resulted in a reduction in the taxpayer's 653
federal taxable income as required to be reported for any of the 654
taxpayer's taxable years under the Internal Revenue Code. 655

(12) Deduct any amount, net of related expenses deducted in 656
computing federal taxable income, that a trust is required to 657
report as farm income on its federal income tax return, but only 658
if the assets of the trust include at least ten acres of land 659
satisfying the definition of "land devoted exclusively to 660
agricultural use" under section 5713.30 of the Revised Code, 661
regardless of whether the land is valued for tax purposes as such 662
land under sections 5713.30 to 5713.38 of the Revised Code. If the 663
trust is a pass-through entity investor, section 5747.231 of the 664
Revised Code applies in ascertaining if the trust is eligible to 665
claim the deduction provided by division (S)(12) of this section 666
in connection with the pass-through entity's farm income. 667

Except for farm income attributable to the S portion of an 668
electing small business trust, the deduction provided by division 669
(S)(12) of this section is allowed only to the extent that the 670
trust has not distributed such farm income. Division (S)(12) of 671
this section applies only to taxable years of a trust beginning in 672
2002 or thereafter. 673

(13) Add the net amount of income described in section 641(c) 674
of the Internal Revenue Code to the extent that amount is not 675
included in federal taxable income. 676

(14) Add or deduct the amount the taxpayer would be required 677
to add or deduct under division (A)(20) or (21) of this section if 678
the taxpayer's Ohio taxable income were computed in the same 679
manner as an individual's Ohio adjusted gross income is computed 680
under this section. In the case of a trust, division (S)(14) of 681
this section applies only to any of the trust's taxable years 682
beginning in 2002 or thereafter. 683

(T) "School district income" and "school district income tax" 684
have the same meanings as in section 5748.01 of the Revised Code. 685

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 686
of this section, "public obligations," "purchase obligations," and 687
"interest or interest equivalent" have the same meanings as in 688
section 5709.76 of the Revised Code. 689

(V) "Limited liability company" means any limited liability 690
company formed under Chapter 1705. of the Revised Code or under 691
the laws of any other state. 692

(W) "Pass-through entity investor" means any person who, 693
during any portion of a taxable year of a pass-through entity, is 694
a partner, member, shareholder, or equity investor in that 695
pass-through entity. 696

(X) "Banking day" has the same meaning as in section 1304.01 697
of the Revised Code. 698

(Y) "Month" means a calendar month. 699

(Z) "Quarter" means the first three months, the second three 700
months, the third three months, or the last three months of the 701
taxpayer's taxable year. 702

(AA)(1) "Eligible institution" means a state university or 703

state institution of higher education as defined in section 704
3345.011 of the Revised Code, or a private, nonprofit college, 705
university, or other post-secondary institution located in this 706
state that possesses a certificate of authorization issued by the 707
Ohio board of regents pursuant to Chapter 1713. of the Revised 708
Code or a certificate of registration issued by the state board of 709
career colleges and schools under Chapter 3332. of the Revised 710
Code. 711

(2) "Qualified tuition and fees" means tuition and fees 712
imposed by an eligible institution as a condition of enrollment or 713
attendance, not exceeding two thousand five hundred dollars in 714
each of the individual's first two years of post-secondary 715
education. If the individual is a part-time student, "qualified 716
tuition and fees" includes tuition and fees paid for the academic 717
equivalent of the first two years of post-secondary education 718
during a maximum of five taxable years, not exceeding a total of 719
five thousand dollars. "Qualified tuition and fees" does not 720
include: 721

(a) Expenses for any course or activity involving sports, 722
games, or hobbies unless the course or activity is part of the 723
individual's degree or diploma program; 724

(b) The cost of books, room and board, student activity fees, 725
athletic fees, insurance expenses, or other expenses unrelated to 726
the individual's academic course of instruction; 727

(c) Tuition, fees, or other expenses paid or reimbursed 728
through an employer, scholarship, grant in aid, or other 729
educational benefit program. 730

(BB)(1) "Modified business income" means the business income 731
included in a trust's Ohio taxable income after such taxable 732
income is first reduced by the qualifying trust amount, if any. 733

(2) "Qualifying trust amount" of a trust means capital gains 734

and losses from the sale, exchange, or other disposition of equity 735
or ownership interests in, or debt obligations of, a qualifying 736
investee to the extent included in the trust's Ohio taxable 737
income, but only if the following requirements are satisfied: 738

(a) The book value of the qualifying investee's physical 739
assets in this state and everywhere, as of the last day of the 740
qualifying investee's fiscal or calendar year ending immediately 741
prior to the date on which the trust recognizes the gain or loss, 742
is available to the trust. 743

(b) The requirements of section 5747.011 of the Revised Code 744
are satisfied for the trust's taxable year in which the trust 745
recognizes the gain or loss. 746

Any gain or loss that is not a qualifying trust amount is 747
modified business income, qualifying investment income, or 748
modified nonbusiness income, as the case may be. 749

(3) "Modified nonbusiness income" means a trust's Ohio 750
taxable income other than modified business income, other than the 751
qualifying trust amount, and other than qualifying investment 752
income, as defined in section 5747.012 of the Revised Code, to the 753
extent such qualifying investment income is not otherwise part of 754
modified business income. 755

(4) "Modified Ohio taxable income" applies only to trusts, 756
and means the sum of the amounts described in divisions (BB)(4)(a) 757
to (c) of this section: 758

(a) The fraction, calculated under section 5747.013, and 759
applying section 5747.231 of the Revised Code, multiplied by the 760
sum of the following amounts: 761

(i) The trust's modified business income; 762

(ii) The trust's qualifying investment income, as defined in 763
section 5747.012 of the Revised Code, but only to the extent the 764

qualifying investment income does not otherwise constitute 765
modified business income and does not otherwise constitute a 766
qualifying trust amount. 767

(b) The qualifying trust amount multiplied by a fraction, the 768
numerator of which is the sum of the book value of the qualifying 769
investee's physical assets in this state on the last day of the 770
qualifying investee's fiscal or calendar year ending immediately 771
prior to the day on which the trust recognizes the qualifying 772
trust amount, and the denominator of which is the sum of the book 773
value of the qualifying investee's total physical assets 774
everywhere on the last day of the qualifying investee's fiscal or 775
calendar year ending immediately prior to the day on which the 776
trust recognizes the qualifying trust amount. If, for a taxable 777
year, the trust recognizes a qualifying trust amount with respect 778
to more than one qualifying investee, the amount described in 779
division (BB)(4)(b) of this section shall equal the sum of the 780
products so computed for each such qualifying investee. 781

(c)(i) With respect to a trust or portion of a trust that is 782
a resident as ascertained in accordance with division (I)(3)(d) of 783
this section, its modified nonbusiness income. 784

(ii) With respect to a trust or portion of a trust that is 785
not a resident as ascertained in accordance with division 786
(I)(3)(d) of this section, the amount of its modified nonbusiness 787
income satisfying the descriptions in divisions (B)(2) to (5) of 788
section 5747.20 of the Revised Code, except as otherwise provided 789
in division (BB)(4)(c)(ii) of this section. With respect to a 790
trust or portion of a trust that is not a resident as ascertained 791
in accordance with division (I)(3)(d) of this section, the trust's 792
portion of modified nonbusiness income recognized from the sale, 793
exchange, or other disposition of a debt interest in or equity 794
interest in a section 5747.212 entity, as defined in section 795
5747.212 of the Revised Code, without regard to division (A) of 796

that section, shall not be allocated to this state in accordance 797
with section 5747.20 of the Revised Code but shall be apportioned 798
to this state in accordance with division (B) of section 5747.212 799
of the Revised Code without regard to division (A) of that 800
section. 801

If the allocation and apportionment of a trust's income under 802
divisions (BB)(4)(a) and (c) of this section do not fairly 803
represent the modified Ohio taxable income of the trust in this 804
state, the alternative methods described in division (C) of 805
section 5747.21 of the Revised Code may be applied in the manner 806
and to the same extent provided in that section. 807

(5)(a) Except as set forth in division (BB)(5)(b) of this 808
section, "qualifying investee" means a person in which a trust has 809
an equity or ownership interest, or a person or unit of government 810
the debt obligations of either of which are owned by a trust. For 811
the purposes of division (BB)(2)(a) of this section and for the 812
purpose of computing the fraction described in division (BB)(4)(b) 813
of this section, all of the following apply: 814

(i) If the qualifying investee is a member of a qualifying 815
controlled group on the last day of the qualifying investee's 816
fiscal or calendar year ending immediately prior to the date on 817
which the trust recognizes the gain or loss, then "qualifying 818
investee" includes all persons in the qualifying controlled group 819
on such last day. 820

(ii) If the qualifying investee, or if the qualifying 821
investee and any members of the qualifying controlled group of 822
which the qualifying investee is a member on the last day of the 823
qualifying investee's fiscal or calendar year ending immediately 824
prior to the date on which the trust recognizes the gain or loss, 825
separately or cumulatively own, directly or indirectly, on the 826
last day of the qualifying investee's fiscal or calendar year 827
ending immediately prior to the date on which the trust recognizes 828

the qualifying trust amount, more than fifty per cent of the 829
equity of a pass-through entity, then the qualifying investee and 830
the other members are deemed to own the proportionate share of the 831
pass-through entity's physical assets which the pass-through 832
entity directly or indirectly owns on the last day of the 833
pass-through entity's calendar or fiscal year ending within or 834
with the last day of the qualifying investee's fiscal or calendar 835
year ending immediately prior to the date on which the trust 836
recognizes the qualifying trust amount. 837

(iii) For the purposes of division (BB)(5)(a)(iii) of this 838
section, "upper level pass-through entity" means a pass-through 839
entity directly or indirectly owning any equity of another 840
pass-through entity, and "lower level pass-through entity" means 841
that other pass-through entity. 842

An upper level pass-through entity, whether or not it is also 843
a qualifying investee, is deemed to own, on the last day of the 844
upper level pass-through entity's calendar or fiscal year, the 845
proportionate share of the lower level pass-through entity's 846
physical assets that the lower level pass-through entity directly 847
or indirectly owns on the last day of the lower level pass-through 848
entity's calendar or fiscal year ending within or with the last 849
day of the upper level pass-through entity's fiscal or calendar 850
year. If the upper level pass-through entity directly and 851
indirectly owns less than fifty per cent of the equity of the 852
lower level pass-through entity on each day of the upper level 853
pass-through entity's calendar or fiscal year in which or with 854
which ends the calendar or fiscal year of the lower level 855
pass-through entity and if, based upon clear and convincing 856
evidence, complete information about the location and cost of the 857
physical assets of the lower pass-through entity is not available 858
to the upper level pass-through entity, then solely for purposes 859
of ascertaining if a gain or loss constitutes a qualifying trust 860

amount, the upper level pass-through entity shall be deemed as 861
owning no equity of the lower level pass-through entity for each 862
day during the upper level pass-through entity's calendar or 863
fiscal year in which or with which ends the lower level 864
pass-through entity's calendar or fiscal year. Nothing in division 865
(BB)(5)(a)(iii) of this section shall be construed to provide for 866
any deduction or exclusion in computing any trust's Ohio taxable 867
income. 868

(b) With respect to a trust that is not a resident for the 869
taxable year and with respect to a part of a trust that is not a 870
resident for the taxable year, "qualifying investee" for that 871
taxable year does not include a C corporation if both of the 872
following apply: 873

(i) During the taxable year the trust or part of the trust 874
recognizes a gain or loss from the sale, exchange, or other 875
disposition of equity or ownership interests in, or debt 876
obligations of, the C corporation. 877

(ii) Such gain or loss constitutes nonbusiness income. 878

(6) "Available" means information is such that a person is 879
able to learn of the information by the due date plus extensions, 880
if any, for filing the return for the taxable year in which the 881
trust recognizes the gain or loss. 882

(CC) "Qualifying controlled group" has the same meaning as in 883
section 5733.04 of the Revised Code. 884

(DD) "Related member" has the same meaning as in section 885
5733.042 of the Revised Code. 886

(EE)(1) For the purposes of division (EE) of this section: 887

(a) "Qualifying person" means any person other than a 888
qualifying corporation. 889

(b) "Qualifying corporation" means any person classified for 890

federal income tax purposes as an association taxable as a corporation, except either of the following:

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

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

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

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

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

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

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

(4) A "pre-income tax trust" is a trust that satisfies all of 922
the following requirements: 923

(a) The document or instrument creating the trust was 924
executed by the grantor before January 1, 1972; 925

(b) The trust became irrevocable upon the creation of the 926
trust; and 927

(c) The grantor was domiciled in this state at the time the 928
trust was created. 929

Sec. 5747.02. (A) For the purposes of this section, "adjusted 930
gross income" or "Ohio adjusted gross income" excludes any amount 931
deducted under division (A)(30) of section 5747.01 of the Revised 932
Code. 933

For the purpose of providing revenue for the support of 934
schools and local government functions, to provide relief to 935
property taxpayers, to provide revenue for the general revenue 936
fund, and to meet the expenses of administering the tax levied by 937
this chapter, there is hereby levied on every individual, trust, 938
and estate residing in or earning or receiving income in this 939
state, on every individual, trust, and estate earning or receiving 940
lottery winnings, prizes, or awards pursuant to Chapter 3770. of 941
the Revised Code, on every individual, trust, and estate earning 942
or receiving winnings on casino gaming, and on every individual, 943
trust, and estate otherwise having nexus with or in this state 944
under the Constitution of the United States, an annual tax 945
measured in the case of individuals by Ohio adjusted gross income 946
and income subject to the adjustment under division (A)(30) of 947
section 5747.01 of the Revised Code less an exemption for the 948
taxpayer, the taxpayer's spouse, and each dependent as provided in 949
section 5747.025 of the Revised Code; measured in the case of 950
trusts by modified Ohio taxable income under division (D) of this 951
section; and measured in the case of estates by Ohio taxable 952

income. The For taxpayers electing the deduction allowed under 953
division (A)(30) of section 5747.01 of the Revised Code, the 954
exemptions provided in section 5747.025 of the Revised Code shall 955
be applied first against adjusted gross income taking account of 956
that deduction. If the sum of the applicable exemptions exceeds 957
such adjusted gross income, the excess shall be applied against 958
the amount deducted under that division to compute the tax under 959
division (A)(3) of this section. 960

The tax imposed by this section on the balance thus obtained 961
is hereby levied as follows: 962

~~(1) For taxable years beginning in 2004:~~ 963

~~OHIO ADJUSTED GROSS INCOME LESS~~ 964

~~EXEMPTIONS (INDIVIDUALS)~~

~~OR~~ 965

~~MODIFIED OHIO~~ 966

~~TAXABLE INCOME (TRUSTS)~~ 967

~~OR~~ 968

~~OHIO TAXABLE INCOME (ESTATES) TAX~~ 969

~~\$5,000 or less .743%~~ 970

~~More than \$5,000 but not more \$37.15 plus 1.486% of the amount 971
than \$10,000 in excess of \$5,000~~

~~More than \$10,000 but not more \$111.45 plus 2.972% of the 972
than \$15,000 amount in excess of \$10,000~~

~~More than \$15,000 but not more \$260.05 plus 3.715% of the 973
than \$20,000 amount in excess of \$15,000~~

~~More than \$20,000 but not more \$445.80 plus 4.457% of the 974
than \$40,000 amount in excess of \$20,000~~

~~More than \$40,000 but not more \$1,337.20 plus 5.201% of the 975
than \$80,000 amount in excess of \$40,000~~

~~More than \$80,000 but not more \$3,417.60 plus 5.943% of the 976
than \$100,000 amount in excess of \$80,000~~

~~More than \$100,000 but not more \$4,606.20 plus 6.9% of the 977~~

than \$200,000	amount in excess of \$100,000	
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	978
(2) For taxable years beginning in 2005:		979
OHIO ADJUSTED GROSS INCOME LESS		980
EXEMPTIONS (INDIVIDUALS)		
OR		981
MODIFIED OHIO		982
TAXABLE INCOME (TRUSTS)		983
OR		984
OHIO TAXABLE INCOME (ESTATES)	TAX	985
\$5,000 or less	.712%	986
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	987
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	988
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	989
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	990
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	991
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	992
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000	993
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	994
(3) For taxable years beginning in 2006:		995
OHIO ADJUSTED GROSS INCOME LESS		996
EXEMPTIONS (INDIVIDUALS)		
OR		997

MODIFIED OHIO		998
TAXABLE INCOME (TRUSTS)		999
OR		1000
OHIO TAXABLE INCOME (ESTATES)	TAX	1001
\$5,000 or less	-.681%	1002
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	1003
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000	1004
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	1005
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	1006
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	1007
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	1008
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	1009
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	1010
(4) For taxable years beginning in 2007:		1011
OHIO ADJUSTED GROSS INCOME LESS		1012
EXEMPTIONS (INDIVIDUALS)		
OR		1013
MODIFIED OHIO		1014
TAXABLE INCOME (TRUSTS)		1015
OR		1016
OHIO TAXABLE INCOME (ESTATES)	TAX	1017
\$5,000 or less	-.649%	1018
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	1019
More than \$10,000 but not more	\$97.40 plus 2.598% of the amount	1020

than \$15,000	in excess of \$10,000	
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	1021
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	1022
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	1023
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000	1024
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	1025
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	1026
(5) For taxable years beginning in 2008, 2009, or 2010:		1027
OHIO ADJUSTED GROSS INCOME LESS		1028
EXEMPTIONS (INDIVIDUALS)		
OR		1029
MODIFIED OHIO		1030
TAXABLE INCOME (TRUSTS)		1031
OR		1032
OHIO TAXABLE INCOME (ESTATES)	TAX	1033
\$5,000 or less	.618%	1034
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	1035
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	1036
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	1037
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	1038
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	1039
More than \$80,000 but not more	\$2,843.30 plus 4.945% of the	1040

than \$100,000	amount in excess of \$80,000	
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	1041
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	1042
(6)(2) For taxable years beginning in 2011 or thereafter <u>and 2012</u> :		1043
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		1044
OR		1045
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		1046
OR		1047
OHIO TAXABLE INCOME (ESTATES)	TAX	1048
\$5,000 or less	.587%	1049
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	1050
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	1051
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	1052
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	1053
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	1054
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	1055
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	1056
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	1057
<u>(3) For taxable years beginning in 2013 or thereafter, the sum of one one-hundredth of the difference between any amount</u>		1058
		1060
		1061

<u>deducted under division (A)(30) of section 5747.01 of the Revised</u>	1062	
<u>Code and any excess personal exemption, plus the following:</u>	1063	
<u>OHIO ADJUSTED GROSS INCOME LESS</u>	1064	
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>	1065	
<u>MODIFIED OHIO</u>	1066	
<u>TAXABLE INCOME (TRUSTS)</u>	1067	
<u>OR</u>	1068	
<u>OHIO TAXABLE INCOME (ESTATES)</u>	1069	
<u>TAX</u>		
<u>\$5,000 or less</u>	<u>.587%</u>	1070
<u>More than \$5,000 but not more</u>	<u>\$29.35 plus 1.174% of the amount</u>	1071
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$88.05 plus 2.348% of the amount</u>	1072
<u>than \$15,000</u>	<u>in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$205.45 plus 2.935% of the</u>	1073
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$352.20 plus 3.521% of the</u>	1074
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,056.40 plus 4.109% of the</u>	1075
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$2,700.00 plus 4.695% of the</u>	1076
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$3,639.00 plus 5.451% of the</u>	1077
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$9,090.00 plus 5.925% of the</u>	1078
	<u>amount in excess of \$200,000</u>	

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 1086
to the nearest multiple of fifty dollars. The tax commissioner 1087
also shall recompute each of the tax dollar amounts to the extent 1088
necessary to reflect the adjustment of the income amounts. The 1089
rates of taxation shall not be adjusted. 1090

The adjusted amounts apply to taxable years beginning in the 1091
calendar year in which the adjustments are made. The tax 1092
commissioner shall not make such adjustments in any year in which 1093
the amount resulting from the adjustment would be less than the 1094
amount resulting from the adjustment in the preceding year. 1095

(B) If the director of budget and management makes a 1096
certification to the tax commissioner under division (B) of 1097
section 131.44 of the Revised Code, the amount of tax as 1098
determined under division (A) of this section shall be reduced by 1099
the percentage prescribed in that certification for taxable years 1100
beginning in the calendar year in which that certification is 1101
made. 1102

(C) The levy of this tax on income does not prevent a 1103
municipal corporation, a joint economic development zone created 1104
under section 715.691, or a joint economic development district 1105
created under section 715.70 or 715.71 or sections 715.72 to 1106
715.81 of the Revised Code from levying a tax on income. 1107

(D) This division applies only to taxable years of a trust 1108
beginning in 2002 or thereafter. 1109

(1) The tax imposed by this section on a trust shall be 1110
computed by multiplying the Ohio modified taxable income of the 1111
trust by the rates prescribed by division (A) of this section. 1112

(2) A nonresident trust may claim a credit against the tax 1113
computed under division (D) of this section equal to the lesser of 1114
(1) the tax paid to another state or the District of Columbia on 1115
the nonresident trust's modified nonbusiness income, other than 1116

the portion of the nonresident trust's nonbusiness income that is 1117
qualifying investment income as defined in section 5747.012 of the 1118
Revised Code, or (2) the effective tax rate, based on modified 1119
Ohio taxable income, multiplied by the nonresident trust's 1120
modified nonbusiness income other than the portion of the 1121
nonresident trust's nonbusiness income that is qualifying 1122
investment income. The credit applies before any other applicable 1123
credits. 1124

(3) The credits enumerated in divisions (A)(1) to (13) of 1125
section 5747.98 of the Revised Code do not apply to a trust 1126
subject to division (D) of this section. Any credits enumerated in 1127
other divisions of section 5747.98 of the Revised Code apply to a 1128
trust subject to division (D) of this section. To the extent that 1129
the trust distributes income for the taxable year for which a 1130
credit is available to the trust, the credit shall be shared by 1131
the trust and its beneficiaries. The tax commissioner and the 1132
trust shall be guided by applicable regulations of the United 1133
States treasury regarding the sharing of credits. 1134

(E) For the purposes of this section, "trust" means any trust 1135
described in Subchapter J of Chapter 1 of the Internal Revenue 1136
Code, excluding trusts that are not irrevocable as defined in 1137
division (I)(3)(b) of section 5747.01 of the Revised Code and that 1138
have no modified Ohio taxable income for the taxable year, 1139
charitable remainder trusts, qualified funeral trusts and preneed 1140
funeral contract trusts established pursuant to sections 4717.31 1141
to 4717.38 of the Revised Code that are not qualified funeral 1142
trusts, endowment and perpetual care trusts, qualified settlement 1143
trusts and funds, designated settlement trusts and funds, and 1144
trusts exempted from taxation under section 501(a) of the Internal 1145
Revenue Code. 1146

Sec. 5747.055. (A) ~~As~~ A taxpayer who deducted an amount under 1147

division (A)(30) of section 5747.01 of the Revised Code for a 1148
taxable year may not claim a credit under this section for that 1149
taxable year. 1150

As used in this section "retirement income" means retirement 1151
benefits, annuities, or distributions that are made from or 1152
pursuant to a pension, retirement, or profit-sharing plan and 1153
that: 1154

(1) In the case of an individual, are received by the 1155
individual on account of retirement and are included in the 1156
individual's adjusted gross income; 1157

(2) In the case of an estate, are payable to the estate for 1158
the benefit of the surviving spouse of the decedent and are 1159
included in the estate's taxable income. 1160

(B) A credit shall be allowed against the tax imposed by 1161
section 5747.02 of the Revised Code for taxpayers who received 1162
retirement income during the taxable year. Only one such credit 1163
shall be allowed for each return, and the amount of the credit 1164
shall be computed in accordance with the following schedule, 1165
subject to the limitation provided in division (F) of this 1166
section: 1167

AMOUNT OF RETIREMENT INCOME RECEIVED	CREDIT FOR THE	1168
DURING THE TAXABLE YEAR	TAXABLE YEAR	1169
\$500 or less	\$ 0	1170
Over \$500 but not more than \$1,500	\$ 25	1171
Over \$1,500 but not more than \$3,000	\$ 50	1172
Over \$3,000 but not more than \$5,000	\$ 80	1173
Over \$5,000 but not more than \$8,000	\$130	1174
Over \$8,000	\$200	1175

(C) At the election of a taxpayer who receives a lump-sum 1176
distribution from a pension, retirement, or profit-sharing plan 1177
within one taxable year, the credit allowed by this section for 1178

that year shall be computed as follows: 1179

(1) Divide the amount of retirement income received during 1180
the taxable year by the taxpayer's expected remaining life on the 1181
last day of the taxable year, as shown by annuity tables issued 1182
under the provisions of the Internal Revenue Code and in effect 1183
for the calendar year that includes the last day of the taxable 1184
year; 1185

(2) Using the quotient thus obtained as the amount of 1186
retirement income received during the taxable year, compute the 1187
credit for the taxable year in accordance with division (B) of 1188
this section; 1189

(3) Multiply the credit thus obtained by the taxpayer's 1190
expected remaining life. The product thus obtained shall be the 1191
credit under this division for the taxable year. A taxpayer who 1192
elects to receive a credit under this division is not entitled to 1193
receive a credit under this section for any subsequent year except 1194
as provided in divisions (D) and (E) of this section. 1195

(D) If the credit under division (C) or (E) of this section 1196
exceeds the tax due for the taxable year after allowing for any 1197
other credit that precedes that credit in the order required under 1198
section 5747.98 of the Revised Code, the taxpayer may elect to 1199
receive a credit for each subsequent taxable year. The amount of 1200
the credit for each such year shall be computed as follows: 1201

(1) Determine the amount by which the unused credit elected 1202
under division (C) or (E) of this section exceeded the tax due for 1203
the taxable year after allowing for any preceding credit in the 1204
required order; 1205

(2) Divide the amount of such excess by one year less than 1206
the taxpayer's expected remaining life on the last day of the 1207
taxable year of the distribution for which the credit was allowed 1208
under division (C) or (E) of this section. The quotient thus 1209

obtained shall be the credit for each subsequent year. 1210

(E) If subsequent to the receipt of a lump-sum distribution 1211
and an election under division (C) of this section an individual 1212
receives another lump-sum distribution within one taxable year, 1213
the taxpayer may elect to receive a credit for that taxable year. 1214
The credit shall equal the lesser of: 1215

(1) A credit computed in the manner prescribed in division 1216
(C) of this section; 1217

(2) The amount of credit, if any, to which the taxpayer would 1218
otherwise be entitled for the taxable year under division (D) of 1219
this section times the taxpayer's expected remaining life on the 1220
last day of the taxable year. A taxpayer who elects to receive a 1221
credit under this division is not entitled to a credit under this 1222
section for any subsequent year except as provided in division (D) 1223
of this section. 1224

(F) In the case of a taxpayer who elected to take an 1225
exclusion under division (A)(1) or (3) of former section 5747.01 1226
of the Revised Code based upon the taxpayer's expected remaining 1227
life, and who was entitled immediately preceding ~~the effective~~ 1228
~~date of this section~~ July 1, 1983, under division (A)(2) or (3) of 1229
such section to a further exclusion, any credit computed in 1230
accordance with the schedule in division (B) of this section, 1231
including the credit computed under division (C)(2) of this 1232
section, shall not exceed the credit available upon an amount of 1233
retirement income received during the taxable year equal to the 1234
sum of such former exclusion plus four thousand dollars. 1235

(G) The credits allowed by this section shall be claimed in 1236
the order required under section 5747.98 of the Revised Code. The 1237
tax commissioner may require a taxpayer to furnish any information 1238
necessary to support a claim for credit under this section, and no 1239
credit shall be allowed unless such information is provided. 1240

Section 2. That existing sections 5747.01, 5747.02, and	1241
5747.055 of the Revised Code are hereby repealed.	1242