

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 567

Representative Pillich

—

A BILL

To amend sections 4741.01, 4741.03, 4741.26, and 1
5747.01 and to enact section 5747.78 of the 2
Revised Code to require the State Veterinary 3
Medical Licensing Board to inspect the place of 4
business of a person that is licensed, registered, 5
or permitted under the Veterinarians Law, to 6
establish requirements and procedures for those 7
inspections, and to authorize an income tax 8
deduction of up to \$2,500 per year for 9
veterinarians who provide free veterinary 10
services. 11

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

Section 1. That sections 4741.01, 4741.03, 4741.26, and 12
5747.01 be amended and section 5747.78 of the Revised Code be 13
enacted to read as follows: 14

Sec. 4741.01. As used in this chapter: 15

(A) "Animal" means any animal other than a human being and 16
includes fowl, birds, fish, and reptiles, wild or domestic, living 17
or dead. 18

(B) The "practice of veterinary medicine" means the practice 19
of any person who performs any of the following actions: 20

(1) Diagnoses, prevents, or treats any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;	21 22 23
(2) Administers to or performs any medical or surgical technique on any animal that has any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition or performs a surgical procedure on any animal;	24 25 26 27
(3) Prescribes, applies, or dispenses any drug, medicine, biologic, anesthetic, or other therapeutic or diagnostic substance, or applies any apparatus for any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;	28 29 30 31 32
(4) Uses complementary, alternative, and integrative therapies on animals;	33 34
(5) Renders professional advice or recommendation by any means, including telephonic or other electronic communication with regard to any activity described in divisions (B)(1) to (4) of this section;	35 36 37 38
(6) Represents the person's self, directly or indirectly, publicly or privately, as having the ability and willingness to perform an act described in divisions (B)(1) to (4) of this section;	39 40 41 42
(7) Uses any words, letters, abbreviations, or titles in such connection and under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine.	43 44 45 46
(C) "Specialist" means a licensed veterinarian who is certified by a veterinary specialty board of a professional veterinary association recognized by rule of the state veterinary medical licensing board.	47 48 49 50

(D) "Veterinary supervision" means instruction and directions 51
by a licensed veterinarian on the premises or by a licensed 52
veterinarian who is readily available to communicate with a person 53
requiring supervision. 54

(E) "Veterinary student" means a student enrolled in a 55
college of veterinary medicine or a veterinary technology college 56
approved by the board and who is working with a licensed 57
veterinarian. 58

(F) "Registered veterinary technician" means a person who is 59
a graduate of a veterinary technology college approved by the 60
state veterinary medical licensing board, has successfully passed 61
an examination approved by the board, and maintains registration 62
eligibility status in accordance with rules adopted by the board. 63

(G) "Animal aide" means a person who is employed by a 64
licensed veterinarian and supervised by a licensed veterinarian or 65
a registered veterinary technician to perform duties such as 66
record keeping, animal restraint, and such other duties that the 67
board, by rule, establishes. In adopting the rules, the board 68
shall include rules regarding the degree of supervision required 69
for each duty. The rules shall be consistent with generally 70
accepted standards of veterinary medical practice. 71

(H) "Advertising" means any manner, method, means, or 72
activity by which a practicing veterinarian, a practicing 73
veterinarian's partners, or associates, or any information in 74
reference to veterinary science, is made known to the public 75
through any use of motion pictures, newspapers, magazines, books, 76
radio, television announcements, or any other manner, method, 77
means, or activity which commercially publicizes the professional 78
image of the veterinarian. 79

(I) "Embryo transfer" means the removal of an embryo ovum 80
from the reproductive tract of an animal and its transfer to the 81

reproductive tract of another animal for the purpose of gestation 82
and birth. 83

(J) "Veterinary consultant" means a veterinarian who is not 84
licensed in this state and who provides advice and counsel to a 85
requesting veterinarian licensed in this state in regard to the 86
treatment, diagnosis, or health care of an animal or animals in a 87
specific case. 88

(K) "Direct veterinary supervision" means a licensed 89
veterinarian is in the immediate area and within audible range, 90
visual range, or both, of a patient and the person administering 91
to the patient. 92

(L) "Allied medical support" means a licensed dentist, 93
physician, chiropractor, or physical therapist who is in good 94
standing as determined under Chapter 4715., 4731., 4734., or 4755. 95
of the Revised Code, as applicable. 96

(M) "Veterinary-client-patient-relationship" means a 97
relationship that meets the requirements of section 4741.04 of the 98
Revised Code. 99

(N) "Licensed veterinarian" means a person licensed by the 100
board to practice veterinary medicine. 101

(O) "Client" means the patient's owner, owner's agent, or 102
other person responsible for the patient. 103

(P) "Veterinary technology" means the science and art of 104
providing professional support to veterinarians. 105

(Q) "Patient" means an animal that is examined or treated by 106
a licensed veterinarian. 107

(R) "Authorized agent" means a person who is currently or has 108
previously been licensed as a veterinarian or a person who is 109
currently or has previously been registered as a veterinary 110
technician in this state and has been hired by the state 111

veterinary medical board to conduct investigations and inspections 112
under section 4741.26 of the Revised Code. 113

Sec. 4741.03. (A) The state veterinary medical licensing 114
board shall meet at least once in each calendar year and may hold 115
additional meetings as often as it considers necessary to conduct 116
the business of the board. The president of the board may call 117
special meetings, and the executive director shall call special 118
meetings upon the written request of three members of the board. 119
The board shall organize by electing a president and 120
vice-president from its veterinarian members and such other 121
officers as the board prescribes by rule. Each officer shall serve 122
for a term specified by board rule or until a successor is elected 123
and qualified. A quorum of the board consists of four members of 124
which at least three are members who are veterinarians. The 125
concurrence of four members is necessary for the board to take any 126
action. 127

(B) The board may appoint a person, not one of its members, 128
to serve as its executive director. The executive director is in 129
the unclassified service and serves at the pleasure of the board. 130
The executive director shall serve as the board's 131
secretary-treasurer ex officio. The board may employ additional 132
employees for professional, technical, clerical, and special work 133
as it considers necessary, including authorized agents. The 134
executive director shall give a surety bond to the state in the 135
sum the board requires, conditioned upon the faithful performance 136
of the executive director's duties. The board shall pay the cost 137
of the bond. The executive director shall keep a complete 138
accounting of all funds received and of all vouchers presented by 139
the board to the director of budget and management for the 140
disbursement of funds. The president or executive director shall 141
approve all vouchers of the board. All money received by the board 142
shall be credited to the occupational licensing and regulatory 143

fund.	144
(C) In addition to any other duty required under this chapter, the board shall do all of the following:	145 146
(1) Prescribe a seal;	147
(2) Accept and review applications for admission to an examination in accordance with section 4741.09 of the Revised Code and review the results of examinations taken by applicants in accordance with rules adopted by the board;	148 149 150 151
(3) Keep a record of all of its meetings and proceedings;	152
(4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.	153 154 155 156 157 158
(5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and veterinary technology that are approved by the board;	159 160 161
(6) <u>Maintain a register, in a form that the board determines by rule, of unannounced inspections and inspections resulting from a written complaint that are conducted under section 4741.26 of the Revised Code of any licensee's, permit holder's, or registrant's place of business;</u>	162 163 164 165 166
(7) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;	167 168 169
(7) (8) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;	170 171
(8) (9) Approve colleges and universities which <u>that</u> meet the board's requirements for veterinary medicine and associated fields	172 173

of study and withdraw or deny, after an adjudication conducted in 174
accordance with Chapter 119. of the Revised Code, approval from 175
colleges and universities ~~which~~ that fail to meet those 176
requirements; 177

~~(9)~~(10) Establish a list of practices and procedures to be 178
examined during inspections conducted under section 4741.26 of the 179
Revised Code, including standards of hygiene, protocols for 180
procedures, record keeping, maintenance of equipment, and training 181
on the use of equipment; 182

(11) Establish criteria for dismissing a complaint under 183
section 4741.26 of the Revised Code; 184

(12) Establish the pay scale for authorized agents; 185

(13) Adopt rules, in accordance with Chapter 119. of the 186
Revised Code, ~~which~~ that are necessary for its government and for 187
the administration and enforcement of this chapter. 188

(D) The board may do ~~all~~ both of the following: 189

(1) Subpoena witnesses and require their attendance and 190
testimony, and require the production by witnesses of books, 191
papers, public records, animal patient records, and other 192
documentary evidence and examine them, in relation to any matter 193
that the board has authority to investigate, inquire into, or 194
hear. Except for any officer or employee of the state or any 195
political subdivision of the state, the treasurer of state shall 196
pay all witnesses in any proceeding before the board, upon 197
certification from the board, witness fees and mileage in the 198
amount provided for under section 119.094 of the Revised Code. 199

(2) Examine and inspect books, papers, public records, animal 200
patient records, and other documentary evidence at the location 201
where the books, papers, records, and other evidence are normally 202
stored or maintained. 203

(E) All registers, books, and records kept by the board are 204
the property of the board and are open for public examination and 205
inspection at all reasonable times in accordance with section 206
149.43 of the Revised Code. The registers, books, and records are 207
prima-facie evidence of the matters contained in them. 208

Sec. 4741.26. (A)(1) The state veterinary medical licensing 209
board shall enforce this chapter and for that purpose shall make 210
investigations relative thereto. ~~Except as provided in this~~ 211
~~division, in making any inspection pursuant to this chapter, the~~ 212
~~board may enter and inspect, upon written notice of not less than~~ 213
~~five days and during normal business hours, any licensee's, permit~~ 214
~~holder's, or registrant's place of business. If~~ The board may 215
enter and shall conduct random, unannounced inspections of twenty 216
per cent of all licensees', permit holders', and registrants' 217
places of business in this state each year. Each such place of 218
business shall be inspected at least once every five years. The 219
licensee, permit holder, or registrant shall pay a fee of two 220
hundred dollars for the inspection. 221

(2) If the board has knowledge or notice, pursuant to a 222
written complaint or any other written knowledge or notice by any 223
person as verified by the signature of that person, of a violation 224
of section 4741.18, 4741.19, or 4741.23 of the Revised Code, it 225
shall investigate ~~and, upon probable cause appearing, . An~~ 226
authorized agent shall meet in person with the complainant to 227
collect information regarding the complaint. The agent shall 228
deliver the information to the board for consideration. The board 229
shall do one of the following regarding the complaint: 230

(a) If the board determines that there is not probable cause 231
for the complaint, the board shall dismiss the complaint in 232
accordance with rules adopted under section 4741.03 of the Revised 233
Code and notify the complainant of the decision together with an 234

explanation of why the complaint was dismissed. 235

(b) If the board determines that there is probable cause for 236
the complaint, the board shall direct the executive director to 237
file a complaint and institute the prosecution of the offender. ~~In~~ 238

In conducting any investigation for a suspected violation of 239
this chapter, the board or its authorized agent does not have to 240
provide any prior written notice to the licensee, permit holder, 241
or registrant as long as the board provides a written 242
authorization for the investigation and the board or its 243
authorized agent provides the licensee, permit holder, or 244
registrant with a copy of the authorization at the time of the 245
investigation. When requested by the executive director, the 246
prosecuting attorney of a county or the village solicitor or city 247
director of law of a municipal corporation, wherein the violation 248
occurs shall take charge of and conduct the prosecution. The 249
attorney general or the attorney general's designated assistant 250
shall act as legal adviser to the board and shall render such 251
legal assistance as may be necessary. 252

(B) In addition to any other remedy the board may have 253
pursuant to law, if the board determines that any person is 254
practicing veterinary medicine without a license issued pursuant 255
to this chapter or is otherwise in violation of this chapter, the 256
board may, through its executive director, apply to a court having 257
jurisdiction in the county in which the offense occurred, for an 258
injunction or restraining order to enjoin or restrain the person 259
from further violations of this chapter. The attorney general 260
shall serve as the board's legal agent in the action. 261

Sec. 5747.01. Except as otherwise expressly provided or 262
clearly appearing from the context, any term used in this chapter 263
that is not otherwise defined in this section has the same meaning 264
as when used in a comparable context in the laws of the United 265

States relating to federal income taxes or if not used in a 266
comparable context in those laws, has the same meaning as in 267
section 5733.40 of the Revised Code. Any reference in this chapter 268
to the Internal Revenue Code includes other laws of the United 269
States relating to federal income taxes. 270

As used in this chapter: 271

(A) "Adjusted gross income" or "Ohio adjusted gross income" 272
means federal adjusted gross income, as defined and used in the 273
Internal Revenue Code, adjusted as provided in this section: 274

(1) Add interest or dividends on obligations or securities of 275
any state or of any political subdivision or authority of any 276
state, other than this state and its subdivisions and authorities. 277

(2) Add interest or dividends on obligations of any 278
authority, commission, instrumentality, territory, or possession 279
of the United States to the extent that the interest or dividends 280
are exempt from federal income taxes but not from state income 281
taxes. 282

(3) Deduct interest or dividends on obligations of the United 283
States and its territories and possessions or of any authority, 284
commission, or instrumentality of the United States to the extent 285
that the interest or dividends are included in federal adjusted 286
gross income but exempt from state income taxes under the laws of 287
the United States. 288

(4) Deduct disability and survivor's benefits to the extent 289
included in federal adjusted gross income. 290

(5) Deduct benefits under Title II of the Social Security Act 291
and tier 1 railroad retirement benefits to the extent included in 292
federal adjusted gross income under section 86 of the Internal 293
Revenue Code. 294

(6) In the case of a taxpayer who is a beneficiary of a trust 295

that makes an accumulation distribution as defined in section 665 296
of the Internal Revenue Code, add, for the beneficiary's taxable 297
years beginning before 2002, the portion, if any, of such 298
distribution that does not exceed the undistributed net income of 299
the trust for the three taxable years preceding the taxable year 300
in which the distribution is made to the extent that the portion 301
was not included in the trust's taxable income for any of the 302
trust's taxable years beginning in 2002 or thereafter. 303

"Undistributed net income of a trust" means the taxable income of 304
the trust increased by (a)(i) the additions to adjusted gross 305
income required under division (A) of this section and (ii) the 306
personal exemptions allowed to the trust pursuant to section 307
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 308
deductions to adjusted gross income required under division (A) of 309
this section, (ii) the amount of federal income taxes attributable 310
to such income, and (iii) the amount of taxable income that has 311
been included in the adjusted gross income of a beneficiary by 312
reason of a prior accumulation distribution. Any undistributed net 313
income included in the adjusted gross income of a beneficiary 314
shall reduce the undistributed net income of the trust commencing 315
with the earliest years of the accumulation period. 316

(7) Deduct the amount of wages and salaries, if any, not 317
otherwise allowable as a deduction but that would have been 318
allowable as a deduction in computing federal adjusted gross 319
income for the taxable year, had the targeted jobs credit allowed 320
and determined under sections 38, 51, and 52 of the Internal 321
Revenue Code not been in effect. 322

(8) Deduct any interest or interest equivalent on public 323
obligations and purchase obligations to the extent that the 324
interest or interest equivalent is included in federal adjusted 325
gross income. 326

(9) Add any loss or deduct any gain resulting from the sale, 327

exchange, or other disposition of public obligations to the extent 328
that the loss has been deducted or the gain has been included in 329
computing federal adjusted gross income. 330

(10) Deduct or add amounts, as provided under section 5747.70 331
of the Revised Code, related to contributions to variable college 332
savings program accounts made or tuition units purchased pursuant 333
to Chapter 3334. of the Revised Code. 334

(11)(a) Deduct, to the extent not otherwise allowable as a 335
deduction or exclusion in computing federal or Ohio adjusted gross 336
income for the taxable year, the amount the taxpayer paid during 337
the taxable year for medical care insurance and qualified 338
long-term care insurance for the taxpayer, the taxpayer's spouse, 339
and dependents. No deduction for medical care insurance under 340
division (A)(11) of this section shall be allowed either to any 341
taxpayer who is eligible to participate in any subsidized health 342
plan maintained by any employer of the taxpayer or of the 343
taxpayer's spouse, or to any taxpayer who is entitled to, or on 344
application would be entitled to, benefits under part A of Title 345
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 346
301, as amended. For the purposes of division (A)(11)(a) of this 347
section, "subsidized health plan" means a health plan for which 348
the employer pays any portion of the plan's cost. The deduction 349
allowed under division (A)(11)(a) of this section shall be the net 350
of any related premium refunds, related premium reimbursements, or 351
related insurance premium dividends received during the taxable 352
year. 353

(b) Deduct, to the extent not otherwise deducted or excluded 354
in computing federal or Ohio adjusted gross income during the 355
taxable year, the amount the taxpayer paid during the taxable 356
year, not compensated for by any insurance or otherwise, for 357
medical care of the taxpayer, the taxpayer's spouse, and 358
dependents, to the extent the expenses exceed seven and one-half 359

per cent of the taxpayer's federal adjusted gross income. 360

(c) Deduct, to the extent not otherwise deducted or excluded 361
in computing federal or Ohio adjusted gross income, any amount 362
included in federal adjusted gross income under section 105 or not 363
excluded under section 106 of the Internal Revenue Code solely 364
because it relates to an accident and health plan for a person who 365
otherwise would be a "qualifying relative" and thus a "dependent" 366
under section 152 of the Internal Revenue Code but for the fact 367
that the person fails to meet the income and support limitations 368
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 369

(d) For purposes of division (A)(11) of this section, 370
"medical care" has the meaning given in section 213 of the 371
Internal Revenue Code, subject to the special rules, limitations, 372
and exclusions set forth therein, and "qualified long-term care" 373
has the same meaning given in section 7702B(c) of the Internal 374
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 375
of this section, "dependent" includes a person who otherwise would 376
be a "qualifying relative" and thus a "dependent" under section 377
152 of the Internal Revenue Code but for the fact that the person 378
fails to meet the income and support limitations under section 379
152(d)(1)(B) and (C) of the Internal Revenue Code. 380

(12)(a) Deduct any amount included in federal adjusted gross 381
income solely because the amount represents a reimbursement or 382
refund of expenses that in any year the taxpayer had deducted as 383
an itemized deduction pursuant to section 63 of the Internal 384
Revenue Code and applicable United States department of the 385
treasury regulations. The deduction otherwise allowed under 386
division (A)(12)(a) of this section shall be reduced to the extent 387
the reimbursement is attributable to an amount the taxpayer 388
deducted under this section in any taxable year. 389

(b) Add any amount not otherwise included in Ohio adjusted 390
gross income for any taxable year to the extent that the amount is 391

attributable to the recovery during the taxable year of any amount 392
deducted or excluded in computing federal or Ohio adjusted gross 393
income in any taxable year. 394

(13) Deduct any portion of the deduction described in section 395
1341(a)(2) of the Internal Revenue Code, for repaying previously 396
reported income received under a claim of right, that meets both 397
of the following requirements: 398

(a) It is allowable for repayment of an item that was 399
included in the taxpayer's adjusted gross income for a prior 400
taxable year and did not qualify for a credit under division (A) 401
or (B) of section 5747.05 of the Revised Code for that year; 402

(b) It does not otherwise reduce the taxpayer's adjusted 403
gross income for the current or any other taxable year. 404

(14) Deduct an amount equal to the deposits made to, and net 405
investment earnings of, a medical savings account during the 406
taxable year, in accordance with section 3924.66 of the Revised 407
Code. The deduction allowed by division (A)(14) of this section 408
does not apply to medical savings account deposits and earnings 409
otherwise deducted or excluded for the current or any other 410
taxable year from the taxpayer's federal adjusted gross income. 411

(15)(a) Add an amount equal to the funds withdrawn from a 412
medical savings account during the taxable year, and the net 413
investment earnings on those funds, when the funds withdrawn were 414
used for any purpose other than to reimburse an account holder 415
for, or to pay, eligible medical expenses, in accordance with 416
section 3924.66 of the Revised Code; 417

(b) Add the amounts distributed from a medical savings 418
account under division (A)(2) of section 3924.68 of the Revised 419
Code during the taxable year. 420

(16) Add any amount claimed as a credit under section 421
5747.059 or 5747.65 of the Revised Code to the extent that such 422

amount satisfies either of the following: 423

(a) The amount was deducted or excluded from the computation 424
of the taxpayer's federal adjusted gross income as required to be 425
reported for the taxpayer's taxable year under the Internal 426
Revenue Code; 427

(b) The amount resulted in a reduction of the taxpayer's 428
federal adjusted gross income as required to be reported for any 429
of the taxpayer's taxable years under the Internal Revenue Code. 430

(17) Deduct the amount contributed by the taxpayer to an 431
individual development account program established by a county 432
department of job and family services pursuant to sections 329.11 433
to 329.14 of the Revised Code for the purpose of matching funds 434
deposited by program participants. On request of the tax 435
commissioner, the taxpayer shall provide any information that, in 436
the tax commissioner's opinion, is necessary to establish the 437
amount deducted under division (A)(17) of this section. 438

(18) Beginning in taxable year 2001 but not for any taxable 439
year beginning after December 31, 2005, if the taxpayer is married 440
and files a joint return and the combined federal adjusted gross 441
income of the taxpayer and the taxpayer's spouse for the taxable 442
year does not exceed one hundred thousand dollars, or if the 443
taxpayer is single and has a federal adjusted gross income for the 444
taxable year not exceeding fifty thousand dollars, deduct amounts 445
paid during the taxable year for qualified tuition and fees paid 446
to an eligible institution for the taxpayer, the taxpayer's 447
spouse, or any dependent of the taxpayer, who is a resident of 448
this state and is enrolled in or attending a program that 449
culminates in a degree or diploma at an eligible institution. The 450
deduction may be claimed only to the extent that qualified tuition 451
and fees are not otherwise deducted or excluded for any taxable 452
year from federal or Ohio adjusted gross income. The deduction may 453
not be claimed for educational expenses for which the taxpayer 454

claims a credit under section 5747.27 of the Revised Code. 455

(19) Add any reimbursement received during the taxable year 456
of any amount the taxpayer deducted under division (A)(18) of this 457
section in any previous taxable year to the extent the amount is 458
not otherwise included in Ohio adjusted gross income. 459

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 460
(v) of this section, add five-sixths of the amount of depreciation 461
expense allowed by subsection (k) of section 168 of the Internal 462
Revenue Code, including the taxpayer's proportionate or 463
distributive share of the amount of depreciation expense allowed 464
by that subsection to a pass-through entity in which the taxpayer 465
has a direct or indirect ownership interest. 466

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 467
this section, add five-sixths of the amount of qualifying section 468
179 depreciation expense, including the taxpayer's proportionate 469
or distributive share of the amount of qualifying section 179 470
depreciation expense allowed to any pass-through entity in which 471
the taxpayer has a direct or indirect ownership interest. 472

(iii) Subject to division (A)(20)(a)(v) of this section, for 473
taxable years beginning in 2012 or thereafter, if the increase in 474
income taxes withheld by the taxpayer is equal to or greater than 475
ten per cent of income taxes withheld by the taxpayer during the 476
taxpayer's immediately preceding taxable year, "two-thirds" shall 477
be substituted for "five-sixths" for the purpose of divisions 478
(A)(20)(a)(i) and (ii) of this section. 479

(iv) Subject to division (A)(20)(a)(v) of this section, for 480
taxable years beginning in 2012 or thereafter, a taxpayer is not 481
required to add an amount under division (A)(20) of this section 482
if the increase in income taxes withheld by the taxpayer and by 483
any pass-through entity in which the taxpayer has a direct or 484
indirect ownership interest is equal to or greater than the sum of 485

(I) the amount of qualifying section 179 depreciation expense and 486
(II) the amount of depreciation expense allowed to the taxpayer by 487
subsection (k) of section 168 of the Internal Revenue Code, and 488
including the taxpayer's proportionate or distributive shares of 489
such amounts allowed to any such pass-through entities. 490

(v) If a taxpayer directly or indirectly incurs a net 491
operating loss for the taxable year for federal income tax 492
purposes, to the extent such loss resulted from depreciation 493
expense allowed by subsection (k) of section 168 of the Internal 494
Revenue Code and by qualifying section 179 depreciation expense, 495
"the entire" shall be substituted for "five-sixths of the" for the 496
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 497

The tax commissioner, under procedures established by the 498
commissioner, may waive the add-backs related to a pass-through 499
entity if the taxpayer owns, directly or indirectly, less than 500
five per cent of the pass-through entity. 501

(b) Nothing in division (A)(20) of this section shall be 502
construed to adjust or modify the adjusted basis of any asset. 503

(c) To the extent the add-back required under division 504
(A)(20)(a) of this section is attributable to property generating 505
nonbusiness income or loss allocated under section 5747.20 of the 506
Revised Code, the add-back shall be situated to the same location 507
as the nonbusiness income or loss generated by the property for 508
the purpose of determining the credit under division (A) of 509
section 5747.05 of the Revised Code. Otherwise, the add-back shall 510
be apportioned, subject to one or more of the four alternative 511
methods of apportionment enumerated in section 5747.21 of the 512
Revised Code. 513

(d) For the purposes of division (A)(20)(a)(v) of this 514
section, net operating loss carryback and carryforward shall not 515
include the allowance of any net operating loss deduction 516

carryback or carryforward to the taxable year to the extent such 517
loss resulted from depreciation allowed by section 168(k) of the 518
Internal Revenue Code and by the qualifying section 179 519
depreciation expense amount. 520

(e) For the purposes of divisions (A)(20) and (21) of this 521
section: 522

(i) "Income taxes withheld" means the total amount withheld 523
and remitted under sections 5747.06 and 5747.07 of the Revised 524
Code by an employer during the employer's taxable year. 525

(ii) "Increase in income taxes withheld" means the amount by 526
which the amount of income taxes withheld by an employer during 527
the employer's current taxable year exceeds the amount of income 528
taxes withheld by that employer during the employer's immediately 529
preceding taxable year. 530

(iii) "Qualifying section 179 depreciation expense" means the 531
difference between (I) the amount of depreciation expense directly 532
or indirectly allowed to a taxpayer under section 179 of the 533
Internal Revised Code, and (II) the amount of depreciation expense 534
directly or indirectly allowed to the taxpayer under section 179 535
of the Internal Revenue Code as that section existed on December 536
31, 2002. 537

(21)(a) If the taxpayer was required to add an amount under 538
division (A)(20)(a) of this section for a taxable year, deduct one 539
of the following: 540

(i) One-fifth of the amount so added for each of the five 541
succeeding taxable years if the amount so added was five-sixths of 542
qualifying section 179 depreciation expense or depreciation 543
expense allowed by subsection (k) of section 168 of the Internal 544
Revenue Code; 545

(ii) One-half of the amount so added for each of the two 546
succeeding taxable years if the amount so added was two-thirds of 547

such depreciation expense; 548

(iii) One-sixth of the amount so added for each of the six 549
succeeding taxable years if the entire amount of such depreciation 550
expense was so added. 551

(b) If the amount deducted under division (A)(21)(a) of this 552
section is attributable to an add-back allocated under division 553
(A)(20)(c) of this section, the amount deducted shall be sitused 554
to the same location. Otherwise, the add-back shall be apportioned 555
using the apportionment factors for the taxable year in which the 556
deduction is taken, subject to one or more of the four alternative 557
methods of apportionment enumerated in section 5747.21 of the 558
Revised Code. 559

(c) No deduction is available under division (A)(21)(a) of 560
this section with regard to any depreciation allowed by section 561
168(k) of the Internal Revenue Code and by the qualifying section 562
179 depreciation expense amount to the extent that such 563
depreciation results in or increases a federal net operating loss 564
carryback or carryforward. If no such deduction is available for a 565
taxable year, the taxpayer may carry forward the amount not 566
deducted in such taxable year to the next taxable year and add 567
that amount to any deduction otherwise available under division 568
(A)(21)(a) of this section for that next taxable year. The 569
carryforward of amounts not so deducted shall continue until the 570
entire addition required by division (A)(20)(a) of this section 571
has been deducted. 572

(d) No refund shall be allowed as a result of adjustments 573
made by division (A)(21) of this section. 574

(22) Deduct, to the extent not otherwise deducted or excluded 575
in computing federal or Ohio adjusted gross income for the taxable 576
year, the amount the taxpayer received during the taxable year as 577
reimbursement for life insurance premiums under section 5919.31 of 578

the Revised Code. 579

(23) Deduct, to the extent not otherwise deducted or excluded 580
in computing federal or Ohio adjusted gross income for the taxable 581
year, the amount the taxpayer received during the taxable year as 582
a death benefit paid by the adjutant general under section 5919.33 583
of the Revised Code. 584

(24) Deduct, to the extent included in federal adjusted gross 585
income and not otherwise allowable as a deduction or exclusion in 586
computing federal or Ohio adjusted gross income for the taxable 587
year, military pay and allowances received by the taxpayer during 588
the taxable year for active duty service in the United States 589
army, air force, navy, marine corps, or coast guard or reserve 590
components thereof or the national guard. The deduction may not be 591
claimed for military pay and allowances received by the taxpayer 592
while the taxpayer is stationed in this state. 593

(25) Deduct, to the extent not otherwise allowable as a 594
deduction or exclusion in computing federal or Ohio adjusted gross 595
income for the taxable year and not otherwise compensated for by 596
any other source, the amount of qualified organ donation expenses 597
incurred by the taxpayer during the taxable year, not to exceed 598
ten thousand dollars. A taxpayer may deduct qualified organ 599
donation expenses only once for all taxable years beginning with 600
taxable years beginning in 2007. 601

For the purposes of division (A)(25) of this section: 602

(a) "Human organ" means all or any portion of a human liver, 603
pancreas, kidney, intestine, or lung, and any portion of human 604
bone marrow. 605

(b) "Qualified organ donation expenses" means travel 606
expenses, lodging expenses, and wages and salary forgone by a 607
taxpayer in connection with the taxpayer's donation, while living, 608
of one or more of the taxpayer's human organs to another human 609

being. 610

(26) Deduct, to the extent not otherwise deducted or excluded 611
in computing federal or Ohio adjusted gross income for the taxable 612
year, amounts received by the taxpayer as retired personnel pay 613
for service in the uniformed services or reserve components 614
thereof, or the national guard, or received by the surviving 615
spouse or former spouse of such a taxpayer under the survivor 616
benefit plan on account of such a taxpayer's death. If the 617
taxpayer receives income on account of retirement paid under the 618
federal civil service retirement system or federal employees 619
retirement system, or under any successor retirement program 620
enacted by the congress of the United States that is established 621
and maintained for retired employees of the United States 622
government, and such retirement income is based, in whole or in 623
part, on credit for the taxpayer's uniformed service, the 624
deduction allowed under this division shall include only that 625
portion of such retirement income that is attributable to the 626
taxpayer's uniformed service, to the extent that portion of such 627
retirement income is otherwise included in federal adjusted gross 628
income and is not otherwise deducted under this section. Any 629
amount deducted under division (A)(26) of this section is not 630
included in a taxpayer's adjusted gross income for the purposes of 631
section 5747.055 of the Revised Code. No amount may be deducted 632
under division (A)(26) of this section on the basis of which a 633
credit was claimed under section 5747.055 of the Revised Code. 634

(27) Deduct, to the extent not otherwise deducted or excluded 635
in computing federal or Ohio adjusted gross income for the taxable 636
year, the amount the taxpayer received during the taxable year 637
from the military injury relief fund created in section 5101.98 of 638
the Revised Code. 639

(28) Deduct, to the extent not otherwise deducted or excluded 640
in computing federal or Ohio adjusted gross income for the taxable 641

year, the amount the taxpayer received as a veterans bonus during 642
the taxable year from the Ohio department of veterans services as 643
authorized by Section 2r of Article VIII, Ohio Constitution. 644

(29) Deduct, to the extent not otherwise deducted or excluded 645
in computing federal or Ohio adjusted gross income for the taxable 646
year, any income derived from a transfer agreement or from the 647
enterprise transferred under that agreement under section 4313.02 648
of the Revised Code. 649

(30) Deduct, to the extent not otherwise deducted or excluded 650
in computing federal or Ohio adjusted gross income for the taxable 651
year, Ohio college opportunity or federal Pell grant amounts 652
received by the taxpayer or the taxpayer's spouse or dependent 653
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 654
1070a, et seq., and used to pay room or board furnished by the 655
educational institution for which the grant was awarded at the 656
institution's facilities, including meal plans administered by the 657
institution. For the purposes of this division, receipt of a grant 658
includes the distribution of a grant directly to an educational 659
institution and the crediting of the grant to the enrollee's 660
account with the institution. 661

(31) Deduct one-half of the taxpayer's Ohio small business 662
investor income, the deduction not to exceed sixty-two thousand 663
five hundred dollars for each spouse if spouses file separate 664
returns under section 5747.08 of the Revised Code or one hundred 665
twenty-five thousand dollars for all other taxpayers. No 666
pass-through entity may claim a deduction under this division. 667

(32) Deduct the amount allowed under section 5747.78 of the 668
Revised Code for a licensed veterinarian who provided services 669
free of charge during the taxable year. 670

For the purposes of this division, "Ohio small business 671
investor income" means the portion of a taxpayer's adjusted gross 672

income that is business income reduced by deductions from business 673
income and apportioned or allocated to this state under sections 674
5747.21 and 5747.22 of the Revised Code, to the extent not 675
otherwise deducted or excluded in computing federal or Ohio 676
adjusted gross income for the taxable year. 677

(B) "Business income" means income, including gain or loss, 678
arising from transactions, activities, and sources in the regular 679
course of a trade or business and includes income, gain, or loss 680
from real property, tangible property, and intangible property if 681
the acquisition, rental, management, and disposition of the 682
property constitute integral parts of the regular course of a 683
trade or business operation. "Business income" includes income, 684
including gain or loss, from a partial or complete liquidation of 685
a business, including, but not limited to, gain or loss from the 686
sale or other disposition of goodwill. 687

(C) "Nonbusiness income" means all income other than business 688
income and may include, but is not limited to, compensation, rents 689
and royalties from real or tangible personal property, capital 690
gains, interest, dividends and distributions, patent or copyright 691
royalties, or lottery winnings, prizes, and awards. 692

(D) "Compensation" means any form of remuneration paid to an 693
employee for personal services. 694

(E) "Fiduciary" means a guardian, trustee, executor, 695
administrator, receiver, conservator, or any other person acting 696
in any fiduciary capacity for any individual, trust, or estate. 697

(F) "Fiscal year" means an accounting period of twelve months 698
ending on the last day of any month other than December. 699

(G) "Individual" means any natural person. 700

(H) "Internal Revenue Code" means the "Internal Revenue Code 701
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 702

(I) "Resident" means any of the following, provided that 703
division (I)(3) of this section applies only to taxable years of a 704
trust beginning in 2002 or thereafter: 705

(1) An individual who is domiciled in this state, subject to 706
section 5747.24 of the Revised Code; 707

(2) The estate of a decedent who at the time of death was 708
domiciled in this state. The domicile tests of section 5747.24 of 709
the Revised Code are not controlling for purposes of division 710
(I)(2) of this section. 711

(3) A trust that, in whole or part, resides in this state. If 712
only part of a trust resides in this state, the trust is a 713
resident only with respect to that part. 714

For the purposes of division (I)(3) of this section: 715

(a) A trust resides in this state for the trust's current 716
taxable year to the extent, as described in division (I)(3)(d) of 717
this section, that the trust consists directly or indirectly, in 718
whole or in part, of assets, net of any related liabilities, that 719
were transferred, or caused to be transferred, directly or 720
indirectly, to the trust by any of the following: 721

(i) A person, a court, or a governmental entity or 722
instrumentality on account of the death of a decedent, but only if 723
the trust is described in division (I)(3)(e)(i) or (ii) of this 724
section; 725

(ii) A person who was domiciled in this state for the 726
purposes of this chapter when the person directly or indirectly 727
transferred assets to an irrevocable trust, but only if at least 728
one of the trust's qualifying beneficiaries is domiciled in this 729
state for the purposes of this chapter during all or some portion 730
of the trust's current taxable year; 731

(iii) A person who was domiciled in this state for the 732

purposes of this chapter when the trust document or instrument or 733
part of the trust document or instrument became irrevocable, but 734
only if at least one of the trust's qualifying beneficiaries is a 735
resident domiciled in this state for the purposes of this chapter 736
during all or some portion of the trust's current taxable year. If 737
a trust document or instrument became irrevocable upon the death 738
of a person who at the time of death was domiciled in this state 739
for purposes of this chapter, that person is a person described in 740
division (I)(3)(a)(iii) of this section. 741

(b) A trust is irrevocable to the extent that the transferor 742
is not considered to be the owner of the net assets of the trust 743
under sections 671 to 678 of the Internal Revenue Code. 744

(c) With respect to a trust other than a charitable lead 745
trust, "qualifying beneficiary" has the same meaning as "potential 746
current beneficiary" as defined in section 1361(e)(2) of the 747
Internal Revenue Code, and with respect to a charitable lead trust 748
"qualifying beneficiary" is any current, future, or contingent 749
beneficiary, but with respect to any trust "qualifying 750
beneficiary" excludes a person or a governmental entity or 751
instrumentality to any of which a contribution would qualify for 752
the charitable deduction under section 170 of the Internal Revenue 753
Code. 754

(d) For the purposes of division (I)(3)(a) of this section, 755
the extent to which a trust consists directly or indirectly, in 756
whole or in part, of assets, net of any related liabilities, that 757
were transferred directly or indirectly, in whole or part, to the 758
trust by any of the sources enumerated in that division shall be 759
ascertained by multiplying the fair market value of the trust's 760
assets, net of related liabilities, by the qualifying ratio, which 761
shall be computed as follows: 762

(i) The first time the trust receives assets, the numerator 763
of the qualifying ratio is the fair market value of those assets 764

at that time, net of any related liabilities, from sources 765
enumerated in division (I)(3)(a) of this section. The denominator 766
of the qualifying ratio is the fair market value of all the 767
trust's assets at that time, net of any related liabilities. 768

(ii) Each subsequent time the trust receives assets, a 769
revised qualifying ratio shall be computed. The numerator of the 770
revised qualifying ratio is the sum of (1) the fair market value 771
of the trust's assets immediately prior to the subsequent 772
transfer, net of any related liabilities, multiplied by the 773
qualifying ratio last computed without regard to the subsequent 774
transfer, and (2) the fair market value of the subsequently 775
transferred assets at the time transferred, net of any related 776
liabilities, from sources enumerated in division (I)(3)(a) of this 777
section. The denominator of the revised qualifying ratio is the 778
fair market value of all the trust's assets immediately after the 779
subsequent transfer, net of any related liabilities. 780

(iii) Whether a transfer to the trust is by or from any of 781
the sources enumerated in division (I)(3)(a) of this section shall 782
be ascertained without regard to the domicile of the trust's 783
beneficiaries. 784

(e) For the purposes of division (I)(3)(a)(i) of this 785
section: 786

(i) A trust is described in division (I)(3)(e)(i) of this 787
section if the trust is a testamentary trust and the testator of 788
that testamentary trust was domiciled in this state at the time of 789
the testator's death for purposes of the taxes levied under 790
Chapter 5731. of the Revised Code. 791

(ii) A trust is described in division (I)(3)(e)(ii) of this 792
section if the transfer is a qualifying transfer described in any 793
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 794
irrevocable inter vivos trust, and at least one of the trust's 795

qualifying beneficiaries is domiciled in this state for purposes 796
of this chapter during all or some portion of the trust's current 797
taxable year. 798

(f) For the purposes of division (I)(3)(e)(ii) of this 799
section, a "qualifying transfer" is a transfer of assets, net of 800
any related liabilities, directly or indirectly to a trust, if the 801
transfer is described in any of the following: 802

(i) The transfer is made to a trust, created by the decedent 803
before the decedent's death and while the decedent was domiciled 804
in this state for the purposes of this chapter, and, prior to the 805
death of the decedent, the trust became irrevocable while the 806
decedent was domiciled in this state for the purposes of this 807
chapter. 808

(ii) The transfer is made to a trust to which the decedent, 809
prior to the decedent's death, had directly or indirectly 810
transferred assets, net of any related liabilities, while the 811
decedent was domiciled in this state for the purposes of this 812
chapter, and prior to the death of the decedent the trust became 813
irrevocable while the decedent was domiciled in this state for the 814
purposes of this chapter. 815

(iii) The transfer is made on account of a contractual 816
relationship existing directly or indirectly between the 817
transferor and either the decedent or the estate of the decedent 818
at any time prior to the date of the decedent's death, and the 819
decedent was domiciled in this state at the time of death for 820
purposes of the taxes levied under Chapter 5731. of the Revised 821
Code. 822

(iv) The transfer is made to a trust on account of a 823
contractual relationship existing directly or indirectly between 824
the transferor and another person who at the time of the 825
decedent's death was domiciled in this state for purposes of this 826

chapter.	827
(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.	828 829 830 831
(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.	832 833 834 835 836 837
(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.	838 839
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	840 841 842 843
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	844 845
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	846 847 848 849
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	850 851 852 853
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of	854 855 856

the Revised Code. 857

(O) "Dependents" means dependents as defined in the Internal 858
Revenue Code and as claimed in the taxpayer's federal income tax 859
return for the taxable year or which the taxpayer would have been 860
permitted to claim had the taxpayer filed a federal income tax 861
return. 862

(P) "Principal county of employment" means, in the case of a 863
nonresident, the county within the state in which a taxpayer 864
performs services for an employer or, if those services are 865
performed in more than one county, the county in which the major 866
portion of the services are performed. 867

(Q) As used in sections 5747.50 to 5747.55 of the Revised 868
Code: 869

(1) "Subdivision" means any county, municipal corporation, 870
park district, or township. 871

(2) "Essential local government purposes" includes all 872
functions that any subdivision is required by general law to 873
exercise, including like functions that are exercised under a 874
charter adopted pursuant to the Ohio Constitution. 875

(R) "Overpayment" means any amount already paid that exceeds 876
the figure determined to be the correct amount of the tax. 877

(S) "Taxable income" or "Ohio taxable income" applies only to 878
estates and trusts, and means federal taxable income, as defined 879
and used in the Internal Revenue Code, adjusted as follows: 880

(1) Add interest or dividends, net of ordinary, necessary, 881
and reasonable expenses not deducted in computing federal taxable 882
income, on obligations or securities of any state or of any 883
political subdivision or authority of any state, other than this 884
state and its subdivisions and authorities, but only to the extent 885
that such net amount is not otherwise includible in Ohio taxable 886

income and is described in either division (S)(1)(a) or (b) of 887
this section: 888

(a) The net amount is not attributable to the S portion of an 889
electing small business trust and has not been distributed to 890
beneficiaries for the taxable year; 891

(b) The net amount is attributable to the S portion of an 892
electing small business trust for the taxable year. 893

(2) Add interest or dividends, net of ordinary, necessary, 894
and reasonable expenses not deducted in computing federal taxable 895
income, on obligations of any authority, commission, 896
instrumentality, territory, or possession of the United States to 897
the extent that the interest or dividends are exempt from federal 898
income taxes but not from state income taxes, but only to the 899
extent that such net amount is not otherwise includible in Ohio 900
taxable income and is described in either division (S)(1)(a) or 901
(b) of this section; 902

(3) Add the amount of personal exemption allowed to the 903
estate pursuant to section 642(b) of the Internal Revenue Code; 904

(4) Deduct interest or dividends, net of related expenses 905
deducted in computing federal taxable income, on obligations of 906
the United States and its territories and possessions or of any 907
authority, commission, or instrumentality of the United States to 908
the extent that the interest or dividends are exempt from state 909
taxes under the laws of the United States, but only to the extent 910
that such amount is included in federal taxable income and is 911
described in either division (S)(1)(a) or (b) of this section; 912

(5) Deduct the amount of wages and salaries, if any, not 913
otherwise allowable as a deduction but that would have been 914
allowable as a deduction in computing federal taxable income for 915
the taxable year, had the targeted jobs credit allowed under 916
sections 38, 51, and 52 of the Internal Revenue Code not been in 917

effect, but only to the extent such amount relates either to 918
income included in federal taxable income for the taxable year or 919
to income of the S portion of an electing small business trust for 920
the taxable year; 921

(6) Deduct any interest or interest equivalent, net of 922
related expenses deducted in computing federal taxable income, on 923
public obligations and purchase obligations, but only to the 924
extent that such net amount relates either to income included in 925
federal taxable income for the taxable year or to income of the S 926
portion of an electing small business trust for the taxable year; 927

(7) Add any loss or deduct any gain resulting from sale, 928
exchange, or other disposition of public obligations to the extent 929
that such loss has been deducted or such gain has been included in 930
computing either federal taxable income or income of the S portion 931
of an electing small business trust for the taxable year; 932

(8) Except in the case of the final return of an estate, add 933
any amount deducted by the taxpayer on both its Ohio estate tax 934
return pursuant to section 5731.14 of the Revised Code, and on its 935
federal income tax return in determining federal taxable income; 936

(9)(a) Deduct any amount included in federal taxable income 937
solely because the amount represents a reimbursement or refund of 938
expenses that in a previous year the decedent had deducted as an 939
itemized deduction pursuant to section 63 of the Internal Revenue 940
Code and applicable treasury regulations. The deduction otherwise 941
allowed under division (S)(9)(a) of this section shall be reduced 942
to the extent the reimbursement is attributable to an amount the 943
taxpayer or decedent deducted under this section in any taxable 944
year. 945

(b) Add any amount not otherwise included in Ohio taxable 946
income for any taxable year to the extent that the amount is 947
attributable to the recovery during the taxable year of any amount 948

deducted or excluded in computing federal or Ohio taxable income 949
in any taxable year, but only to the extent such amount has not 950
been distributed to beneficiaries for the taxable year. 951

(10) Deduct any portion of the deduction described in section 952
1341(a)(2) of the Internal Revenue Code, for repaying previously 953
reported income received under a claim of right, that meets both 954
of the following requirements: 955

(a) It is allowable for repayment of an item that was 956
included in the taxpayer's taxable income or the decedent's 957
adjusted gross income for a prior taxable year and did not qualify 958
for a credit under division (A) or (B) of section 5747.05 of the 959
Revised Code for that year. 960

(b) It does not otherwise reduce the taxpayer's taxable 961
income or the decedent's adjusted gross income for the current or 962
any other taxable year. 963

(11) Add any amount claimed as a credit under section 964
5747.059 or 5747.65 of the Revised Code to the extent that the 965
amount satisfies either of the following: 966

(a) The amount was deducted or excluded from the computation 967
of the taxpayer's federal taxable income as required to be 968
reported for the taxpayer's taxable year under the Internal 969
Revenue Code; 970

(b) The amount resulted in a reduction in the taxpayer's 971
federal taxable income as required to be reported for any of the 972
taxpayer's taxable years under the Internal Revenue Code. 973

(12) Deduct any amount, net of related expenses deducted in 974
computing federal taxable income, that a trust is required to 975
report as farm income on its federal income tax return, but only 976
if the assets of the trust include at least ten acres of land 977
satisfying the definition of "land devoted exclusively to 978
agricultural use" under section 5713.30 of the Revised Code, 979

regardless of whether the land is valued for tax purposes as such 980
land under sections 5713.30 to 5713.38 of the Revised Code. If the 981
trust is a pass-through entity investor, section 5747.231 of the 982
Revised Code applies in ascertaining if the trust is eligible to 983
claim the deduction provided by division (S)(12) of this section 984
in connection with the pass-through entity's farm income. 985

Except for farm income attributable to the S portion of an 986
electing small business trust, the deduction provided by division 987
(S)(12) of this section is allowed only to the extent that the 988
trust has not distributed such farm income. Division (S)(12) of 989
this section applies only to taxable years of a trust beginning in 990
2002 or thereafter. 991

(13) Add the net amount of income described in section 641(c) 992
of the Internal Revenue Code to the extent that amount is not 993
included in federal taxable income. 994

(14) Add or deduct the amount the taxpayer would be required 995
to add or deduct under division (A)(20) or (21) of this section if 996
the taxpayer's Ohio taxable income were computed in the same 997
manner as an individual's Ohio adjusted gross income is computed 998
under this section. In the case of a trust, division (S)(14) of 999
this section applies only to any of the trust's taxable years 1000
beginning in 2002 or thereafter. 1001

(T) "School district income" and "school district income tax" 1002
have the same meanings as in section 5748.01 of the Revised Code. 1003

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 1004
of this section, "public obligations," "purchase obligations," and 1005
"interest or interest equivalent" have the same meanings as in 1006
section 5709.76 of the Revised Code. 1007

(V) "Limited liability company" means any limited liability 1008
company formed under Chapter 1705. of the Revised Code or under 1009
the laws of any other state. 1010

(W) "Pass-through entity investor" means any person who, 1011
during any portion of a taxable year of a pass-through entity, is 1012
a partner, member, shareholder, or equity investor in that 1013
pass-through entity. 1014

(X) "Banking day" has the same meaning as in section 1304.01 1015
of the Revised Code. 1016

(Y) "Month" means a calendar month. 1017

(Z) "Quarter" means the first three months, the second three 1018
months, the third three months, or the last three months of the 1019
taxpayer's taxable year. 1020

(AA)(1) "Eligible institution" means a state university or 1021
state institution of higher education as defined in section 1022
3345.011 of the Revised Code, or a private, nonprofit college, 1023
university, or other post-secondary institution located in this 1024
state that possesses a certificate of authorization issued by the 1025
Ohio board of regents pursuant to Chapter 1713. of the Revised 1026
Code or a certificate of registration issued by the state board of 1027
career colleges and schools under Chapter 3332. of the Revised 1028
Code. 1029

(2) "Qualified tuition and fees" means tuition and fees 1030
imposed by an eligible institution as a condition of enrollment or 1031
attendance, not exceeding two thousand five hundred dollars in 1032
each of the individual's first two years of post-secondary 1033
education. If the individual is a part-time student, "qualified 1034
tuition and fees" includes tuition and fees paid for the academic 1035
equivalent of the first two years of post-secondary education 1036
during a maximum of five taxable years, not exceeding a total of 1037
five thousand dollars. "Qualified tuition and fees" does not 1038
include: 1039

(a) Expenses for any course or activity involving sports, 1040
games, or hobbies unless the course or activity is part of the 1041

individual's degree or diploma program; 1042

(b) The cost of books, room and board, student activity fees, 1043
athletic fees, insurance expenses, or other expenses unrelated to 1044
the individual's academic course of instruction; 1045

(c) Tuition, fees, or other expenses paid or reimbursed 1046
through an employer, scholarship, grant in aid, or other 1047
educational benefit program. 1048

(BB)(1) "Modified business income" means the business income 1049
included in a trust's Ohio taxable income after such taxable 1050
income is first reduced by the qualifying trust amount, if any. 1051

(2) "Qualifying trust amount" of a trust means capital gains 1052
and losses from the sale, exchange, or other disposition of equity 1053
or ownership interests in, or debt obligations of, a qualifying 1054
investee to the extent included in the trust's Ohio taxable 1055
income, but only if the following requirements are satisfied: 1056

(a) The book value of the qualifying investee's physical 1057
assets in this state and everywhere, as of the last day of the 1058
qualifying investee's fiscal or calendar year ending immediately 1059
prior to the date on which the trust recognizes the gain or loss, 1060
is available to the trust. 1061

(b) The requirements of section 5747.011 of the Revised Code 1062
are satisfied for the trust's taxable year in which the trust 1063
recognizes the gain or loss. 1064

Any gain or loss that is not a qualifying trust amount is 1065
modified business income, qualifying investment income, or 1066
modified nonbusiness income, as the case may be. 1067

(3) "Modified nonbusiness income" means a trust's Ohio 1068
taxable income other than modified business income, other than the 1069
qualifying trust amount, and other than qualifying investment 1070
income, as defined in section 5747.012 of the Revised Code, to the 1071

extent such qualifying investment income is not otherwise part of 1072
modified business income. 1073

(4) "Modified Ohio taxable income" applies only to trusts, 1074
and means the sum of the amounts described in divisions (BB)(4)(a) 1075
to (c) of this section: 1076

(a) The fraction, calculated under section 5747.013, and 1077
applying section 5747.231 of the Revised Code, multiplied by the 1078
sum of the following amounts: 1079

(i) The trust's modified business income; 1080

(ii) The trust's qualifying investment income, as defined in 1081
section 5747.012 of the Revised Code, but only to the extent the 1082
qualifying investment income does not otherwise constitute 1083
modified business income and does not otherwise constitute a 1084
qualifying trust amount. 1085

(b) The qualifying trust amount multiplied by a fraction, the 1086
numerator of which is the sum of the book value of the qualifying 1087
investee's physical assets in this state on the last day of the 1088
qualifying investee's fiscal or calendar year ending immediately 1089
prior to the day on which the trust recognizes the qualifying 1090
trust amount, and the denominator of which is the sum of the book 1091
value of the qualifying investee's total physical assets 1092
everywhere on the last day of the qualifying investee's fiscal or 1093
calendar year ending immediately prior to the day on which the 1094
trust recognizes the qualifying trust amount. If, for a taxable 1095
year, the trust recognizes a qualifying trust amount with respect 1096
to more than one qualifying investee, the amount described in 1097
division (BB)(4)(b) of this section shall equal the sum of the 1098
products so computed for each such qualifying investee. 1099

(c)(i) With respect to a trust or portion of a trust that is 1100
a resident as ascertained in accordance with division (I)(3)(d) of 1101
this section, its modified nonbusiness income. 1102

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

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

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

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's

fiscal or calendar year ending immediately prior to the date on 1135
which the trust recognizes the gain or loss, then "qualifying 1136
investee" includes all persons in the qualifying controlled group 1137
on such last day. 1138

(ii) If the qualifying investee, or if the qualifying 1139
investee and any members of the qualifying controlled group of 1140
which the qualifying investee is a member on the last day of the 1141
qualifying investee's fiscal or calendar year ending immediately 1142
prior to the date on which the trust recognizes the gain or loss, 1143
separately or cumulatively own, directly or indirectly, on the 1144
last day of the qualifying investee's fiscal or calendar year 1145
ending immediately prior to the date on which the trust recognizes 1146
the qualifying trust amount, more than fifty per cent of the 1147
equity of a pass-through entity, then the qualifying investee and 1148
the other members are deemed to own the proportionate share of the 1149
pass-through entity's physical assets which the pass-through 1150
entity directly or indirectly owns on the last day of the 1151
pass-through entity's calendar or fiscal year ending within or 1152
with the last day of the qualifying investee's fiscal or calendar 1153
year ending immediately prior to the date on which the trust 1154
recognizes the qualifying trust amount. 1155

(iii) For the purposes of division (BB)(5)(a)(iii) of this 1156
section, "upper level pass-through entity" means a pass-through 1157
entity directly or indirectly owning any equity of another 1158
pass-through entity, and "lower level pass-through entity" means 1159
that other pass-through entity. 1160

An upper level pass-through entity, whether or not it is also 1161
a qualifying investee, is deemed to own, on the last day of the 1162
upper level pass-through entity's calendar or fiscal year, the 1163
proportionate share of the lower level pass-through entity's 1164
physical assets that the lower level pass-through entity directly 1165
or indirectly owns on the last day of the lower level pass-through 1166

entity's calendar or fiscal year ending within or with the last 1167
day of the upper level pass-through entity's fiscal or calendar 1168
year. If the upper level pass-through entity directly and 1169
indirectly owns less than fifty per cent of the equity of the 1170
lower level pass-through entity on each day of the upper level 1171
pass-through entity's calendar or fiscal year in which or with 1172
which ends the calendar or fiscal year of the lower level 1173
pass-through entity and if, based upon clear and convincing 1174
evidence, complete information about the location and cost of the 1175
physical assets of the lower pass-through entity is not available 1176
to the upper level pass-through entity, then solely for purposes 1177
of ascertaining if a gain or loss constitutes a qualifying trust 1178
amount, the upper level pass-through entity shall be deemed as 1179
owning no equity of the lower level pass-through entity for each 1180
day during the upper level pass-through entity's calendar or 1181
fiscal year in which or with which ends the lower level 1182
pass-through entity's calendar or fiscal year. Nothing in division 1183
(BB)(5)(a)(iii) of this section shall be construed to provide for 1184
any deduction or exclusion in computing any trust's Ohio taxable 1185
income. 1186

(b) With respect to a trust that is not a resident for the 1187
taxable year and with respect to a part of a trust that is not a 1188
resident for the taxable year, "qualifying investee" for that 1189
taxable year does not include a C corporation if both of the 1190
following apply: 1191

(i) During the taxable year the trust or part of the trust 1192
recognizes a gain or loss from the sale, exchange, or other 1193
disposition of equity or ownership interests in, or debt 1194
obligations of, the C corporation. 1195

(ii) Such gain or loss constitutes nonbusiness income. 1196

(6) "Available" means information is such that a person is 1197
able to learn of the information by the due date plus extensions, 1198

if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

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

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

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

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

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

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

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

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

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

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

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

(3) A "qualifying pre-income tax trust election" is an 1229
election by a pre-income tax trust to subject to the tax imposed 1230
by section 5751.02 of the Revised Code the pre-income tax trust 1231
and all pass-through entities of which the trust owns or controls, 1232
directly, indirectly, or constructively through related interests, 1233
five per cent or more of the ownership or equity interests. The 1234
trustee shall notify the tax commissioner in writing of the 1235
election on or before April 15, 2006. The election, if timely 1236
made, shall be effective on and after January 1, 2006, and shall 1237
apply for all tax periods and tax years until revoked by the 1238
trustee of the trust. 1239

(4) A "pre-income tax trust" is a trust that satisfies all of 1240
the following requirements: 1241

(a) The document or instrument creating the trust was 1242
executed by the grantor before January 1, 1972; 1243

(b) The trust became irrevocable upon the creation of the 1244
trust; and 1245

(c) The grantor was domiciled in this state at the time the 1246
trust was created. 1247

(GG) "Uniformed services" has the same meaning as in 10 1248
U.S.C. 101. 1249

Sec. 5747.78. (A) As used in this section: 1250

(1) "Licensed veterinarian" has the same meaning as in 1251
section 4741.01 of the Revised Code. 1252

(2) "Veterinary services" means any of the activities 1253
described in divisions (B)(1) to (5) of section 4741.01 of the 1254
Revised Code. 1255

(B) In computing Ohio adjusted gross income, a deduction from 1256
federal adjusted gross income is allowed for licensed 1257
veterinarians who provide veterinary services free of charge. The 1258

deduction shall equal the lesser of the following amounts: 1259

(1) The number of hours of veterinary service that the taxpayer provided free of charge during the taxable year multiplied by the average hourly rate, as determined by the tax commissioner, charged by licensed veterinarians doing business in the region in which the taxpayer provided the service; 1260
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(2) Two thousand five hundred dollars. 1265

In August of 2019, and in August of each fifth year thereafter, the tax commissioner shall determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce during the five-year period that ended on the last day of December of the preceding calendar year, and shall adjust the amount in division (B)(2) of this section by multiplying that amount by the percentage increase in the gross domestic product deflator for that five-year period and adding the resulting product to the amount that applied for taxable years beginning in the preceding calendar year. The adjusted amount applies to taxable years beginning in the calendar year in which the adjustment is made and to taxable years beginning in each ensuing calendar year until the calendar year in which a new adjustment is made pursuant to this division. The commissioner shall not make a new adjustment in any calendar year in which the amount resulting from the adjustment would be less than the amount resulting from the immediately preceding adjustment or two thousand five hundred dollars, whichever is greater. 1266
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(C) The tax commissioner may require a taxpayer to provide any documentation necessary to substantiate a claim for a deduction allowed under this section. 1285
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Section 2. That existing sections 4741.01, 4741.03, 4741.26, and 5747.01 of the Revised Code are hereby repealed. 1288
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