

As Introduced

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Representatives Blessing, Gerberry

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A B I L L

To amend section 5747.01 of the Revised Code to 1
authorize an income tax deduction for any loss 2
from wagering transactions allowed as an itemized 3
deduction for federal income tax purposes that the 4
taxpayer deducted in computing federal taxable 5
income. 6

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

Section 1. That section 5747.01 of the Revised Code be 7
amended to read as follows: 8

Sec. 5747.01. Except as otherwise expressly provided or 9
clearly appearing from the context, any term used in this chapter 10
that is not otherwise defined in this section has the same meaning 11
as when used in a comparable context in the laws of the United 12
States relating to federal income taxes or if not used in a 13
comparable context in those laws, has the same meaning as in 14
section 5733.40 of the Revised Code. Any reference in this chapter 15
to the Internal Revenue Code includes other laws of the United 16
States relating to federal income taxes. 17

As used in this chapter: 18

(A) "Adjusted gross income" or "Ohio adjusted gross income" 19
means federal adjusted gross income, as defined and used in the 20

Internal Revenue Code, adjusted as provided in this section:	21
(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.	22 23 24
(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.	25 26 27 28 29
(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.	30 31 32 33 34 35
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	36 37
(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.	38 39 40 41
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter.	42 43 44 45 46 47 48 49
"Undistributed net income of a trust" means the taxable income of	50 51

the trust increased by (a)(i) the additions to adjusted gross 52
income required under division (A) of this section and (ii) the 53
personal exemptions allowed to the trust pursuant to section 54
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 55
deductions to adjusted gross income required under division (A) of 56
this section, (ii) the amount of federal income taxes attributable 57
to such income, and (iii) the amount of taxable income that has 58
been included in the adjusted gross income of a beneficiary by 59
reason of a prior accumulation distribution. Any undistributed net 60
income included in the adjusted gross income of a beneficiary 61
shall reduce the undistributed net income of the trust commencing 62
with the earliest years of the accumulation period. 63

(7) Deduct the amount of wages and salaries, if any, not 64
otherwise allowable as a deduction but that would have been 65
allowable as a deduction in computing federal adjusted gross 66
income for the taxable year, had the targeted jobs credit allowed 67
and determined under sections 38, 51, and 52 of the Internal 68
Revenue Code not been in effect. 69

(8) Deduct any interest or interest equivalent on public 70
obligations and purchase obligations to the extent that the 71
interest or interest equivalent is included in federal adjusted 72
gross income. 73

(9) Add any loss or deduct any gain resulting from the sale, 74
exchange, or other disposition of public obligations to the extent 75
that the loss has been deducted or the gain has been included in 76
computing federal adjusted gross income. 77

(10) Deduct or add amounts, as provided under section 5747.70 78
of the Revised Code, related to contributions to variable college 79
savings program accounts made or tuition units purchased pursuant 80
to Chapter 3334. of the Revised Code. 81

(11)(a) Deduct, to the extent not otherwise allowable as a 82

deduction or exclusion in computing federal or Ohio adjusted gross 83
income for the taxable year, the amount the taxpayer paid during 84
the taxable year for medical care insurance and qualified 85
long-term care insurance for the taxpayer, the taxpayer's spouse, 86
and dependents. No deduction for medical care insurance under 87
division (A)(11) of this section shall be allowed either to any 88
taxpayer who is eligible to participate in any subsidized health 89
plan maintained by any employer of the taxpayer or of the 90
taxpayer's spouse, or to any taxpayer who is entitled to, or on 91
application would be entitled to, benefits under part A of Title 92
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 93
301, as amended. For the purposes of division (A)(11)(a) of this 94
section, "subsidized health plan" means a health plan for which 95
the employer pays any portion of the plan's cost. The deduction 96
allowed under division (A)(11)(a) of this section shall be the net 97
of any related premium refunds, related premium reimbursements, or 98
related insurance premium dividends received during the taxable 99
year. 100

(b) Deduct, to the extent not otherwise deducted or excluded 101
in computing federal or Ohio adjusted gross income during the 102
taxable year, the amount the taxpayer paid during the taxable 103
year, not compensated for by any insurance or otherwise, for 104
medical care of the taxpayer, the taxpayer's spouse, and 105
dependents, to the extent the expenses exceed seven and one-half 106
per cent of the taxpayer's federal adjusted gross income. 107

(c) Deduct, to the extent not otherwise deducted or excluded 108
in computing federal or Ohio adjusted gross income, any amount 109
included in federal adjusted gross income under section 105 or not 110
excluded under section 106 of the Internal Revenue Code solely 111
because it relates to an accident and health plan for a person who 112
otherwise would be a "qualifying relative" and thus a "dependent" 113
under section 152 of the Internal Revenue Code but for the fact 114

that the person fails to meet the income and support limitations 115
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 116

(d) For purposes of division (A)(11) of this section, 117
"medical care" has the meaning given in section 213 of the 118
Internal Revenue Code, subject to the special rules, limitations, 119
and exclusions set forth therein, and "qualified long-term care" 120
has the same meaning given in section 7702B(c) of the Internal 121
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 122
of this section, "dependent" includes a person who otherwise would 123
be a "qualifying relative" and thus a "dependent" under section 124
152 of the Internal Revenue Code but for the fact that the person 125
fails to meet the income and support limitations under section 126
152(d)(1)(B) and (C) of the Internal Revenue Code. 127

(12)(a) Deduct any amount included in federal adjusted gross 128
income solely because the amount represents a reimbursement or 129
refund of expenses that in any year the taxpayer had deducted as 130
an itemized deduction pursuant to section 63 of the Internal 131
Revenue Code and applicable United States department of the 132
treasury regulations. The deduction otherwise allowed under 133
division (A)(12)(a) of this section shall be reduced to the extent 134
the reimbursement is attributable to an amount the taxpayer 135
deducted under this section in any taxable year. 136

(b) Add any amount not otherwise included in Ohio adjusted 137
gross income for any taxable year to the extent that the amount is 138
attributable to the recovery during the taxable year of any amount 139
deducted or excluded in computing federal or Ohio adjusted gross 140
income in any taxable year. 141

(13) Deduct any portion of the deduction described in section 142
1341(a)(2) of the Internal Revenue Code, for repaying previously 143
reported income received under a claim of right, that meets both 144
of the following requirements: 145

(a) It is allowable for repayment of an item that was 146
included in the taxpayer's adjusted gross income for a prior 147
taxable year and did not qualify for a credit under division (A) 148
or (B) of section 5747.05 of the Revised Code for that year; 149

(b) It does not otherwise reduce the taxpayer's adjusted 150
gross income for the current or any other taxable year. 151

(14) Deduct an amount equal to the deposits made to, and net 152
investment earnings of, a medical savings account during the 153
taxable year, in accordance with section 3924.66 of the Revised 154
Code. The deduction allowed by division (A)(14) of this section 155
does not apply to medical savings account deposits and earnings 156
otherwise deducted or excluded for the current or any other 157
taxable year from the taxpayer's federal adjusted gross income. 158

(15)(a) Add an amount equal to the funds withdrawn from a 159
medical savings account during the taxable year, and the net 160
investment earnings on those funds, when the funds withdrawn were 161
used for any purpose other than to reimburse an account holder 162
for, or to pay, eligible medical expenses, in accordance with 163
section 3924.66 of the Revised Code; 164

(b) Add the amounts distributed from a medical savings 165
account under division (A)(2) of section 3924.68 of the Revised 166
Code during the taxable year. 167

(16) Add any amount claimed as a credit under section 168
5747.059 or 5747.65 of the Revised Code to the extent that such 169
amount satisfies either of the following: 170

(a) The amount was deducted or excluded from the computation 171
of the taxpayer's federal adjusted gross income as required to be 172
reported for the taxpayer's taxable year under the Internal 173
Revenue Code; 174

(b) The amount resulted in a reduction of the taxpayer's 175
federal adjusted gross income as required to be reported for any 176

of the taxpayer's taxable years under the Internal Revenue Code. 177

(17) Deduct the amount contributed by the taxpayer to an 178
individual development account program established by a county 179
department of job and family services pursuant to sections 329.11 180
to 329.14 of the Revised Code for the purpose of matching funds 181
deposited by program participants. On request of the tax 182
commissioner, the taxpayer shall provide any information that, in 183
the tax commissioner's opinion, is necessary to establish the 184
amount deducted under division (A)(17) of this section. 185

(18) Beginning in taxable year 2001 but not for any taxable 186
year beginning after December 31, 2005, if the taxpayer is married 187
and files a joint return and the combined federal adjusted gross 188
income of the taxpayer and the taxpayer's spouse for the taxable 189
year does not exceed one hundred thousand dollars, or if the 190
taxpayer is single and has a federal adjusted gross income for the 191
taxable year not exceeding fifty thousand dollars, deduct amounts 192
paid during the taxable year for qualified tuition and fees paid 193
to an eligible institution for the taxpayer, the taxpayer's 194
spouse, or any dependent of the taxpayer, who is a resident of 195
this state and is enrolled in or attending a program that 196
culminates in a degree or diploma at an eligible institution. The 197
deduction may be claimed only to the extent that qualified tuition 198
and fees are not otherwise deducted or excluded for any taxable 199
year from federal or Ohio adjusted gross income. The deduction may 200
not be claimed for educational expenses for which the taxpayer 201
claims a credit under section 5747.27 of the Revised Code. 202

(19) Add any reimbursement received during the taxable year 203
of any amount the taxpayer deducted under division (A)(18) of this 204
section in any previous taxable year to the extent the amount is 205
not otherwise included in Ohio adjusted gross income. 206

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 207
(v) of this section, add five-sixths of the amount of depreciation 208

expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

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

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

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

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation

expense allowed by subsection (k) of section 168 of the Internal 241
Revenue Code and by qualifying section 179 depreciation expense, 242
"the entire" shall be substituted for "five-sixths of the" for the 243
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 244

The tax commissioner, under procedures established by the 245
commissioner, may waive the add-backs related to a pass-through 246
entity if the taxpayer owns, directly or indirectly, less than 247
five per cent of the pass-through entity. 248

(b) Nothing in division (A)(20) of this section shall be 249
construed to adjust or modify the adjusted basis of any asset. 250

(c) To the extent the add-back required under division 251
(A)(20)(a) of this section is attributable to property generating 252
nonbusiness income or loss allocated under section 5747.20 of the 253
Revised Code, the add-back shall be situated to the same location 254
as the nonbusiness income or loss generated by the property for 255
the purpose of determining the credit under division (A) of 256
section 5747.05 of the Revised Code. Otherwise, the add-back shall 257
be apportioned, subject to one or more of the four alternative 258
methods of apportionment enumerated in section 5747.21 of the 259
Revised Code. 260

(d) For the purposes of division (A)(20)(a)(v) of this 261
section, net operating loss carryback and carryforward shall not 262
include the allowance of any net operating loss deduction 263
carryback or carryforward to the taxable year to the extent such 264
loss resulted from depreciation allowed by section 168(k) of the 265
Internal Revenue Code and by the qualifying section 179 266
depreciation expense amount. 267

(e) For the purposes of divisions (A)(20) and (21) of this 268
section: 269

(i) "Income taxes withheld" means the total amount withheld 270
and remitted under sections 5747.06 and 5747.07 of the Revised 271

Code by an employer during the employer's taxable year. 272

(ii) "Increase in income taxes withheld" means the amount by 273
which the amount of income taxes withheld by an employer during 274
the employer's current taxable year exceeds the amount of income 275
taxes withheld by that employer during the employer's immediately 276
preceding taxable year. 277

(iii) "Qualifying section 179 depreciation expense" means the 278
difference between (I) the amount of depreciation expense directly 279
or indirectly allowed to a taxpayer under section 179 of the 280
Internal Revised Code, and (II) the amount of depreciation expense 281
directly or indirectly allowed to the taxpayer under section 179 282
of the Internal Revenue Code as that section existed on December 283
31, 2002. 284

(21)(a) If the taxpayer was required to add an amount under 285
division (A)(20)(a) of this section for a taxable year, deduct one 286
of the following: 287

(i) One-fifth of the amount so added for each of the five 288
succeeding taxable years if the amount so added was five-sixths of 289
qualifying section 179 depreciation expense or depreciation 290
expense allowed by subsection (k) of section 168 of the Internal 291
Revenue Code; 292

(ii) One-half of the amount so added for each of the two 293
succeeding taxable years if the amount so added was two-thirds of 294
such depreciation expense; 295

(iii) One-sixth of the amount so added for each of the six 296
succeeding taxable years if the entire amount of such depreciation 297
expense was so added. 298

(b) If the amount deducted under division (A)(21)(a) of this 299
section is attributable to an add-back allocated under division 300
(A)(20)(c) of this section, the amount deducted shall be situated 301
to the same location. Otherwise, the add-back shall be apportioned 302

using the apportionment factors for the taxable year in which the 303
deduction is taken, subject to one or more of the four alternative 304
methods of apportionment enumerated in section 5747.21 of the 305
Revised Code. 306

(c) No deduction is available under division (A)(21)(a) of 307
this section with regard to any depreciation allowed by section 308
168(k) of the Internal Revenue Code and by the qualifying section 309
179 depreciation expense amount to the extent that such 310
depreciation results in or increases a federal net operating loss 311
carryback or carryforward. If no such deduction is available for a 312
taxable year, the taxpayer may carry forward the amount not 313
deducted in such taxable year to the next taxable year and add 314
that amount to any deduction otherwise available under division 315
(A)(21)(a) of this section for that next taxable year. The 316
carryforward of amounts not so deducted shall continue until the 317
entire addition required by division (A)(20)(a) of this section 318
has been deducted. 319

(d) No refund shall be allowed as a result of adjustments 320
made by division (A)(21) of this section. 321

(22) Deduct, to the extent not otherwise deducted or excluded 322
in computing federal or Ohio adjusted gross income for the taxable 323
year, the amount the taxpayer received during the taxable year as 324
reimbursement for life insurance premiums under section 5919.31 of 325
the Revised Code. 326

(23) 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 as 329
a death benefit paid by the adjutant general under section 5919.33 330
of the Revised Code. 331

(24) Deduct, to the extent included in federal adjusted gross 332
income and not otherwise allowable as a deduction or exclusion in 333

computing federal or Ohio adjusted gross income for the taxable 334
year, military pay and allowances received by the taxpayer during 335
the taxable year for active duty service in the United States 336
army, air force, navy, marine corps, or coast guard or reserve 337
components thereof or the national guard. The deduction may not be 338
claimed for military pay and allowances received by the taxpayer 339
while the taxpayer is stationed in this state. 340

(25) Deduct, to the extent not otherwise allowable as a 341
deduction or exclusion in computing federal or Ohio adjusted gross 342
income for the taxable year and not otherwise compensated for by 343
any other source, the amount of qualified organ donation expenses 344
incurred by the taxpayer during the taxable year, not to exceed 345
ten thousand dollars. A taxpayer may deduct qualified organ 346
donation expenses only once for all taxable years beginning with 347
taxable years beginning in 2007. 348

For the purposes of division (A)(25) of this section: 349

(a) "Human organ" means all or any portion of a human liver, 350
pancreas, kidney, intestine, or lung, and any portion of human 351
bone marrow. 352

(b) "Qualified organ donation expenses" means travel 353
expenses, lodging expenses, and wages and salary forgone by a 354
taxpayer in connection with the taxpayer's donation, while living, 355
of one or more of the taxpayer's human organs to another human 356
being. 357

(26) Deduct, to the extent not otherwise deducted or excluded 358
in computing federal or Ohio adjusted gross income for the taxable 359
year, amounts received by the taxpayer as retired personnel pay 360
for service in the uniformed services or reserve components 361
thereof, or the national guard, or received by the surviving 362
spouse or former spouse of such a taxpayer under the survivor 363
benefit plan on account of such a taxpayer's death. If the 364

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

(27) Deduct, to the extent not otherwise deducted or excluded 382
in computing federal or Ohio adjusted gross income for the taxable 383
year, the amount the taxpayer received during the taxable year 384
from the military injury relief fund created in section 5101.98 of 385
the Revised Code. 386

(28) Deduct, to the extent not otherwise deducted or excluded 387
in computing federal or Ohio adjusted gross income for the taxable 388
year, the amount the taxpayer received as a veterans bonus during 389
the taxable year from the Ohio department of veterans services as 390
authorized by Section 2r of Article VIII, Ohio Constitution. 391

(29) Deduct, to the extent not otherwise deducted or excluded 392
in computing federal or Ohio adjusted gross income for the taxable 393
year, any income derived from a transfer agreement or from the 394
enterprise transferred under that agreement under section 4313.02 395
of the Revised Code. 396

(30) Deduct, to the extent not otherwise deducted or excluded 397
in computing federal or Ohio adjusted gross income for the taxable 398
year, Ohio college opportunity or federal Pell grant amounts 399
received by the taxpayer or the taxpayer's spouse or dependent 400
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 401
1070a, et seq., and used to pay room or board furnished by the 402
educational institution for which the grant was awarded at the 403
institution's facilities, including meal plans administered by the 404
institution. For the purposes of this division, receipt of a grant 405
includes the distribution of a grant directly to an educational 406
institution and the crediting of the grant to the enrollee's 407
account with the institution. 408

(31) Deduct one-half of the taxpayer's Ohio small business 409
investor income, the deduction not to exceed sixty-two thousand 410
five hundred dollars for each spouse if spouses file separate 411
returns under section 5747.08 of the Revised Code or one hundred 412
twenty-five thousand dollars for all other taxpayers. No 413
pass-through entity may claim a deduction under this division. 414

For the purposes of this division, "Ohio small business 415
investor income" means the portion of a taxpayer's adjusted gross 416
income that is business income reduced by deductions from business 417
income and apportioned or allocated to this state under sections 418
5747.21 and 5747.22 of the Revised Code, to the extent not 419
otherwise deducted or excluded in computing federal or Ohio 420
adjusted gross income for the taxable year. 421

(32) Deduct, to the extent not otherwise deducted or excluded 422
in computing federal or Ohio adjusted gross income for the taxable 423
year, any loss from wagering transactions that is allowed as an 424
itemized deduction under section 165 of the Internal Revenue Code 425
and that the taxpayer deducted in computing federal taxable 426
income. 427

(B) "Business income" means income, including gain or loss, 428

arising from transactions, activities, and sources in the regular 429
course of a trade or business and includes income, gain, or loss 430
from real property, tangible property, and intangible property if 431
the acquisition, rental, management, and disposition of the 432
property constitute integral parts of the regular course of a 433
trade or business operation. "Business income" includes income, 434
including gain or loss, from a partial or complete liquidation of 435
a business, including, but not limited to, gain or loss from the 436
sale or other disposition of goodwill. 437

(C) "Nonbusiness income" means all income other than business 438
income and may include, but is not limited to, compensation, rents 439
and royalties from real or tangible personal property, capital 440
gains, interest, dividends and distributions, patent or copyright 441
royalties, or lottery winnings, prizes, and awards. 442

(D) "Compensation" means any form of remuneration paid to an 443
employee for personal services. 444

(E) "Fiduciary" means a guardian, trustee, executor, 445
administrator, receiver, conservator, or any other person acting 446
in any fiduciary capacity for any individual, trust, or estate. 447

(F) "Fiscal year" means an accounting period of twelve months 448
ending on the last day of any month other than December. 449

(G) "Individual" means any natural person. 450

(H) "Internal Revenue Code" means the "Internal Revenue Code 451
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 452

(I) "Resident" means any of the following, provided that 453
division (I)(3) of this section applies only to taxable years of a 454
trust beginning in 2002 or thereafter: 455

(1) An individual who is domiciled in this state, subject to 456
section 5747.24 of the Revised Code; 457

(2) The estate of a decedent who at the time of death was 458

domiciled in this state. The domicile tests of section 5747.24 of 459
the Revised Code are not controlling for purposes of division 460
(I)(2) of this section. 461

(3) A trust that, in whole or part, resides in this state. If 462
only part of a trust resides in this state, the trust is a 463
resident only with respect to that part. 464

For the purposes of division (I)(3) of this section: 465

(a) A trust resides in this state for the trust's current 466
taxable year to the extent, as described in division (I)(3)(d) of 467
this section, that the trust consists directly or indirectly, in 468
whole or in part, of assets, net of any related liabilities, that 469
were transferred, or caused to be transferred, directly or 470
indirectly, to the trust by any of the following: 471

(i) A person, a court, or a governmental entity or 472
instrumentality on account of the death of a decedent, but only if 473
the trust is described in division (I)(3)(e)(i) or (ii) of this 474
section; 475

(ii) A person who was domiciled in this state for the 476
purposes of this chapter when the person directly or indirectly 477
transferred assets to an irrevocable trust, but only if at least 478
one of the trust's qualifying beneficiaries is domiciled in this 479
state for the purposes of this chapter during all or some portion 480
of the trust's current taxable year; 481

(iii) A person who was domiciled in this state for the 482
purposes of this chapter when the trust document or instrument or 483
part of the trust document or instrument became irrevocable, but 484
only if at least one of the trust's qualifying beneficiaries is a 485
resident domiciled in this state for the purposes of this chapter 486
during all or some portion of the trust's current taxable year. If 487
a trust document or instrument became irrevocable upon the death 488
of a person who at the time of death was domiciled in this state 489

for purposes of this chapter, that person is a person described in 490
division (I)(3)(a)(iii) of this section. 491

(b) A trust is irrevocable to the extent that the transferor 492
is not considered to be the owner of the net assets of the trust 493
under sections 671 to 678 of the Internal Revenue Code. 494

(c) With respect to a trust other than a charitable lead 495
trust, "qualifying beneficiary" has the same meaning as "potential 496
current beneficiary" as defined in section 1361(e)(2) of the 497
Internal Revenue Code, and with respect to a charitable lead trust 498
"qualifying beneficiary" is any current, future, or contingent 499
beneficiary, but with respect to any trust "qualifying 500
beneficiary" excludes a person or a governmental entity or 501
instrumentality to any of which a contribution would qualify for 502
the charitable deduction under section 170 of the Internal Revenue 503
Code. 504

(d) For the purposes of division (I)(3)(a) of this section, 505
the extent to which a trust consists directly or indirectly, in 506
whole or in part, of assets, net of any related liabilities, that 507
were transferred directly or indirectly, in whole or part, to the 508
trust by any of the sources enumerated in that division shall be 509
ascertained by multiplying the fair market value of the trust's 510
assets, net of related liabilities, by the qualifying ratio, which 511
shall be computed as follows: 512

(i) The first time the trust receives assets, the numerator 513
of the qualifying ratio is the fair market value of those assets 514
at that time, net of any related liabilities, from sources 515
enumerated in division (I)(3)(a) of this section. The denominator 516
of the qualifying ratio is the fair market value of all the 517
trust's assets at that time, net of any related liabilities. 518

(ii) Each subsequent time the trust receives assets, a 519
revised qualifying ratio shall be computed. The numerator of the 520

revised qualifying ratio is the sum of (1) the fair market value 521
of the trust's assets immediately prior to the subsequent 522
transfer, net of any related liabilities, multiplied by the 523
qualifying ratio last computed without regard to the subsequent 524
transfer, and (2) the fair market value of the subsequently 525
transferred assets at the time transferred, net of any related 526
liabilities, from sources enumerated in division (I)(3)(a) of this 527
section. The denominator of the revised qualifying ratio is the 528
fair market value of all the trust's assets immediately after the 529
subsequent transfer, net of any related liabilities. 530

(iii) Whether a transfer to the trust is by or from any of 531
the sources enumerated in division (I)(3)(a) of this section shall 532
be ascertained without regard to the domicile of the trust's 533
beneficiaries. 534

(e) For the purposes of division (I)(3)(a)(i) of this 535
section: 536

(i) A trust is described in division (I)(3)(e)(i) of this 537
section if the trust is a testamentary trust and the testator of 538
that testamentary trust was domiciled in this state at the time of 539
the testator's death for purposes of the taxes levied under 540
Chapter 5731. of the Revised Code. 541

(ii) A trust is described in division (I)(3)(e)(ii) of this 542
section if the transfer is a qualifying transfer described in any 543
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 544
irrevocable inter vivos trust, and at least one of the trust's 545
qualifying beneficiaries is domiciled in this state for purposes 546
of this chapter during all or some portion of the trust's current 547
taxable year. 548

(f) For the purposes of division (I)(3)(e)(ii) of this 549
section, a "qualifying transfer" is a transfer of assets, net of 550
any related liabilities, directly or indirectly to a trust, if the 551

transfer is described in any of the following: 552

(i) The transfer is made to a trust, created by the decedent 553
before the decedent's death and while the decedent was domiciled 554
in this state for the purposes of this chapter, and, prior to the 555
death of the decedent, the trust became irrevocable while the 556
decedent was domiciled in this state for the purposes of this 557
chapter. 558

(ii) The transfer is made to a trust to which the decedent, 559
prior to the decedent's death, had directly or indirectly 560
transferred assets, net of any related liabilities, while the 561
decedent was domiciled in this state for the purposes of this 562
chapter, and prior to the death of the decedent the trust became 563
irrevocable while the decedent was domiciled in this state for the 564
purposes of this chapter. 565

(iii) The transfer is made on account of a contractual 566
relationship existing directly or indirectly between the 567
transferor and either the decedent or the estate of the decedent 568
at any time prior to the date of the decedent's death, and the 569
decedent was domiciled in this state at the time of death for 570
purposes of the taxes levied under Chapter 5731. of the Revised 571
Code. 572

(iv) The transfer is made to a trust on account of a 573
contractual relationship existing directly or indirectly between 574
the transferor and another person who at the time of the 575
decedent's death was domiciled in this state for purposes of this 576
chapter. 577

(v) The transfer is made to a trust on account of the will of 578
a testator who was domiciled in this state at the time of the 579
testator's death for purposes of the taxes levied under Chapter 580
5731. of the Revised Code. 581

(vi) The transfer is made to a trust created by or caused to 582

be created by a court, and the trust was directly or indirectly 583
created in connection with or as a result of the death of an 584
individual who, for purposes of the taxes levied under Chapter 585
5731. of the Revised Code, was domiciled in this state at the time 586
of the individual's death. 587

(g) The tax commissioner may adopt rules to ascertain the 588
part of a trust residing in this state. 589

(J) "Nonresident" means an individual or estate that is not a 590
resident. An individual who is a resident for only part of a 591
taxable year is a nonresident for the remainder of that taxable 592
year. 593

(K) "Pass-through entity" has the same meaning as in section 594
5733.04 of the Revised Code. 595

(L) "Return" means the notifications and reports required to 596
be filed pursuant to this chapter for the purpose of reporting the 597
tax due and includes declarations of estimated tax when so 598
required. 599

(M) "Taxable year" means the calendar year or the taxpayer's 600
fiscal year ending during the calendar year, or fractional part 601
thereof, upon which the adjusted gross income is calculated 602
pursuant to this chapter. 603

(N) "Taxpayer" means any person subject to the tax imposed by 604
section 5747.02 of the Revised Code or any pass-through entity 605
that makes the election under division (D) of section 5747.08 of 606
the Revised Code. 607

(O) "Dependents" means dependents as defined in the Internal 608
Revenue Code and as claimed in the taxpayer's federal income tax 609
return for the taxable year or which the taxpayer would have been 610
permitted to claim had the taxpayer filed a federal income tax 611
return. 612

(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. 643

(2) Add interest or dividends, net of ordinary, necessary, 644
and reasonable expenses not deducted in computing federal taxable 645
income, on obligations of any authority, commission, 646
instrumentality, territory, or possession of the United States to 647
the extent that the interest or dividends are exempt from federal 648
income taxes but not from state income taxes, but only to the 649
extent that such net amount is not otherwise includible in Ohio 650
taxable income and is described in either division (S)(1)(a) or 651
(b) of this section; 652

(3) Add the amount of personal exemption allowed to the 653
estate pursuant to section 642(b) of the Internal Revenue Code; 654

(4) Deduct interest or dividends, net of related expenses 655
deducted in computing federal taxable income, on obligations of 656
the United States and its territories and possessions or of any 657
authority, commission, or instrumentality of the United States to 658
the extent that the interest or dividends are exempt from state 659
taxes under the laws of the United States, but only to the extent 660
that such amount is included in federal taxable income and is 661
described in either division (S)(1)(a) or (b) of this section; 662

(5) Deduct the amount of wages and salaries, if any, not 663
otherwise allowable as a deduction but that would have been 664
allowable as a deduction in computing federal taxable income for 665
the taxable year, had the targeted jobs credit allowed under 666
sections 38, 51, and 52 of the Internal Revenue Code not been in 667
effect, but only to the extent such amount relates either to 668
income included in federal taxable income for the taxable year or 669
to income of the S portion of an electing small business trust for 670
the taxable year; 671

(6) Deduct any interest or interest equivalent, net of 672
related expenses deducted in computing federal taxable income, on 673

public obligations and purchase obligations, but only to the 674
extent that such net amount relates either to income included in 675
federal taxable income for the taxable year or to income of the S 676
portion of an electing small business trust for the taxable year; 677

(7) Add any loss or deduct any gain resulting from sale, 678
exchange, or other disposition of public obligations to the extent 679
that such loss has been deducted or such gain has been included in 680
computing either federal taxable income or income of the S portion 681
of an electing small business trust for the taxable year; 682

(8) Except in the case of the final return of an estate, add 683
any amount deducted by the taxpayer on both its Ohio estate tax 684
return pursuant to section 5731.14 of the Revised Code, and on its 685
federal income tax return in determining federal taxable income; 686

(9)(a) Deduct any amount included in federal taxable income 687
solely because the amount represents a reimbursement or refund of 688
expenses that in a previous year the decedent had deducted as an 689
itemized deduction pursuant to section 63 of the Internal Revenue 690
Code and applicable treasury regulations. The deduction otherwise 691
allowed under division (S)(9)(a) of this section shall be reduced 692
to the extent the reimbursement is attributable to an amount the 693
taxpayer or decedent deducted under this section in any taxable 694
year. 695

(b) Add any amount not otherwise included in Ohio taxable 696
income for any taxable year to the extent that the amount is 697
attributable to the recovery during the taxable year of any amount 698
deducted or excluded in computing federal or Ohio taxable income 699
in any taxable year, but only to the extent such amount has not 700
been distributed to beneficiaries for the taxable year. 701

(10) Deduct any portion of the deduction described in section 702
1341(a)(2) of the Internal Revenue Code, for repaying previously 703
reported income received under a claim of right, that meets both 704

of the following requirements: 705

(a) It is allowable for repayment of an item that was 706
included in the taxpayer's taxable income or the decedent's 707
adjusted gross income for a prior taxable year and did not qualify 708
for a credit under division (A) or (B) of section 5747.05 of the 709
Revised Code for that year. 710

(b) It does not otherwise reduce the taxpayer's taxable 711
income or the decedent's adjusted gross income for the current or 712
any other taxable year. 713

(11) Add any amount claimed as a credit under section 714
5747.059 or 5747.65 of the Revised Code to the extent that the 715
amount satisfies either of the following: 716

(a) The amount was deducted or excluded from the computation 717
of the taxpayer's federal taxable income as required to be 718
reported for the taxpayer's taxable year under the Internal 719
Revenue Code; 720

(b) The amount resulted in a reduction in the taxpayer's 721
federal taxable income as required to be reported for any of the 722
taxpayer's taxable years under the Internal Revenue Code. 723

(12) Deduct any amount, net of related expenses deducted in 724
computing federal taxable income, that a trust is required to 725
report as farm income on its federal income tax return, but only 726
if the assets of the trust include at least ten acres of land 727
satisfying the definition of "land devoted exclusively to 728
agricultural use" under section 5713.30 of the Revised Code, 729
regardless of whether the land is valued for tax purposes as such 730
land under sections 5713.30 to 5713.38 of the Revised Code. If the 731
trust is a pass-through entity investor, section 5747.231 of the 732
Revised Code applies in ascertaining if the trust is eligible to 733
claim the deduction provided by division (S)(12) of this section 734
in connection with the pass-through entity's farm income. 735

Except for farm income attributable to the S portion of an 736
electing small business trust, the deduction provided by division 737
(S)(12) of this section is allowed only to the extent that the 738
trust has not distributed such farm income. Division (S)(12) of 739
this section applies only to taxable years of a trust beginning in 740
2002 or thereafter. 741

(13) Add the net amount of income described in section 641(c) 742
of the Internal Revenue Code to the extent that amount is not 743
included in federal taxable income. 744

(14) Add or deduct the amount the taxpayer would be required 745
to add or deduct under division (A)(20) or (21) of this section if 746
the taxpayer's Ohio taxable income were computed in the same 747
manner as an individual's Ohio adjusted gross income is computed 748
under this section. In the case of a trust, division (S)(14) of 749
this section applies only to any of the trust's taxable years 750
beginning in 2002 or thereafter. 751

(T) "School district income" and "school district income tax" 752
have the same meanings as in section 5748.01 of the Revised Code. 753

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 754
of this section, "public obligations," "purchase obligations," and 755
"interest or interest equivalent" have the same meanings as in 756
section 5709.76 of the Revised Code. 757

(V) "Limited liability company" means any limited liability 758
company formed under Chapter 1705. of the Revised Code or under 759
the laws of any other state. 760

(W) "Pass-through entity investor" means any person who, 761
during any portion of a taxable year of a pass-through entity, is 762
a partner, member, shareholder, or equity investor in that 763
pass-through entity. 764

(X) "Banking day" has the same meaning as in section 1304.01 765
of the Revised Code. 766

(Y) "Month" means a calendar month.	767
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	768 769 770
(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.	771 772 773 774 775 776 777 778 779
(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:	780 781 782 783 784 785 786 787 788 789
(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;	790 791 792
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;	793 794 795
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other	796 797

educational benefit program. 798

(BB)(1) "Modified business income" means the business income 799
included in a trust's Ohio taxable income after such taxable 800
income is first reduced by the qualifying trust amount, if any. 801

(2) "Qualifying trust amount" of a trust means capital gains 802
and losses from the sale, exchange, or other disposition of equity 803
or ownership interests in, or debt obligations of, a qualifying 804
investee to the extent included in the trust's Ohio taxable 805
income, but only if the following requirements are satisfied: 806

(a) The book value of the qualifying investee's physical 807
assets in this state and everywhere, as of the last day of the 808
qualifying investee's fiscal or calendar year ending immediately 809
prior to the date on which the trust recognizes the gain or loss, 810
is available to the trust. 811

(b) The requirements of section 5747.011 of the Revised Code 812
are satisfied for the trust's taxable year in which the trust 813
recognizes the gain or loss. 814

Any gain or loss that is not a qualifying trust amount is 815
modified business income, qualifying investment income, or 816
modified nonbusiness income, as the case may be. 817

(3) "Modified nonbusiness income" means a trust's Ohio 818
taxable income other than modified business income, other than the 819
qualifying trust amount, and other than qualifying investment 820
income, as defined in section 5747.012 of the Revised Code, to the 821
extent such qualifying investment income is not otherwise part of 822
modified business income. 823

(4) "Modified Ohio taxable income" applies only to trusts, 824
and means the sum of the amounts described in divisions (BB)(4)(a) 825
to (c) of this section: 826

(a) The fraction, calculated under section 5747.013, and 827

applying section 5747.231 of the Revised Code, multiplied by the 828
sum of the following amounts: 829

(i) The trust's modified business income; 830

(ii) The trust's qualifying investment income, as defined in 831
section 5747.012 of the Revised Code, but only to the extent the 832
qualifying investment income does not otherwise constitute 833
modified business income and does not otherwise constitute a 834
qualifying trust amount. 835

(b) The qualifying trust amount multiplied by a fraction, the 836
numerator of which is the sum of the book value of the qualifying 837
investee's physical assets in this state on the last day of the 838
qualifying investee's fiscal or calendar year ending immediately 839
prior to the day on which the trust recognizes the qualifying 840
trust amount, and the denominator of which is the sum of the book 841
value of the qualifying investee's total physical assets 842
everywhere on the last day of the qualifying investee's fiscal or 843
calendar year ending immediately prior to the day on which the 844
trust recognizes the qualifying trust amount. If, for a taxable 845
year, the trust recognizes a qualifying trust amount with respect 846
to more than one qualifying investee, the amount described in 847
division (BB)(4)(b) of this section shall equal the sum of the 848
products so computed for each such qualifying investee. 849

(c)(i) With respect to a trust or portion of a trust that is 850
a resident as ascertained in accordance with division (I)(3)(d) of 851
this section, its modified nonbusiness income. 852

(ii) With respect to a trust or portion of a trust that is 853
not a resident as ascertained in accordance with division 854
(I)(3)(d) of this section, the amount of its modified nonbusiness 855
income satisfying the descriptions in divisions (B)(2) to (5) of 856
section 5747.20 of the Revised Code, except as otherwise provided 857
in division (BB)(4)(c)(ii) of this section. With respect to a 858

trust or portion of a trust that is not a resident as ascertained 859
in accordance with division (I)(3)(d) of this section, the trust's 860
portion of modified nonbusiness income recognized from the sale, 861
exchange, or other disposition of a debt interest in or equity 862
interest in a section 5747.212 entity, as defined in section 863
5747.212 of the Revised Code, without regard to division (A) of 864
that section, shall not be allocated to this state in accordance 865
with section 5747.20 of the Revised Code but shall be apportioned 866
to this state in accordance with division (B) of section 5747.212 867
of the Revised Code without regard to division (A) of that 868
section. 869

If the allocation and apportionment of a trust's income under 870
divisions (BB)(4)(a) and (c) of this section do not fairly 871
represent the modified Ohio taxable income of the trust in this 872
state, the alternative methods described in division (C) of 873
section 5747.21 of the Revised Code may be applied in the manner 874
and to the same extent provided in that section. 875

(5)(a) Except as set forth in division (BB)(5)(b) of this 876
section, "qualifying investee" means a person in which a trust has 877
an equity or ownership interest, or a person or unit of government 878
the debt obligations of either of which are owned by a trust. For 879
the purposes of division (BB)(2)(a) of this section and for the 880
purpose of computing the fraction described in division (BB)(4)(b) 881
of this section, all of the following apply: 882

(i) If the qualifying investee is a member of a qualifying 883
controlled group on the last day of the qualifying investee's 884
fiscal or calendar year ending immediately prior to the date on 885
which the trust recognizes the gain or loss, then "qualifying 886
investee" includes all persons in the qualifying controlled group 887
on such last day. 888

(ii) If the qualifying investee, or if the qualifying 889
investee and any members of the qualifying controlled group of 890

which the qualifying investee is a member on the last day of the 891
qualifying investee's fiscal or calendar year ending immediately 892
prior to the date on which the trust recognizes the gain or loss, 893
separately or cumulatively own, directly or indirectly, on the 894
last day of the qualifying investee's fiscal or calendar year 895
ending immediately prior to the date on which the trust recognizes 896
the qualifying trust amount, more than fifty per cent of the 897
equity of a pass-through entity, then the qualifying investee and 898
the other members are deemed to own the proportionate share of the 899
pass-through entity's physical assets which the pass-through 900
entity directly or indirectly owns on the last day of the 901
pass-through entity's calendar or fiscal year ending within or 902
with the last day of the qualifying investee's fiscal or calendar 903
year ending immediately prior to the date on which the trust 904
recognizes the qualifying trust amount. 905

(iii) For the purposes of division (BB)(5)(a)(iii) of this 906
section, "upper level pass-through entity" means a pass-through 907
entity directly or indirectly owning any equity of another 908
pass-through entity, and "lower level pass-through entity" means 909
that other pass-through entity. 910

An upper level pass-through entity, whether or not it is also 911
a qualifying investee, is deemed to own, on the last day of the 912
upper level pass-through entity's calendar or fiscal year, the 913
proportionate share of the lower level pass-through entity's 914
physical assets that the lower level pass-through entity directly 915
or indirectly owns on the last day of the lower level pass-through 916
entity's calendar or fiscal year ending within or with the last 917
day of the upper level pass-through entity's fiscal or calendar 918
year. If the upper level pass-through entity directly and 919
indirectly owns less than fifty per cent of the equity of the 920
lower level pass-through entity on each day of the upper level 921
pass-through entity's calendar or fiscal year in which or with 922

which ends the calendar or fiscal year of the lower level 923
pass-through entity and if, based upon clear and convincing 924
evidence, complete information about the location and cost of the 925
physical assets of the lower pass-through entity is not available 926
to the upper level pass-through entity, then solely for purposes 927
of ascertaining if a gain or loss constitutes a qualifying trust 928
amount, the upper level pass-through entity shall be deemed as 929
owning no equity of the lower level pass-through entity for each 930
day during the upper level pass-through entity's calendar or 931
fiscal year in which or with which ends the lower level 932
pass-through entity's calendar or fiscal year. Nothing in division 933
(BB)(5)(a)(iii) of this section shall be construed to provide for 934
any deduction or exclusion in computing any trust's Ohio taxable 935
income. 936

(b) With respect to a trust that is not a resident for the 937
taxable year and with respect to a part of a trust that is not a 938
resident for the taxable year, "qualifying investee" for that 939
taxable year does not include a C corporation if both of the 940
following apply: 941

(i) During the taxable year the trust or part of the trust 942
recognizes a gain or loss from the sale, exchange, or other 943
disposition of equity or ownership interests in, or debt 944
obligations of, the C corporation. 945

(ii) Such gain or loss constitutes nonbusiness income. 946

(6) "Available" means information is such that a person is 947
able to learn of the information by the due date plus extensions, 948
if any, for filing the return for the taxable year in which the 949
trust recognizes the gain or loss. 950

(CC) "Qualifying controlled group" has the same meaning as in 951
section 5733.04 of the Revised Code. 952

(DD) "Related member" has the same meaning as in section 953

5733.042 of the Revised Code.	954
(EE)(1) For the purposes of division (EE) of this section:	955
(a) "Qualifying person" means any person other than a qualifying corporation.	956 957
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	958 959 960
(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;	961 962 963 964
(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.	965 966 967 968
(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.	969 970 971
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	972 973
(1) "Trust" does not include a qualified pre-income tax trust.	974 975
(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.	976 977 978
(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,	979 980 981 982 983

five per cent or more of the ownership or equity interests. The 984
trustee shall notify the tax commissioner in writing of the 985
election on or before April 15, 2006. The election, if timely 986
made, shall be effective on and after January 1, 2006, and shall 987
apply for all tax periods and tax years until revoked by the 988
trustee of the trust. 989

(4) A "pre-income tax trust" is a trust that satisfies all of 990
the following requirements: 991

(a) The document or instrument creating the trust was 992
executed by the grantor before January 1, 1972; 993

(b) The trust became irrevocable upon the creation of the 994
trust; and 995

(c) The grantor was domiciled in this state at the time the 996
trust was created. 997

(GG) "Uniformed services" has the same meaning as in 10 998
U.S.C. 101. 999

Section 2. That existing section 5747.01 of the Revised Code 1000
is hereby repealed. 1001

Section 3. The amendment by this act of section 5747.01 of 1002
the Revised Code applies to taxable years beginning on and after 1003
January 1, 2013. 1004