

As Introduced

**130th General Assembly
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H. B. No. 246

Representatives Rogers, Blair

**Cosponsors: Representatives Cera, Barborak, Celebrezze, Antonio, Maag,
Gerberry, Patterson, Slesnick, Stinziano, Henne, Beck**

—

A BILL

To amend section 5747.01 and to enact sections 1
5747.82 and 5751.031 of the Revised Code to allow 2
recent college graduates to claim an income tax 3
deduction for qualified higher education expenses 4
and allow employers of recent college graduates to 5
deduct the employer's costs of employing the 6
graduate from the employer's gross receipts 7
subject to the commercial activities tax. 8

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

Section 1. That section 5747.01 be amended and sections 9
5747.82 and 5751.031 of the Revised Code be enacted to read as 10
follows: 11

Sec. 5747.01. Except as otherwise expressly provided or 12
clearly appearing from the context, any term used in this chapter 13
that is not otherwise defined in this section has the same meaning 14
as when used in a comparable context in the laws of the United 15
States relating to federal income taxes or if not used in a 16
comparable context in those laws, has the same meaning as in 17
section 5733.40 of the Revised Code. Any reference in this chapter 18

to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

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

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

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

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

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

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

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such

distribution that does not exceed the undistributed net income of 49
the trust for the three taxable years preceding the taxable year 50
in which the distribution is made to the extent that the portion 51
was not included in the trust's taxable income for any of the 52
trust's taxable years beginning in 2002 or thereafter. 53

"Undistributed net income of a trust" means the taxable income of 54
the trust increased by (a)(i) the additions to adjusted gross 55
income required under division (A) of this section and (ii) the 56
personal exemptions allowed to the trust pursuant to section 57
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 58
deductions to adjusted gross income required under division (A) of 59
this section, (ii) the amount of federal income taxes attributable 60
to such income, and (iii) the amount of taxable income that has 61
been included in the adjusted gross income of a beneficiary by 62
reason of a prior accumulation distribution. Any undistributed net 63
income included in the adjusted gross income of a beneficiary 64
shall reduce the undistributed net income of the trust commencing 65
with the earliest years of the accumulation period. 66

(7) Deduct the amount of wages and salaries, if any, not 67
otherwise allowable as a deduction but that would have been 68
allowable as a deduction in computing federal adjusted gross 69
income for the taxable year, had the targeted jobs credit allowed 70
and determined under sections 38, 51, and 52 of the Internal 71
Revenue Code not been in effect. 72

(8) Deduct any interest or interest equivalent on public 73
obligations and purchase obligations to the extent that the 74
interest or interest equivalent is included in federal adjusted 75
gross income. 76

(9) Add any loss or deduct any gain resulting from the sale, 77
exchange, or other disposition of public obligations to the extent 78
that the loss has been deducted or the gain has been included in 79
computing federal adjusted gross income. 80

(10) Deduct or add amounts, as provided under section 5747.70 81
of the Revised Code, related to contributions to variable college 82
savings program accounts made or tuition units purchased pursuant 83
to Chapter 3334. of the Revised Code. 84

(11)(a) Deduct, to the extent not otherwise allowable as a 85
deduction or exclusion in computing federal or Ohio adjusted gross 86
income for the taxable year, the amount the taxpayer paid during 87
the taxable year for medical care insurance and qualified 88
long-term care insurance for the taxpayer, the taxpayer's spouse, 89
and dependents. No deduction for medical care insurance under 90
division (A)(11) of this section shall be allowed either to any 91
taxpayer who is eligible to participate in any subsidized health 92
plan maintained by any employer of the taxpayer or of the 93
taxpayer's spouse, or to any taxpayer who is entitled to, or on 94
application would be entitled to, benefits under part A of Title 95
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 96
301, as amended. For the purposes of division (A)(11)(a) of this 97
section, "subsidized health plan" means a health plan for which 98
the employer pays any portion of the plan's cost. The deduction 99
allowed under division (A)(11)(a) of this section shall be the net 100
of any related premium refunds, related premium reimbursements, or 101
related insurance premium dividends received during the taxable 102
year. 103

(b) Deduct, to the extent not otherwise deducted or excluded 104
in computing federal or Ohio adjusted gross income during the 105
taxable year, the amount the taxpayer paid during the taxable 106
year, not compensated for by any insurance or otherwise, for 107
medical care of the taxpayer, the taxpayer's spouse, and 108
dependents, to the extent the expenses exceed seven and one-half 109
per cent of the taxpayer's federal adjusted gross income. 110

(c) Deduct, to the extent not otherwise deducted or excluded 111
in computing federal or Ohio adjusted gross income, any amount 112

included in federal adjusted gross income under section 105 or not 113
excluded under section 106 of the Internal Revenue Code solely 114
because it relates to an accident and health plan for a person who 115
otherwise would be a "qualifying relative" and thus a "dependent" 116
under section 152 of the Internal Revenue Code but for the fact 117
that the person fails to meet the income and support limitations 118
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 119

(d) For purposes of division (A)(11) of this section, 120
"medical care" has the meaning given in section 213 of the 121
Internal Revenue Code, subject to the special rules, limitations, 122
and exclusions set forth therein, and "qualified long-term care" 123
has the same meaning given in section 7702B(c) of the Internal 124
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 125
of this section, "dependent" includes a person who otherwise would 126
be a "qualifying relative" and thus a "dependent" under section 127
152 of the Internal Revenue Code but for the fact that the person 128
fails to meet the income and support limitations under section 129
152(d)(1)(B) and (C) of the Internal Revenue Code. 130

(12)(a) Deduct any amount included in federal adjusted gross 131
income solely because the amount represents a reimbursement or 132
refund of expenses that in any year the taxpayer had deducted as 133
an itemized deduction pursuant to section 63 of the Internal 134
Revenue Code and applicable United States department of the 135
treasury regulations. The deduction otherwise allowed under 136
division (A)(12)(a) of this section shall be reduced to the extent 137
the reimbursement is attributable to an amount the taxpayer 138
deducted under this section in any taxable year. 139

(b) Add any amount not otherwise included in Ohio adjusted 140
gross income for any taxable year to the extent that the amount is 141
attributable to the recovery during the taxable year of any amount 142
deducted or excluded in computing federal or Ohio adjusted gross 143
income in any taxable year. 144

(13) Deduct any portion of the deduction described in section 145
1341(a)(2) of the Internal Revenue Code, for repaying previously 146
reported income received under a claim of right, that meets both 147
of the following requirements: 148

(a) It is allowable for repayment of an item that was 149
included in the taxpayer's adjusted gross income for a prior 150
taxable year and did not qualify for a credit under division (A) 151
or (B) of section 5747.05 of the Revised Code for that year; 152

(b) It does not otherwise reduce the taxpayer's adjusted 153
gross income for the current or any other taxable year. 154

(14) Deduct an amount equal to the deposits made to, and net 155
investment earnings of, a medical savings account during the 156
taxable year, in accordance with section 3924.66 of the Revised 157
Code. The deduction allowed by division (A)(14) of this section 158
does not apply to medical savings account deposits and earnings 159
otherwise deducted or excluded for the current or any other 160
taxable year from the taxpayer's federal adjusted gross income. 161

(15)(a) Add an amount equal to the funds withdrawn from a 162
medical savings account during the taxable year, and the net 163
investment earnings on those funds, when the funds withdrawn were 164
used for any purpose other than to reimburse an account holder 165
for, or to pay, eligible medical expenses, in accordance with 166
section 3924.66 of the Revised Code; 167

(b) Add the amounts distributed from a medical savings 168
account under division (A)(2) of section 3924.68 of the Revised 169
Code during the taxable year. 170

(16) Add any amount claimed as a credit under section 171
5747.059 or 5747.65 of the Revised Code to the extent that such 172
amount satisfies either of the following: 173

(a) The amount was deducted or excluded from the computation 174
of the taxpayer's federal adjusted gross income as required to be 175

reported for the taxpayer's taxable year under the Internal Revenue Code; 176
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(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 178
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(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section. 181
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(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code. 189
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(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this 206
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section in any previous taxable year to the extent the amount is 208
not otherwise included in Ohio adjusted gross income. 209

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 210
(v) of this section, add five-sixths of the amount of depreciation 211
expense allowed by subsection (k) of section 168 of the Internal 212
Revenue Code, including the taxpayer's proportionate or 213
distributive share of the amount of depreciation expense allowed 214
by that subsection to a pass-through entity in which the taxpayer 215
has a direct or indirect ownership interest. 216

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 217
this section, add five-sixths of the amount of qualifying section 218
179 depreciation expense, including the taxpayer's proportionate 219
or distributive share of the amount of qualifying section 179 220
depreciation expense allowed to any pass-through entity in which 221
the taxpayer has a direct or indirect ownership interest. 222

(iii) Subject to division (A)(20)(a)(v) of this section, for 223
taxable years beginning in 2012 or thereafter, if the increase in 224
income taxes withheld by the taxpayer is equal to or greater than 225
ten per cent of income taxes withheld by the taxpayer during the 226
taxpayer's immediately preceding taxable year, "two-thirds" shall 227
be substituted for "five-sixths" for the purpose of divisions 228
(A)(20)(a)(i) and (ii) of this section. 229

(iv) Subject to division (A)(20)(a)(v) of this section, for 230
taxable years beginning in 2012 or thereafter, a taxpayer is not 231
required to add an amount under division (A)(20) of this section 232
if the increase in income taxes withheld by the taxpayer and by 233
any pass-through entity in which the taxpayer has a direct or 234
indirect ownership interest is equal to or greater than the sum of 235
(I) the amount of qualifying section 179 depreciation expense and 236
(II) the amount of depreciation expense allowed to the taxpayer by 237
subsection (k) of section 168 of the Internal Revenue Code, and 238
including the taxpayer's proportionate or distributive shares of 239

such amounts allowed to any such pass-through entities. 240

(v) If a taxpayer directly or indirectly incurs a net 241
operating loss for the taxable year for federal income tax 242
purposes, to the extent such loss resulted from depreciation 243
expense allowed by subsection (k) of section 168 of the Internal 244
Revenue Code and by qualifying section 179 depreciation expense, 245
"the entire" shall be substituted for "five-sixths of the" for the 246
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 247

The tax commissioner, under procedures established by the 248
commissioner, may waive the add-backs related to a pass-through 249
entity if the taxpayer owns, directly or indirectly, less than 250
five per cent of the pass-through entity. 251

(b) Nothing in division (A)(20) of this section shall be 252
construed to adjust or modify the adjusted basis of any asset. 253

(c) To the extent the add-back required under division 254
(A)(20)(a) of this section is attributable to property generating 255
nonbusiness income or loss allocated under section 5747.20 of the 256
Revised Code, the add-back shall be situated to the same location 257
as the nonbusiness income or loss generated by the property for 258
the purpose of determining the credit under division (A) of 259
section 5747.05 of the Revised Code. Otherwise, the add-back shall 260
be apportioned, subject to one or more of the four alternative 261
methods of apportionment enumerated in section 5747.21 of the 262
Revised Code. 263

(d) For the purposes of division (A)(20)(a)(v) of this 264
section, net operating loss carryback and carryforward shall not 265
include the allowance of any net operating loss deduction 266
carryback or carryforward to the taxable year to the extent such 267
loss resulted from depreciation allowed by section 168(k) of the 268
Internal Revenue Code and by the qualifying section 179 269
depreciation expense amount. 270

(e) For the purposes of divisions (A)(20) and (21) of this section:	271 272
(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.	273 274 275
(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.	276 277 278 279 280
(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.	281 282 283 284 285 286 287
(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 of the following:	288 289 290
(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;	291 292 293 294 295
(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;	296 297 298
(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.	299 300 301

(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 results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(21)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(20)(a) of this section has been deducted.

(d) No refund shall be allowed as a result of adjustments made by division (A)(21) of this section.

(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 in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33

of the Revised Code. 334

(24) Deduct, to the extent included in federal adjusted gross 335
income and not otherwise allowable as a deduction or exclusion in 336
computing federal or Ohio adjusted gross income for the taxable 337
year, military pay and allowances received by the taxpayer during 338
the taxable year for active duty service in the United States 339
army, air force, navy, marine corps, or coast guard or reserve 340
components thereof or the national guard. The deduction may not be 341
claimed for military pay and allowances received by the taxpayer 342
while the taxpayer is stationed in this state. 343

(25) Deduct, to the extent not otherwise allowable as a 344
deduction or exclusion in computing federal or Ohio adjusted gross 345
income for the taxable year and not otherwise compensated for by 346
any other source, the amount of qualified organ donation expenses 347
incurred by the taxpayer during the taxable year, not to exceed 348
ten thousand dollars. A taxpayer may deduct qualified organ 349
donation expenses only once for all taxable years beginning with 350
taxable years beginning in 2007. 351

For the purposes of division (A)(25) of this section: 352

(a) "Human organ" means all or any portion of a human liver, 353
pancreas, kidney, intestine, or lung, and any portion of human 354
bone marrow. 355

(b) "Qualified organ donation expenses" means travel 356
expenses, lodging expenses, and wages and salary forgone by a 357
taxpayer in connection with the taxpayer's donation, while living, 358
of one or more of the taxpayer's human organs to another human 359
being. 360

(26) Deduct, to the extent not otherwise deducted or excluded 361
in computing federal or Ohio adjusted gross income for the taxable 362
year, amounts received by the taxpayer as retired personnel pay 363
for service in the uniformed services or reserve components 364

thereof, or the national guard, or received by the surviving 365
spouse or former spouse of such a taxpayer under the survivor 366
benefit plan on account of such a taxpayer's death. If the 367
taxpayer receives income on account of retirement paid under the 368
federal civil service retirement system or federal employees 369
retirement system, or under any successor retirement program 370
enacted by the congress of the United States that is established 371
and maintained for retired employees of the United States 372
government, and such retirement income is based, in whole or in 373
part, on credit for the taxpayer's uniformed service, the 374
deduction allowed under this division shall include only that 375
portion of such retirement income that is attributable to the 376
taxpayer's uniformed service, to the extent that portion of such 377
retirement income is otherwise included in federal adjusted gross 378
income and is not otherwise deducted under this section. Any 379
amount deducted under division (A)(26) of this section is not 380
included in a taxpayer's adjusted gross income for the purposes of 381
section 5747.055 of the Revised Code. No amount may be deducted 382
under division (A)(26) of this section on the basis of which a 383
credit was claimed under section 5747.055 of the Revised Code. 384

(27) Deduct, to the extent not otherwise deducted or excluded 385
in computing federal or Ohio adjusted gross income for the taxable 386
year, the amount the taxpayer received during the taxable year 387
from the military injury relief fund created in section 5101.98 of 388
the Revised Code. 389

(28) Deduct, to the extent not otherwise deducted or excluded 390
in computing federal or Ohio adjusted gross income for the taxable 391
year, the amount the taxpayer received as a veterans bonus during 392
the taxable year from the Ohio department of veterans services as 393
authorized by Section 2r of Article VIII, Ohio Constitution. 394

(29) Deduct, to the extent not otherwise deducted or excluded 395
in computing federal or Ohio adjusted gross income for the taxable 396

year, any income derived from a transfer agreement or from the 397
enterprise transferred under that agreement under section 4313.02 398
of the Revised Code. 399

(30) Deduct, to the extent not otherwise deducted or excluded 400
in computing federal or Ohio adjusted gross income for the taxable 401
year, Ohio college opportunity or federal Pell grant amounts 402
received by the taxpayer or the taxpayer's spouse or dependent 403
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 404
1070a, et seq., and used to pay room or board furnished by the 405
educational institution for which the grant was awarded at the 406
institution's facilities, including meal plans administered by the 407
institution. For the purposes of this division, receipt of a grant 408
includes the distribution of a grant directly to an educational 409
institution and the crediting of the grant to the enrollee's 410
account with the institution. 411

(31) Deduct one-half of the taxpayer's Ohio small business 412
investor income, the deduction not to exceed sixty-two thousand 413
five hundred dollars for each spouse if spouses file separate 414
returns under section 5747.08 of the Revised Code or one hundred 415
twenty-five thousand dollars for all other taxpayers. No 416
pass-through entity may claim a deduction under this division. 417

For the purposes of this division, "Ohio small business 418
investor income" means the portion of a taxpayer's adjusted gross 419
income that is business income reduced by deductions from business 420
income and apportioned or allocated to this state under sections 421
5747.21 and 5747.22 of the Revised Code, to the extent not 422
otherwise deducted or excluded in computing federal or Ohio 423
adjusted gross income for the taxable year. 424

(32) Deduct qualified higher education expenses to the extent 425
allowed under section 5747.82 of the Revised Code. 426

(B) "Business income" means income, including gain or loss, 427

arising from transactions, activities, and sources in the regular 428
course of a trade or business and includes income, gain, or loss 429
from real property, tangible property, and intangible property if 430
the acquisition, rental, management, and disposition of the 431
property constitute integral parts of the regular course of a 432
trade or business operation. "Business income" includes income, 433
including gain or loss, from a partial or complete liquidation of 434
a business, including, but not limited to, gain or loss from the 435
sale or other disposition of goodwill. 436

(C) "Nonbusiness income" means all income other than business 437
income and may include, but is not limited to, compensation, rents 438
and royalties from real or tangible personal property, capital 439
gains, interest, dividends and distributions, patent or copyright 440
royalties, or lottery winnings, prizes, and awards. 441

(D) "Compensation" means any form of remuneration paid to an 442
employee for personal services. 443

(E) "Fiduciary" means a guardian, trustee, executor, 444
administrator, receiver, conservator, or any other person acting 445
in any fiduciary capacity for any individual, trust, or estate. 446

(F) "Fiscal year" means an accounting period of twelve months 447
ending on the last day of any month other than December. 448

(G) "Individual" means any natural person. 449

(H) "Internal Revenue Code" means the "Internal Revenue Code 450
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 451

(I) "Resident" means any of the following, provided that 452
division (I)(3) of this section applies only to taxable years of a 453
trust beginning in 2002 or thereafter: 454

(1) An individual who is domiciled in this state, subject to 455
section 5747.24 of the Revised Code; 456

(2) The estate of a decedent who at the time of death was 457

domiciled in this state. The domicile tests of section 5747.24 of 458
the Revised Code are not controlling for purposes of division 459
(I)(2) of this section. 460

(3) A trust that, in whole or part, resides in this state. If 461
only part of a trust resides in this state, the trust is a 462
resident only with respect to that part. 463

For the purposes of division (I)(3) of this section: 464

(a) A trust resides in this state for the trust's current 465
taxable year to the extent, as described in division (I)(3)(d) of 466
this section, that the trust consists directly or indirectly, in 467
whole or in part, of assets, net of any related liabilities, that 468
were transferred, or caused to be transferred, directly or 469
indirectly, to the trust by any of the following: 470

(i) A person, a court, or a governmental entity or 471
instrumentality on account of the death of a decedent, but only if 472
the trust is described in division (I)(3)(e)(i) or (ii) of this 473
section; 474

(ii) A person who was domiciled in this state for the 475
purposes of this chapter when the person directly or indirectly 476
transferred assets to an irrevocable trust, but only if at least 477
one of the trust's qualifying beneficiaries is domiciled in this 478
state for the purposes of this chapter during all or some portion 479
of the trust's current taxable year; 480

(iii) A person who was domiciled in this state for the 481
purposes of this chapter when the trust document or instrument or 482
part of the trust document or instrument became irrevocable, but 483
only if at least one of the trust's qualifying beneficiaries is a 484
resident domiciled in this state for the purposes of this chapter 485
during all or some portion of the trust's current taxable year. If 486
a trust document or instrument became irrevocable upon the death 487
of a person who at the time of death was domiciled in this state 488

for purposes of this chapter, that person is a person described in 489
division (I)(3)(a)(iii) of this section. 490

(b) A trust is irrevocable to the extent that the transferor 491
is not considered to be the owner of the net assets of the trust 492
under sections 671 to 678 of the Internal Revenue Code. 493

(c) With respect to a trust other than a charitable lead 494
trust, "qualifying beneficiary" has the same meaning as "potential 495
current beneficiary" as defined in section 1361(e)(2) of the 496
Internal Revenue Code, and with respect to a charitable lead trust 497
"qualifying beneficiary" is any current, future, or contingent 498
beneficiary, but with respect to any trust "qualifying 499
beneficiary" excludes a person or a governmental entity or 500
instrumentality to any of which a contribution would qualify for 501
the charitable deduction under section 170 of the Internal Revenue 502
Code. 503

(d) For the purposes of division (I)(3)(a) of this section, 504
the extent to which a trust consists directly or indirectly, in 505
whole or in part, of assets, net of any related liabilities, that 506
were transferred directly or indirectly, in whole or part, to the 507
trust by any of the sources enumerated in that division shall be 508
ascertained by multiplying the fair market value of the trust's 509
assets, net of related liabilities, by the qualifying ratio, which 510
shall be computed as follows: 511

(i) The first time the trust receives assets, the numerator 512
of the qualifying ratio is the fair market value of those assets 513
at that time, net of any related liabilities, from sources 514
enumerated in division (I)(3)(a) of this section. The denominator 515
of the qualifying ratio is the fair market value of all the 516
trust's assets at that time, net of any related liabilities. 517

(ii) Each subsequent time the trust receives assets, a 518
revised qualifying ratio shall be computed. The numerator of the 519

revised qualifying ratio is the sum of (1) the fair market value 520
of the trust's assets immediately prior to the subsequent 521
transfer, net of any related liabilities, multiplied by the 522
qualifying ratio last computed without regard to the subsequent 523
transfer, and (2) the fair market value of the subsequently 524
transferred assets at the time transferred, net of any related 525
liabilities, from sources enumerated in division (I)(3)(a) of this 526
section. The denominator of the revised qualifying ratio is the 527
fair market value of all the trust's assets immediately after the 528
subsequent transfer, net of any related liabilities. 529

(iii) Whether a transfer to the trust is by or from any of 530
the sources enumerated in division (I)(3)(a) of this section shall 531
be ascertained without regard to the domicile of the trust's 532
beneficiaries. 533

(e) For the purposes of division (I)(3)(a)(i) of this 534
section: 535

(i) A trust is described in division (I)(3)(e)(i) of this 536
section if the trust is a testamentary trust and the testator of 537
that testamentary trust was domiciled in this state at the time of 538
the testator's death for purposes of the taxes levied under 539
Chapter 5731. of the Revised Code. 540

(ii) A trust is described in division (I)(3)(e)(ii) of this 541
section if the transfer is a qualifying transfer described in any 542
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 543
irrevocable inter vivos trust, and at least one of the trust's 544
qualifying beneficiaries is domiciled in this state for purposes 545
of this chapter during all or some portion of the trust's current 546
taxable year. 547

(f) For the purposes of division (I)(3)(e)(ii) of this 548
section, a "qualifying transfer" is a transfer of assets, net of 549
any related liabilities, directly or indirectly to a trust, if the 550

transfer is described in any of the following: 551

(i) The transfer is made to a trust, created by the decedent 552
before the decedent's death and while the decedent was domiciled 553
in this state for the purposes of this chapter, and, prior to the 554
death of the decedent, the trust became irrevocable while the 555
decedent was domiciled in this state for the purposes of this 556
chapter. 557

(ii) The transfer is made to a trust to which the decedent, 558
prior to the decedent's death, had directly or indirectly 559
transferred assets, net of any related liabilities, while the 560
decedent was domiciled in this state for the purposes of this 561
chapter, and prior to the death of the decedent the trust became 562
irrevocable while the decedent was domiciled in this state for the 563
purposes of this chapter. 564

(iii) The transfer is made on account of a contractual 565
relationship existing directly or indirectly between the 566
transferor and either the decedent or the estate of the decedent 567
at any time prior to the date of the decedent's death, and the 568
decedent was domiciled in this state at the time of death for 569
purposes of the taxes levied under Chapter 5731. of the Revised 570
Code. 571

(iv) The transfer is made to a trust on account of a 572
contractual relationship existing directly or indirectly between 573
the transferor and another person who at the time of the 574
decedent's death was domiciled in this state for purposes of this 575
chapter. 576

(v) The transfer is made to a trust on account of the will of 577
a testator who was domiciled in this state at the time of the 578
testator's death for purposes of the taxes levied under Chapter 579
5731. of the Revised Code. 580

(vi) The transfer is made to a trust created by or caused to 581

be created by a court, and the trust was directly or indirectly 582
created in connection with or as a result of the death of an 583
individual who, for purposes of the taxes levied under Chapter 584
5731. of the Revised Code, was domiciled in this state at the time 585
of the individual's death. 586

(g) The tax commissioner may adopt rules to ascertain the 587
part of a trust residing in this state. 588

(J) "Nonresident" means an individual or estate that is not a 589
resident. An individual who is a resident for only part of a 590
taxable year is a nonresident for the remainder of that taxable 591
year. 592

(K) "Pass-through entity" has the same meaning as in section 593
5733.04 of the Revised Code. 594

(L) "Return" means the notifications and reports required to 595
be filed pursuant to this chapter for the purpose of reporting the 596
tax due and includes declarations of estimated tax when so 597
required. 598

(M) "Taxable year" means the calendar year or the taxpayer's 599
fiscal year ending during the calendar year, or fractional part 600
thereof, upon which the adjusted gross income is calculated 601
pursuant to this chapter. 602

(N) "Taxpayer" means any person subject to the tax imposed by 603
section 5747.02 of the Revised Code or any pass-through entity 604
that makes the election under division (D) of section 5747.08 of 605
the Revised Code. 606

(O) "Dependents" means dependents as defined in the Internal 607
Revenue Code and as claimed in the taxpayer's federal income tax 608
return for the taxable year or which the taxpayer would have been 609
permitted to claim had the taxpayer filed a federal income tax 610
return. 611

(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.

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

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

(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.

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

(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:

(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:

(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;

(b) The net amount is attributable to the S portion of an

electing small business trust for the taxable year. 642

(2) Add interest or dividends, net of ordinary, necessary, 643
and reasonable expenses not deducted in computing federal taxable 644
income, on obligations of any authority, commission, 645
instrumentality, territory, or possession of the United States to 646
the extent that the interest or dividends are exempt from federal 647
income taxes but not from state income taxes, but only to the 648
extent that such net amount is not otherwise includible in Ohio 649
taxable income and is described in either division (S)(1)(a) or 650
(b) of this section; 651

(3) Add the amount of personal exemption allowed to the 652
estate pursuant to section 642(b) of the Internal Revenue Code; 653

(4) Deduct interest or dividends, net of related expenses 654
deducted in computing federal taxable income, on obligations of 655
the United States and its territories and possessions or of any 656
authority, commission, or instrumentality of the United States to 657
the extent that the interest or dividends are exempt from state 658
taxes under the laws of the United States, but only to the extent 659
that such amount is included in federal taxable income and is 660
described in either division (S)(1)(a) or (b) of this section; 661

(5) Deduct the amount of wages and salaries, if any, not 662
otherwise allowable as a deduction but that would have been 663
allowable as a deduction in computing federal taxable income for 664
the taxable year, had the targeted jobs credit allowed under 665
sections 38, 51, and 52 of the Internal Revenue Code not been in 666
effect, but only to the extent such amount relates either to 667
income included in federal taxable income for the taxable year or 668
to income of the S portion of an electing small business trust for 669
the taxable year; 670

(6) Deduct any interest or interest equivalent, net of 671
related expenses deducted in computing federal taxable income, on 672

public obligations and purchase obligations, but only to the 673
extent that such net amount relates either to income included in 674
federal taxable income for the taxable year or to income of the S 675
portion of an electing small business trust for the taxable year; 676

(7) Add any loss or deduct any gain resulting from sale, 677
exchange, or other disposition of public obligations to the extent 678
that such loss has been deducted or such gain has been included in 679
computing either federal taxable income or income of the S portion 680
of an electing small business trust for the taxable year; 681

(8) Except in the case of the final return of an estate, add 682
any amount deducted by the taxpayer on both its Ohio estate tax 683
return pursuant to section 5731.14 of the Revised Code, and on its 684
federal income tax return in determining federal taxable income; 685

(9)(a) Deduct any amount included in federal taxable income 686
solely because the amount represents a reimbursement or refund of 687
expenses that in a previous year the decedent had deducted as an 688
itemized deduction pursuant to section 63 of the Internal Revenue 689
Code and applicable treasury regulations. The deduction otherwise 690
allowed under division (S)(9)(a) of this section shall be reduced 691
to the extent the reimbursement is attributable to an amount the 692
taxpayer or decedent deducted under this section in any taxable 693
year. 694

(b) Add any amount not otherwise included in Ohio taxable 695
income for any taxable year to the extent that the amount is 696
attributable to the recovery during the taxable year of any amount 697
deducted or excluded in computing federal or Ohio taxable income 698
in any taxable year, but only to the extent such amount has not 699
been distributed to beneficiaries for the taxable year. 700

(10) Deduct any portion of the deduction described in section 701
1341(a)(2) of the Internal Revenue Code, for repaying previously 702
reported income received under a claim of right, that meets both 703

of the following requirements: 704

(a) It is allowable for repayment of an item that was 705
included in the taxpayer's taxable income or the decedent's 706
adjusted gross income for a prior taxable year and did not qualify 707
for a credit under division (A) or (B) of section 5747.05 of the 708
Revised Code for that year. 709

(b) It does not otherwise reduce the taxpayer's taxable 710
income or the decedent's adjusted gross income for the current or 711
any other taxable year. 712

(11) Add any amount claimed as a credit under section 713
5747.059 or 5747.65 of the Revised Code to the extent that the 714
amount satisfies either of the following: 715

(a) The amount was deducted or excluded from the computation 716
of the taxpayer's federal taxable income as required to be 717
reported for the taxpayer's taxable year under the Internal 718
Revenue Code; 719

(b) The amount resulted in a reduction in the taxpayer's 720
federal taxable income as required to be reported for any of the 721
taxpayer's taxable years under the Internal Revenue Code. 722

(12) Deduct any amount, net of related expenses deducted in 723
computing federal taxable income, that a trust is required to 724
report as farm income on its federal income tax return, but only 725
if the assets of the trust include at least ten acres of land 726
satisfying the definition of "land devoted exclusively to 727
agricultural use" under section 5713.30 of the Revised Code, 728
regardless of whether the land is valued for tax purposes as such 729
land under sections 5713.30 to 5713.38 of the Revised Code. If the 730
trust is a pass-through entity investor, section 5747.231 of the 731
Revised Code applies in ascertaining if the trust is eligible to 732
claim the deduction provided by division (S)(12) of this section 733
in connection with the pass-through entity's farm income. 734

Except for farm income attributable to the S portion of an 735
electing small business trust, the deduction provided by division 736
(S)(12) of this section is allowed only to the extent that the 737
trust has not distributed such farm income. Division (S)(12) of 738
this section applies only to taxable years of a trust beginning in 739
2002 or thereafter. 740

(13) Add the net amount of income described in section 641(c) 741
of the Internal Revenue Code to the extent that amount is not 742
included in federal taxable income. 743

(14) Add or deduct the amount the taxpayer would be required 744
to add or deduct under division (A)(20) or (21) of this section if 745
the taxpayer's Ohio taxable income were computed in the same 746
manner as an individual's Ohio adjusted gross income is computed 747
under this section. In the case of a trust, division (S)(14) of 748
this section applies only to any of the trust's taxable years 749
beginning in 2002 or thereafter. 750

(T) "School district income" and "school district income tax" 751
have the same meanings as in section 5748.01 of the Revised Code. 752

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 753
of this section, "public obligations," "purchase obligations," and 754
"interest or interest equivalent" have the same meanings as in 755
section 5709.76 of the Revised Code. 756

(V) "Limited liability company" means any limited liability 757
company formed under Chapter 1705. of the Revised Code or under 758
the laws of any other state. 759

(W) "Pass-through entity investor" means any person who, 760
during any portion of a taxable year of a pass-through entity, is 761
a partner, member, shareholder, or equity investor in that 762
pass-through entity. 763

(X) "Banking day" has the same meaning as in section 1304.01 764
of the Revised Code. 765

(Y) "Month" means a calendar month. 766

(Z) "Quarter" means the first three months, the second three 767
months, the third three months, or the last three months of the 768
taxpayer's taxable year. 769

(AA)(1) "Eligible institution" means a state university or 770
state institution of higher education as defined in section 771
3345.011 of the Revised Code, or a private, nonprofit college, 772
university, or other post-secondary institution located in this 773
state that possesses a certificate of authorization issued by the 774
Ohio board of regents pursuant to Chapter 1713. of the Revised 775
Code or a certificate of registration issued by the state board of 776
career colleges and schools under Chapter 3332. of the Revised 777
Code. 778

(2) "Qualified tuition and fees" means tuition and fees 779
imposed by an eligible institution as a condition of enrollment or 780
attendance, not exceeding two thousand five hundred dollars in 781
each of the individual's first two years of post-secondary 782
education. If the individual is a part-time student, "qualified 783
tuition and fees" includes tuition and fees paid for the academic 784
equivalent of the first two years of post-secondary education 785
during a maximum of five taxable years, not exceeding a total of 786
five thousand dollars. "Qualified tuition and fees" does not 787
include: 788

(a) Expenses for any course or activity involving sports, 789
games, or hobbies unless the course or activity is part of the 790
individual's degree or diploma program; 791

(b) The cost of books, room and board, student activity fees, 792
athletic fees, insurance expenses, or other expenses unrelated to 793
the individual's academic course of instruction; 794

(c) Tuition, fees, or other expenses paid or reimbursed 795
through an employer, scholarship, grant in aid, or other 796

educational benefit program. 797

(BB)(1) "Modified business income" means the business income 798
included in a trust's Ohio taxable income after such taxable 799
income is first reduced by the qualifying trust amount, if any. 800

(2) "Qualifying trust amount" of a trust means capital gains 801
and losses from the sale, exchange, or other disposition of equity 802
or ownership interests in, or debt obligations of, a qualifying 803
investee to the extent included in the trust's Ohio taxable 804
income, but only if the following requirements are satisfied: 805

(a) The book value of the qualifying investee's physical 806
assets in this state and everywhere, as of the last day of the 807
qualifying investee's fiscal or calendar year ending immediately 808
prior to the date on which the trust recognizes the gain or loss, 809
is available to the trust. 810

(b) The requirements of section 5747.011 of the Revised Code 811
are satisfied for the trust's taxable year in which the trust 812
recognizes the gain or loss. 813

Any gain or loss that is not a qualifying trust amount is 814
modified business income, qualifying investment income, or 815
modified nonbusiness income, as the case may be. 816

(3) "Modified nonbusiness income" means a trust's Ohio 817
taxable income other than modified business income, other than the 818
qualifying trust amount, and other than qualifying investment 819
income, as defined in section 5747.012 of the Revised Code, to the 820
extent such qualifying investment income is not otherwise part of 821
modified business income. 822

(4) "Modified Ohio taxable income" applies only to trusts, 823
and means the sum of the amounts described in divisions (BB)(4)(a) 824
to (c) of this section: 825

(a) The fraction, calculated under section 5747.013, and 826

applying section 5747.231 of the Revised Code, multiplied by the 827
sum of the following amounts: 828

(i) The trust's modified business income; 829

(ii) The trust's qualifying investment income, as defined in 830
section 5747.012 of the Revised Code, but only to the extent the 831
qualifying investment income does not otherwise constitute 832
modified business income and does not otherwise constitute a 833
qualifying trust amount. 834

(b) The qualifying trust amount multiplied by a fraction, the 835
numerator of which is the sum of the book value of the qualifying 836
investee's physical assets in this state on the last day of the 837
qualifying investee's fiscal or calendar year ending immediately 838
prior to the day on which the trust recognizes the qualifying 839
trust amount, and the denominator of which is the sum of the book 840
value of the qualifying investee's total physical assets 841
everywhere on the last day of the qualifying investee's fiscal or 842
calendar year ending immediately prior to the day on which the 843
trust recognizes the qualifying trust amount. If, for a taxable 844
year, the trust recognizes a qualifying trust amount with respect 845
to more than one qualifying investee, the amount described in 846
division (BB)(4)(b) of this section shall equal the sum of the 847
products so computed for each such qualifying investee. 848

(c)(i) With respect to a trust or portion of a trust that is 849
a resident as ascertained in accordance with division (I)(3)(d) of 850
this section, its modified nonbusiness income. 851

(ii) With respect to a trust or portion of a trust that is 852
not a resident as ascertained in accordance with division 853
(I)(3)(d) of this section, the amount of its modified nonbusiness 854
income satisfying the descriptions in divisions (B)(2) to (5) of 855
section 5747.20 of the Revised Code, except as otherwise provided 856
in division (BB)(4)(c)(ii) of this section. With respect to a 857

trust or portion of a trust that is not a resident as ascertained 858
in accordance with division (I)(3)(d) of this section, the trust's 859
portion of modified nonbusiness income recognized from the sale, 860
exchange, or other disposition of a debt interest in or equity 861
interest in a section 5747.212 entity, as defined in section 862
5747.212 of the Revised Code, without regard to division (A) of 863
that section, shall not be allocated to this state in accordance 864
with section 5747.20 of the Revised Code but shall be apportioned 865
to this state in accordance with division (B) of section 5747.212 866
of the Revised Code without regard to division (A) of that 867
section. 868

If the allocation and apportionment of a trust's income under 869
divisions (BB)(4)(a) and (c) of this section do not fairly 870
represent the modified Ohio taxable income of the trust in this 871
state, the alternative methods described in division (C) of 872
section 5747.21 of the Revised Code may be applied in the manner 873
and to the same extent provided in that section. 874

(5)(a) Except as set forth in division (BB)(5)(b) of this 875
section, "qualifying investee" means a person in which a trust has 876
an equity or ownership interest, or a person or unit of government 877
the debt obligations of either of which are owned by a trust. For 878
the purposes of division (BB)(2)(a) of this section and for the 879
purpose of computing the fraction described in division (BB)(4)(b) 880
of this section, all of the following apply: 881

(i) If the qualifying investee is a member of a qualifying 882
controlled group on the last day of the qualifying investee's 883
fiscal or calendar year ending immediately prior to the date on 884
which the trust recognizes the gain or loss, then "qualifying 885
investee" includes all persons in the qualifying controlled group 886
on such last day. 887

(ii) If the qualifying investee, or if the qualifying 888
investee and any members of the qualifying controlled group of 889

which the qualifying investee is a member on the last day of the 890
qualifying investee's fiscal or calendar year ending immediately 891
prior to the date on which the trust recognizes the gain or loss, 892
separately or cumulatively own, directly or indirectly, on the 893
last day of the qualifying investee's fiscal or calendar year 894
ending immediately prior to the date on which the trust recognizes 895
the qualifying trust amount, more than fifty per cent of the 896
equity of a pass-through entity, then the qualifying investee and 897
the other members are deemed to own the proportionate share of the 898
pass-through entity's physical assets which the pass-through 899
entity directly or indirectly owns on the last day of the 900
pass-through entity's calendar or fiscal year ending within or 901
with the last day of the qualifying investee's fiscal or calendar 902
year ending immediately prior to the date on which the trust 903
recognizes the qualifying trust amount. 904

(iii) For the purposes of division (BB)(5)(a)(iii) of this 905
section, "upper level pass-through entity" means a pass-through 906
entity directly or indirectly owning any equity of another 907
pass-through entity, and "lower level pass-through entity" means 908
that other pass-through entity. 909

An upper level pass-through entity, whether or not it is also 910
a qualifying investee, is deemed to own, on the last day of the 911
upper level pass-through entity's calendar or fiscal year, the 912
proportionate share of the lower level pass-through entity's 913
physical assets that the lower level pass-through entity directly 914
or indirectly owns on the last day of the lower level pass-through 915
entity's calendar or fiscal year ending within or with the last 916
day of the upper level pass-through entity's fiscal or calendar 917
year. If the upper level pass-through entity directly and 918
indirectly owns less than fifty per cent of the equity of the 919
lower level pass-through entity on each day of the upper level 920
pass-through entity's calendar or fiscal year in which or with 921

which ends the calendar or fiscal year of the lower level 922
pass-through entity and if, based upon clear and convincing 923
evidence, complete information about the location and cost of the 924
physical assets of the lower pass-through entity is not available 925
to the upper level pass-through entity, then solely for purposes 926
of ascertaining if a gain or loss constitutes a qualifying trust 927
amount, the upper level pass-through entity shall be deemed as 928
owning no equity of the lower level pass-through entity for each 929
day during the upper level pass-through entity's calendar or 930
fiscal year in which or with which ends the lower level 931
pass-through entity's calendar or fiscal year. Nothing in division 932
(BB)(5)(a)(iii) of this section shall be construed to provide for 933
any deduction or exclusion in computing any trust's Ohio taxable 934
income. 935

(b) With respect to a trust that is not a resident for the 936
taxable year and with respect to a part of a trust that is not a 937
resident for the taxable year, "qualifying investee" for that 938
taxable year does not include a C corporation if both of the 939
following apply: 940

(i) During the taxable year the trust or part of the trust 941
recognizes a gain or loss from the sale, exchange, or other 942
disposition of equity or ownership interests in, or debt 943
obligations of, the C corporation. 944

(ii) Such gain or loss constitutes nonbusiness income. 945

(6) "Available" means information is such that a person is 946
able to learn of the information by the due date plus extensions, 947
if any, for filing the return for the taxable year in which the 948
trust recognizes the gain or loss. 949

(CC) "Qualifying controlled group" has the same meaning as in 950
section 5733.04 of the Revised Code. 951

(DD) "Related member" has the same meaning as in section 952

5733.042 of the Revised Code.	953
(EE)(1) For the purposes of division (EE) of this section:	954
(a) "Qualifying person" means any person other than a qualifying corporation.	955 956
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	957 958 959
(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;	960 961 962 963
(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.	964 965 966 967
(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.	968 969 970
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	971 972
(1) "Trust" does not include a qualified pre-income tax trust.	973 974
(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.	975 976 977
(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,	978 979 980 981 982

five per cent or more of the ownership or equity interests. The 983
trustee shall notify the tax commissioner in writing of the 984
election on or before April 15, 2006. The election, if timely 985
made, shall be effective on and after January 1, 2006, and shall 986
apply for all tax periods and tax years until revoked by the 987
trustee of the trust. 988

(4) A "pre-income tax trust" is a trust that satisfies all of 989
the following requirements: 990

(a) The document or instrument creating the trust was 991
executed by the grantor before January 1, 1972; 992

(b) The trust became irrevocable upon the creation of the 993
trust; and 994

(c) The grantor was domiciled in this state at the time the 995
trust was created. 996

(GG) "Uniformed services" has the same meaning as in 10 997
U.S.C. 101. 998

Sec. 5747.82. (A) As used in this section: 999

(1) "Higher education expenses" means all of the following 1000
expenses incurred by a taxpayer while enrolled in an eligible 1001
educational institution: 1002

(a) Tuition, fees, books, supplies, and equipment required 1003
for the enrollment or attendance of the taxpayer at the eligible 1004
educational institution; 1005

(b) Room and board expenses incurred while the taxpayer is 1006
carrying at least one-half of the normal full-time academic 1007
workload for the course of the study the taxpayer is pursuing, as 1008
determined by the eligible educational institution, to the extent 1009
that the expenses for an academic period do not exceed the greater 1010
of the following: 1011

(i) The allowance for room and board determined by the 1012
eligible educational institution for federal financial aid 1013
purposes for that academic period; 1014

(ii) If the taxpayer lives in a residence that is owned or 1015
operated by or located on the campus of the eligible educational 1016
institution, the amount actually charged to the taxpayer for room 1017
and board for that academic period; 1018

(c) Expenses for special needs services required by the 1019
taxpayer in connection with the taxpayer's enrollment or 1020
attendance at the eligible educational institution. 1021

(2) "Eligible educational institution" has the same meaning 1022
as in section 529 of the Internal Revenue Code. 1023

(3) "Qualified higher education expenses" means the total 1024
amount of higher education expenses paid by a taxpayer toward the 1025
completion of a degree program at an eligible educational 1026
institution, excluding all of the following: 1027

(a) The amount of such expenses paid on behalf of the 1028
taxpayer in the form of grants, scholarships, gifts, or bequests; 1029

(b) The amount of any tuition units or payments applied 1030
toward such expenses under a qualified tuition program established 1031
under section 529 of the Internal Revenue Code; 1032

(c) The amount of any reduction in federal income tax 1033
resulting from a federal deduction or credit claimed by the 1034
taxpayer on the basis of such expenses. 1035

(B)(1) An individual who graduates on or after the effective 1036
date of the enactment of this section with an associate or 1037
technical degree from an eligible educational institution may 1038
deduct from the individual's federal adjusted gross income for a 1039
taxable year one-fifth of the qualified higher education expenses 1040
paid by the taxpayer toward the completion of that degree to the 1041

extent that such expenses are not otherwise deducted or excluded 1042
in computing Ohio adjusted gross income for the taxable year. The 1043
taxpayer may make the deduction for the taxable year immediately 1044
following the taxable year in which the taxpayer earned the degree 1045
and for the ensuing four taxable years. 1046

(2) An individual who graduates on or after the effective 1047
date of the enactment of this section with a baccalaureate, 1048
master's, professional, or other advanced degree from an eligible 1049
educational institution may deduct from the individual's federal 1050
adjusted gross income for a taxable year one-tenth of the 1051
qualified higher education expenses paid by the taxpayer toward 1052
the completion of that degree to the extent that such expenses are 1053
not otherwise deducted or excluded in computing Ohio adjusted 1054
gross income for the taxable year. The taxpayer may make the 1055
deduction for the taxable year immediately following the taxable 1056
year in which the taxpayer earned the degree and for the ensuing 1057
nine taxable years. 1058

(C) An individual who is allowed a deduction under this 1059
section and division (A)(32) of section 5747.01 of the Revised 1060
Code may elect to defer the deduction for each taxable year that 1061
includes a date on which the individual is enrolled full-time in 1062
an eligible educational institution to pursue a more advanced 1063
degree. Evidence of such enrollment shall be retained for 1064
inspection by the tax commissioner until the expiration of four 1065
years after the end of the last taxable year the deduction is 1066
made. 1067

(D) An individual who is allowed a deduction under this 1068
section and division (A)(32) of section 5747.01 of the Revised 1069
Code shall retain evidence of graduation for inspection by the tax 1070
commissioner until the expiration of four years after the end of 1071
the last taxable year the deduction is made. 1072

Any amount deducted pursuant to this section shall be 1073

included in Ohio adjusted gross income for the purpose of 1074
determining eligibility for the credit allowed under section 1075
5747.056 of the Revised Code. 1076

Sec. 5751.031. (A) As used in this section: 1077

(1) "Eligible costs" means the following costs a taxpayer 1078
incurs as a result of employing a qualifying new employee: 1079

(a) The qualifying new employee's wages; 1080

(b) Amounts paid by the taxpayer under section 3111 of the 1081
Internal Revenue Code on the basis of the qualifying new 1082
employee's wages; 1083

(c) Health insurance premiums paid by the taxpayer to provide 1084
health insurance to the qualifying new employee; 1085

(d) Workers' compensation premiums paid by the taxpayer as a 1086
result of employing the qualifying new employee as required under 1087
Chapter 4123. of the Revised Code; 1088

(e) Additional amounts paid by the taxpayer under sections 1089
3301 to 3311 of the Internal Revenue Code or section 4141.25 of 1090
the Revised Code as a result of employing the qualifying new 1091
employee. 1092

(2) "Qualifying new employee" means an employee who is hired 1093
by a taxpayer on or after the effective date of the enactment of 1094
this section, who is employed by the taxpayer in a full-time 1095
position in this state, and who, within the two calendar years 1096
preceding the employee's hiring date, obtained a degree from an 1097
eligible educational institution. 1098

(3) "Full-time position" means an employment position for 1099
which the employee hired to fill the position is compensated for 1100
at least two thousand eighty hours in a consecutive twelve-month 1101
period. 1102

(4) "Employment year" means the first month in which a 1103
qualifying new employee is employed by a taxpayer, or the 1104
anniversary of that month, and the succeeding eleven months. 1105

(5) "Eligible educational institution" has the same meaning 1106
as in section 529 of the Internal Revenue Code. 1107

(B) A taxpayer may deduct from the taxpayer's taxable gross 1108
receipts an amount equal to a percentage of the eligible costs of 1109
employing a qualifying new employee for the first five employment 1110
years as described in divisions (B)(1) to (5) of this section. 1111
Amounts deducted under this section shall be deducted from the 1112
taxpayer's taxable gross receipts for the tax period in which the 1113
taxpayer paid the eligible costs of a qualifying new employee. 1114
Except as provided in division (D) of this section, the amount 1115
that may be deducted for each qualifying new employee shall equal 1116
the following percentage of the eligible costs of that employee 1117
for the employment year indicated: 1118

(1) One hundred per cent for the first employment year; 1119

(2) Fifty per cent for the second employment year; 1120

(3) Twenty-five per cent for the third employment year; 1121

(4) Twelve and one-half per cent for the fourth employment 1122
year; 1123

(5) Six and one-quarter for the fifth employment year. 1124

No deduction is allowed for eligible costs paid on or after 1125
the last day of the qualifying new employee's fifth employment 1126
year. 1127

(C) If the employment relationship between a qualifying new 1128
employee and a taxpayer terminates during any of the employment 1129
years described in divisions (B)(1) to (5) of this section, the 1130
amount that the taxpayer may deduct on the basis of the next 1131
qualifying new employee hired by the taxpayer following the date 1132

the former employee leaves employment shall be the amount of the 1133
new employee's eligible costs that the taxpayer could deduct for 1134
that employment year if the new employee was the former qualifying 1135
new employee, in accordance with division (B) of this section. If 1136
no amount could be deducted for the former employee for that 1137
employment year under that division, the taxpayer may deduct the 1138
eligible costs of the qualifying new employee in the manner 1139
described in divisions (B)(1) to (5) of this section. 1140

(D) A taxpayer may not deduct any amount under this section 1141
on the basis of a qualifying new employee if the employment of 1142
that employee would not cause the number of employees employed in 1143
full-time positions by a taxpayer to exceed the number of 1144
employees employed by the taxpayer in full-time positions on the 1145
effective date of the enactment of this section. 1146

Section 2. That existing section 5747.01 of the Revised Code 1147
is hereby repealed. 1148