

**As Introduced**

**130th General Assembly  
Regular Session  
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**H. B. No. 601**

**Representatives Beck, Adams, J.**

**Cosponsors: Representatives Retherford, Romanchuk, Brenner**

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**A B I L L**

To amend sections 5725.33 and 5747.01 and to enact 1  
section 5747.014 of the Revised Code to authorize 2  
taxpayers to continue applying certain expiring 3  
federal tax provisions in calculating Ohio income 4  
tax, and to declare an emergency. 5

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

**Section 1.** That sections 5725.33 and 5747.01 be amended and 6  
section 5747.014 of the Revised Code be enacted to read as 7  
follows: 8

**Sec. 5725.33.** (A) Except as otherwise provided in this 9  
section, terms used in this section have the same meaning as 10  
section 45D of the Internal Revenue Code, any related proposed, 11  
temporary or final regulations promulgated under the Internal 12  
Revenue Code, any rules or guidance of the internal revenue 13  
service or the United States department of the treasury, and any 14  
related rules or guidance issued by the community development 15  
financial institutions fund of the United States department of the 16  
treasury, as such law, regulations, rules, and guidance exist on 17  
October 16, 2009. 18

As used in this section: 19

(1) "Adjusted purchase price" means the amount paid for 20  
qualified equity investments multiplied by the qualified 21  
low-income community investments made by the issuer in projects 22  
located in this state as a percentage of the total amount of 23  
qualified low-income community investments made by the issuer in 24  
projects located in all states on the credit allowance date during 25  
the applicable tax year, subject to divisions (B)(1) and (2) of 26  
this section. 27

(2) "Applicable percentage" means zero per cent for each of 28  
the first two credit allowance dates, seven per cent for the third 29  
credit allowance date, and eight per cent for the four following 30  
credit allowance dates. 31

(3) "Credit allowance date" means the date, on or after 32  
January 1, 2010, a qualified equity investment is made and each of 33  
the six anniversary dates thereafter. For qualified equity 34  
investments made after October 16, 2009, but before January 1, 35  
2010, the initial credit allowance date is January 1, 2010, and 36  
each of the six anniversary dates thereafter is on the first day 37  
of January of each year. 38

(4) "Qualified active low-income community business" excludes 39  
any business that derives or projects to derive fifteen per cent 40  
or more of annual revenue from the rental or sale of real 41  
property, except any business that is a special purpose entity 42  
principally owned by a principal user of that property formed 43  
solely for the purpose of renting, either directly or indirectly, 44  
or selling real property back to such principal user if such 45  
principal user does not derive fifteen per cent or more of its 46  
gross annual revenue from the rental or sale of real property. 47

(5) "Qualified community development entity" includes only 48  
entities: 49

~~(a) That~~ that have entered into an allocation agreement with 50

the community development financial institutions fund of the 51  
United States department of the treasury with respect to credits 52  
authorized by section 45D of the Internal Revenue Code; 53

~~(b) Whose and whose service area includes any portion of this 54  
state; and 55~~

~~(c) That will designate an equity investment in such entities 56  
as a qualified equity investment for purposes of both section 45D 57  
of the Internal Revenue Code and this section. 58~~

(6) "Qualified equity investment" is limited to an equity 59  
investment in a qualified community development entity that: 60

(a) Is acquired after October 16, 2009, at its original 61  
issuance solely in exchange for cash; 62

(b) Has at least eighty-five per cent of its cash purchase 63  
price used by the qualified community development entity to make 64  
qualified low-income community investments, provided that in the 65  
seventh year after a qualified equity investment is made, only 66  
seventy-five per cent of such cash purchase price must be used by 67  
the qualified community development entity to make qualified 68  
low-income community investments; and 69

(c) Is designated by the issuer as a qualified equity 70  
investment. 71

"Qualified equity investment" includes any equity investment 72  
that would, but for division (A)(6)(a) of this section, be a 73  
qualified equity investment in the hands of the taxpayer if such 74  
investment was a qualified equity investment in the hands of a 75  
prior holder. 76

(B) There is hereby allowed a nonrefundable credit against 77  
the tax imposed by section 5725.18 of the Revised Code for an 78  
insurance company holding a qualified equity investment on the 79  
credit allowance date occurring in the calendar year for which the 80

tax is due. The credit shall equal the applicable percentage of 81  
the adjusted purchase price of qualified low-income community 82  
investments, subject to divisions (B)(1) and (2) of this section: 83

(1) For the purpose of calculating the amount of qualified 84  
low-income community investments held by a qualified community 85  
development entity, an investment shall be considered held by a 86  
qualified community development entity even if the investment has 87  
been sold or repaid, provided that, at any time before the seventh 88  
anniversary of the issuance of the qualified equity investment, 89  
the qualified community development entity reinvests an amount 90  
equal to the capital returned to or received or recovered by the 91  
qualified community development entity from the original 92  
investment, exclusive of any profits realized and costs incurred 93  
in the sale or repayment, in another qualified low-income 94  
community investment within twelve months of the receipt of such 95  
capital. If the qualified low-income community investment is sold 96  
or repaid after the sixth anniversary of the issuance of the 97  
qualified equity investment, the qualified low-income community 98  
investment shall be considered held by the qualified community 99  
development entity through the seventh anniversary of the 100  
qualified equity investment's issuance. 101

(2) The qualified low-income community investment made in 102  
this state shall equal the sum of the qualified low-income 103  
community investments in each qualified active low-income 104  
community business in this state, not to exceed two million five 105  
hundred sixty-four thousand dollars, in which the qualified 106  
community development entity invests, including such investments 107  
in any such businesses in this state related to that qualified 108  
active low-income community business through majority ownership or 109  
control. 110

The credit shall be claimed in the order prescribed by 111  
section 5725.98 of the Revised Code. If the amount of the credit 112

exceeds the amount of tax otherwise due after deducting all other 113  
credits in that order, the excess may be carried forward and 114  
applied to the tax due for not more than four ensuing years. 115

By claiming a tax credit under this section, an insurance 116  
company waives its rights under section 5725.222 of the Revised 117  
Code with respect to the time limitation for the assessment of 118  
taxes as it relates to credits claimed that later become subject 119  
to recapture under division (E) of this section. 120

(C) The amount of qualified equity investments on the basis 121  
of which credits may be claimed under this section and sections 122  
5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed 123  
the amount, estimated by the director of development, that would 124  
cause the total amount of credits allowed each fiscal year to 125  
exceed ten million dollars, computed without regard to the 126  
potential for taxpayers to carry tax credits forward to later 127  
years. 128

(D) If any amount of ~~the~~ a federal tax credit allowed for a 129  
qualified equity investment for which a credit was received under 130  
this section is recaptured under section 45D of the Internal 131  
Revenue Code, or if the director of development services 132  
determines that an investment for which a tax credit is claimed 133  
under this section is not a qualified equity investment or that 134  
the proceeds of an investment for which a tax credit is claimed 135  
under this section are used to make qualified low-income community 136  
investments other than in a qualified active low-income community 137  
business, all or a portion of the credit received on account of 138  
that investment shall be paid by the insurance company that 139  
received the credit to the superintendent of insurance. The amount 140  
to be recovered shall be determined by the director of development 141  
services pursuant to rules adopted under division (E) of this 142  
section. The director shall certify any amount due under this 143  
division to the superintendent of insurance, and the 144

superintendent shall notify the treasurer of state of the amount 145  
due. Upon notification, the treasurer shall invoice the insurance 146  
company for the amount due. The amount due is payable not later 147  
than thirty days after the date the treasurer invoices the 148  
insurance company. The amount due shall be considered to be tax 149  
due under section 5725.18 of the Revised Code, and may be 150  
collected by assessment without regard to the time limitations 151  
imposed under section 5725.222 of the Revised Code for the 152  
assessment of taxes by the superintendent. All amounts collected 153  
under this division shall be credited as revenue from the tax 154  
levied under section 5725.18 of the Revised Code. 155

(E) The tax credits authorized under this section and 156  
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 157  
be administered by the department of development services. The 158  
director of development services, in consultation with the tax 159  
commissioner and the superintendent of insurance, pursuant to 160  
Chapter 119. of the Revised Code, shall adopt rules for the 161  
administration of this section and sections 5726.54, 5729.16, and 162  
5733.58 of the Revised Code. The rules shall provide for 163  
determining the recovery of credits under division (D) of this 164  
section and under sections 5726.54, 5729.16, and 5733.58 of the 165  
Revised Code, including prorating the amount of the credit to be 166  
recovered on any reasonable basis, the manner in which credits may 167  
be allocated among claimants, and the amount of any application or 168  
other fees to be charged in connection with a recovery. 169

(F) There is hereby created in the state treasury the new 170  
markets tax credit operating fund. The director of development 171  
services is authorized to charge reasonable application and other 172  
fees in connection with the administration of tax credits 173  
authorized by this section and sections 5726.54, 5729.16, and 174  
5733.58 of the Revised Code. Any such fees collected shall be 175  
credited to the fund. The director of development services shall 176

use money in the fund to pay expenses related to the 177  
administration of tax credits authorized under sections 5725.33, 178  
5726.54, 5729.16, and 5733.58 of the Revised Code. 179

**Sec. 5747.01.** Except as otherwise expressly provided or 180  
clearly appearing from the context, any term used in this chapter 181  
that is not otherwise defined in this section has the same meaning 182  
as when used in a comparable context in the laws of the United 183  
States relating to federal income taxes or if not used in a 184  
comparable context in those laws, has the same meaning as in 185  
section 5733.40 of the Revised Code. Any reference in this chapter 186  
to the Internal Revenue Code includes other laws of the United 187  
States relating to federal income taxes. 188

As used in this chapter: 189

(A) "Adjusted gross income" or "Ohio adjusted gross income" 190  
means federal adjusted gross income, as defined and used in the 191  
Internal Revenue Code, adjusted as provided in this section: 192

(1) Add interest or dividends on obligations or securities of 193  
any state or of any political subdivision or authority of any 194  
state, other than this state and its subdivisions and authorities. 195

(2) Add interest or dividends on obligations of any 196  
authority, commission, instrumentality, territory, or possession 197  
of the United States to the extent that the interest or dividends 198  
are exempt from federal income taxes but not from state income 199  
taxes. 200

(3) Deduct interest or dividends on obligations of the United 201  
States and its territories and possessions or of any authority, 202  
commission, or instrumentality of the United States to the extent 203  
that the interest or dividends are included in federal adjusted 204  
gross income but exempt from state income taxes under the laws of 205  
the United States. 206

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	207 208
(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.	209 210 211 212
(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.	213 214 215 216 217 218 219 220 221
"Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.	222 223 224 225 226 227 228 229 230 231 232 233 234
(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed	235 236 237 238



and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect. 239  
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(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income. 241  
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(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income. 245  
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(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code. 249  
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(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable 253  
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year. 271

(b) Deduct, to the extent not otherwise deducted or excluded 272  
in computing federal or Ohio adjusted gross income during the 273  
taxable year, the amount the taxpayer paid during the taxable 274  
year, not compensated for by any insurance or otherwise, for 275  
medical care of the taxpayer, the taxpayer's spouse, and 276  
dependents, to the extent the expenses exceed seven and one-half 277  
per cent of the taxpayer's federal adjusted gross income. 278

(c) Deduct, to the extent not otherwise deducted or excluded 279  
in computing federal or Ohio adjusted gross income, any amount 280  
included in federal adjusted gross income under section 105 or not 281  
excluded under section 106 of the Internal Revenue Code solely 282  
because it relates to an accident and health plan for a person who 283  
otherwise would be a "qualifying relative" and thus a "dependent" 284  
under section 152 of the Internal Revenue Code but for the fact 285  
that the person fails to meet the income and support limitations 286  
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 287

(d) For purposes of division (A)(11) of this section, 288  
"medical care" has the meaning given in section 213 of the 289  
Internal Revenue Code, subject to the special rules, limitations, 290  
and exclusions set forth therein, and "qualified long-term care" 291  
has the same meaning given in section 7702B(c) of the Internal 292  
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 293  
of this section, "dependent" includes a person who otherwise would 294  
be a "qualifying relative" and thus a "dependent" under section 295  
152 of the Internal Revenue Code but for the fact that the person 296  
fails to meet the income and support limitations under section 297  
152(d)(1)(B) and (C) of the Internal Revenue Code. 298

(12)(a) Deduct any amount included in federal adjusted gross 299  
income solely because the amount represents a reimbursement or 300  
refund of expenses that in any year the taxpayer had deducted as 301  
an itemized deduction pursuant to section 63 of the Internal 302

Revenue Code and applicable United States department of the 303  
treasury regulations. The deduction otherwise allowed under 304  
division (A)(12)(a) of this section shall be reduced to the extent 305  
the reimbursement is attributable to an amount the taxpayer 306  
deducted under this section in any taxable year. 307

(b) Add any amount not otherwise included in Ohio adjusted 308  
gross income for any taxable year to the extent that the amount is 309  
attributable to the recovery during the taxable year of any amount 310  
deducted or excluded in computing federal or Ohio adjusted gross 311  
income in any taxable year. 312

(13) Deduct any portion of the deduction described in section 313  
1341(a)(2) of the Internal Revenue Code, for repaying previously 314  
reported income received under a claim of right, that meets both 315  
of the following requirements: 316

(a) It is allowable for repayment of an item that was 317  
included in the taxpayer's adjusted gross income for a prior 318  
taxable year and did not qualify for a credit under division (A) 319  
or (B) of section 5747.05 of the Revised Code for that year; 320

(b) It does not otherwise reduce the taxpayer's adjusted 321  
gross income for the current or any other taxable year. 322

(14) Deduct an amount equal to the deposits made to, and net 323  
investment earnings of, a medical savings account during the 324  
taxable year, in accordance with section 3924.66 of the Revised 325  
Code. The deduction allowed by division (A)(14) of this section 326  
does not apply to medical savings account deposits and earnings 327  
otherwise deducted or excluded for the current or any other 328  
taxable year from the taxpayer's federal adjusted gross income. 329

(15)(a) Add an amount equal to the funds withdrawn from a 330  
medical savings account during the taxable year, and the net 331  
investment earnings on those funds, when the funds withdrawn were 332  
used for any purpose other than to reimburse an account holder 333

for, or to pay, eligible medical expenses, in accordance with 334  
section 3924.66 of the Revised Code; 335

(b) Add the amounts distributed from a medical savings 336  
account under division (A)(2) of section 3924.68 of the Revised 337  
Code during the taxable year. 338

(16) Add any amount claimed as a credit under section 339  
5747.059 or 5747.65 of the Revised Code to the extent that such 340  
amount satisfies either of the following: 341

(a) The amount was deducted or excluded from the computation 342  
of the taxpayer's federal adjusted gross income as required to be 343  
reported for the taxpayer's taxable year under the Internal 344  
Revenue Code; 345

(b) The amount resulted in a reduction of the taxpayer's 346  
federal adjusted gross income as required to be reported for any 347  
of the taxpayer's taxable years under the Internal Revenue Code. 348

(17) Deduct the amount contributed by the taxpayer to an 349  
individual development account program established by a county 350  
department of job and family services pursuant to sections 329.11 351  
to 329.14 of the Revised Code for the purpose of matching funds 352  
deposited by program participants. On request of the tax 353  
commissioner, the taxpayer shall provide any information that, in 354  
the tax commissioner's opinion, is necessary to establish the 355  
amount deducted under division (A)(17) of this section. 356

(18) Beginning in taxable year 2001 but not for any taxable 357  
year beginning after December 31, 2005, if the taxpayer is married 358  
and files a joint return and the combined federal adjusted gross 359  
income of the taxpayer and the taxpayer's spouse for the taxable 360  
year does not exceed one hundred thousand dollars, or if the 361  
taxpayer is single and has a federal adjusted gross income for the 362  
taxable year not exceeding fifty thousand dollars, deduct amounts 363  
paid during the taxable year for qualified tuition and fees paid 364

to an eligible institution for the taxpayer, the taxpayer's 365  
spouse, or any dependent of the taxpayer, who is a resident of 366  
this state and is enrolled in or attending a program that 367  
culminates in a degree or diploma at an eligible institution. The 368  
deduction may be claimed only to the extent that qualified tuition 369  
and fees are not otherwise deducted or excluded for any taxable 370  
year from federal or Ohio adjusted gross income. The deduction may 371  
not be claimed for educational expenses for which the taxpayer 372  
claims a credit under section 5747.27 of the Revised Code. 373

(19) Add any reimbursement received during the taxable year 374  
of any amount the taxpayer deducted under division (A)(18) of this 375  
section in any previous taxable year to the extent the amount is 376  
not otherwise included in Ohio adjusted gross income. 377

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 378  
(v) of this section, add five-sixths of the amount of depreciation 379  
expense allowed by subsection (k) of section 168 of the Internal 380  
Revenue Code, including the taxpayer's proportionate or 381  
distributive share of the amount of depreciation expense allowed 382  
by that subsection to a pass-through entity in which the taxpayer 383  
has a direct or indirect ownership interest. 384

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 385  
this section, add five-sixths of the amount of qualifying section 386  
179 depreciation expense, including the taxpayer's proportionate 387  
or distributive share of the amount of qualifying section 179 388  
depreciation expense allowed to any pass-through entity in which 389  
the taxpayer has a direct or indirect ownership interest. 390

(iii) Subject to division (A)(20)(a)(v) of this section, for 391  
taxable years beginning in 2012 or thereafter, if the increase in 392  
income taxes withheld by the taxpayer is equal to or greater than 393  
ten per cent of income taxes withheld by the taxpayer during the 394  
taxpayer's immediately preceding taxable year, "two-thirds" shall 395  
be substituted for "five-sixths" for the purpose of divisions 396

(A)(20)(a)(i) and (ii) of this section. 397

(iv) Subject to division (A)(20)(a)(v) of this section, for 398  
taxable years beginning in 2012 or thereafter, a taxpayer is not 399  
required to add an amount under division (A)(20) of this section 400  
if the increase in income taxes withheld by the taxpayer and by 401  
any pass-through entity in which the taxpayer has a direct or 402  
indirect ownership interest is equal to or greater than the sum of 403  
(I) the amount of qualifying section 179 depreciation expense and 404  
(II) the amount of depreciation expense allowed to the taxpayer by 405  
subsection (k) of section 168 of the Internal Revenue Code, and 406  
including the taxpayer's proportionate or distributive shares of 407  
such amounts allowed to any such pass-through entities. 408

(v) If a taxpayer directly or indirectly incurs a net 409  
operating loss for the taxable year for federal income tax 410  
purposes, to the extent such loss resulted from depreciation 411  
expense allowed by subsection (k) of section 168 of the Internal 412  
Revenue Code and by qualifying section 179 depreciation expense, 413  
"the entire" shall be substituted for "five-sixths of the" for the 414  
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 415

The tax commissioner, under procedures established by the 416  
commissioner, may waive the add-backs related to a pass-through 417  
entity if the taxpayer owns, directly or indirectly, less than 418  
five per cent of the pass-through entity. 419

(b) Nothing in division (A)(20) of this section shall be 420  
construed to adjust or modify the adjusted basis of any asset. 421

(c) To the extent the add-back required under division 422  
(A)(20)(a) of this section is attributable to property generating 423  
nonbusiness income or loss allocated under section 5747.20 of the 424  
Revised Code, the add-back shall be situated to the same location 425  
as the nonbusiness income or loss generated by the property for 426  
the purpose of determining the credit under division (A) of 427

section 5747.05 of the Revised Code. Otherwise, the add-back shall 428  
be apportioned, subject to one or more of the four alternative 429  
methods of apportionment enumerated in section 5747.21 of the 430  
Revised Code. 431

(d) For the purposes of division (A)(20)(a)(v) of this 432  
section, net operating loss carryback and carryforward shall not 433  
include the allowance of any net operating loss deduction 434  
carryback or carryforward to the taxable year to the extent such 435  
loss resulted from depreciation allowed by section 168(k) of the 436  
Internal Revenue Code and by the qualifying section 179 437  
depreciation expense amount. 438

(e) For the purposes of divisions (A)(20) and (21) of this 439  
section: 440

(i) "Income taxes withheld" means the total amount withheld 441  
and remitted under sections 5747.06 and 5747.07 of the Revised 442  
Code by an employer during the employer's taxable year. 443

(ii) "Increase in income taxes withheld" means the amount by 444  
which the amount of income taxes withheld by an employer during 445  
the employer's current taxable year exceeds the amount of income 446  
taxes withheld by that employer during the employer's immediately 447  
preceding taxable year. 448

(iii) "Qualifying section 179 depreciation expense" means the 449  
difference between (I) the amount of depreciation expense directly 450  
or indirectly allowed to a taxpayer under section 179 of the 451  
Internal Revised Code, and (II) the amount of depreciation expense 452  
directly or indirectly allowed to the taxpayer under section 179 453  
of the Internal Revenue Code as that section existed on December 454  
31, 2002. 455

(21)(a) If the taxpayer was required to add an amount under 456  
division (A)(20)(a) of this section for a taxable year, deduct one 457  
of the following: 458

(i) One-fifth of the amount so added for each of the five 459  
succeeding taxable years if the amount so added was five-sixths of 460  
qualifying section 179 depreciation expense or depreciation 461  
expense allowed by subsection (k) of section 168 of the Internal 462  
Revenue Code; 463

(ii) One-half of the amount so added for each of the two 464  
succeeding taxable years if the amount so added was two-thirds of 465  
such depreciation expense; 466

(iii) One-sixth of the amount so added for each of the six 467  
succeeding taxable years if the entire amount of such depreciation 468  
expense was so added. 469

(b) If the amount deducted under division (A)(21)(a) of this 470  
section is attributable to an add-back allocated under division 471  
(A)(20)(c) of this section, the amount deducted shall be situated 472  
to the same location. Otherwise, the add-back shall be apportioned 473  
using the apportionment factors for the taxable year in which the 474  
deduction is taken, subject to one or more of the four alternative 475  
methods of apportionment enumerated in section 5747.21 of the 476  
Revised Code. 477

(c) No deduction is available under division (A)(21)(a) of 478  
this section with regard to any depreciation allowed by section 479  
168(k) of the Internal Revenue Code and by the qualifying section 480  
179 depreciation expense amount to the extent that such 481  
depreciation results in or increases a federal net operating loss 482  
carryback or carryforward. If no such deduction is available for a 483  
taxable year, the taxpayer may carry forward the amount not 484  
deducted in such taxable year to the next taxable year and add 485  
that amount to any deduction otherwise available under division 486  
(A)(21)(a) of this section for that next taxable year. The 487  
carryforward of amounts not so deducted shall continue until the 488  
entire addition required by division (A)(20)(a) of this section 489  
has been deducted. 490



(d) No refund shall be allowed as a result of adjustments 491  
made by division (A)(21) of this section. 492

(22) Deduct, to the extent not otherwise deducted or excluded 493  
in computing federal or Ohio adjusted gross income for the taxable 494  
year, the amount the taxpayer received during the taxable year as 495  
reimbursement for life insurance premiums under section 5919.31 of 496  
the Revised Code. 497

(23) Deduct, to the extent not otherwise deducted or excluded 498  
in computing federal or Ohio adjusted gross income for the taxable 499  
year, the amount the taxpayer received during the taxable year as 500  
a death benefit paid by the adjutant general under section 5919.33 501  
of the Revised Code. 502

(24) Deduct, to the extent included in federal adjusted gross 503  
income and not otherwise allowable as a deduction or exclusion in 504  
computing federal or Ohio adjusted gross income for the taxable 505  
year, military pay and allowances received by the taxpayer during 506  
the taxable year for active duty service in the United States 507  
army, air force, navy, marine corps, or coast guard or reserve 508  
components thereof or the national guard. The deduction may not be 509  
claimed for military pay and allowances received by the taxpayer 510  
while the taxpayer is stationed in this state. 511

(25) Deduct, to the extent not otherwise allowable as a 512  
deduction or exclusion in computing federal or Ohio adjusted gross 513  
income for the taxable year and not otherwise compensated for by 514  
any other source, the amount of qualified organ donation expenses 515  
incurred by the taxpayer during the taxable year, not to exceed 516  
ten thousand dollars. A taxpayer may deduct qualified organ 517  
donation expenses only once for all taxable years beginning with 518  
taxable years beginning in 2007. 519

For the purposes of division (A)(25) of this section: 520

(a) "Human organ" means all or any portion of a human liver, 521

pancreas, kidney, intestine, or lung, and any portion of human 522  
bone marrow. 523

(b) "Qualified organ donation expenses" means travel 524  
expenses, lodging expenses, and wages and salary forgone by a 525  
taxpayer in connection with the taxpayer's donation, while living, 526  
of one or more of the taxpayer's human organs to another human 527  
being. 528

(26) Deduct, to the extent not otherwise deducted or excluded 529  
in computing federal or Ohio adjusted gross income for the taxable 530  
year, amounts received by the taxpayer as retired personnel pay 531  
for service in the uniformed services or reserve components 532  
thereof, or the national guard, or received by the surviving 533  
spouse or former spouse of such a taxpayer under the survivor 534  
benefit plan on account of such a taxpayer's death. If the 535  
taxpayer receives income on account of retirement paid under the 536  
federal civil service retirement system or federal employees 537  
retirement system, or under any successor retirement program 538  
enacted by the congress of the United States that is established 539  
and maintained for retired employees of the United States 540  
government, and such retirement income is based, in whole or in 541  
part, on credit for the taxpayer's uniformed service, the 542  
deduction allowed under this division shall include only that 543  
portion of such retirement income that is attributable to the 544  
taxpayer's uniformed service, to the extent that portion of such 545  
retirement income is otherwise included in federal adjusted gross 546  
income and is not otherwise deducted under this section. Any 547  
amount deducted under division (A)(26) of this section is not 548  
included in a taxpayer's adjusted gross income for the purposes of 549  
section 5747.055 of the Revised Code. No amount may be deducted 550  
under division (A)(26) of this section on the basis of which a 551  
credit was claimed under section 5747.055 of the Revised Code. 552

(27) Deduct, to the extent not otherwise deducted or excluded 553

in computing federal or Ohio adjusted gross income for the taxable 554  
year, the amount the taxpayer received during the taxable year 555  
from the military injury relief fund created in section 5101.98 of 556  
the Revised Code. 557

(28) Deduct, to the extent not otherwise deducted or excluded 558  
in computing federal or Ohio adjusted gross income for the taxable 559  
year, the amount the taxpayer received as a veterans bonus during 560  
the taxable year from the Ohio department of veterans services as 561  
authorized by Section 2r of Article VIII, Ohio Constitution. 562

(29) Deduct, to the extent not otherwise deducted or excluded 563  
in computing federal or Ohio adjusted gross income for the taxable 564  
year, any income derived from a transfer agreement or from the 565  
enterprise transferred under that agreement under section 4313.02 566  
of the Revised Code. 567

(30) Deduct, to the extent not otherwise deducted or excluded 568  
in computing federal or Ohio adjusted gross income for the taxable 569  
year, Ohio college opportunity or federal Pell grant amounts 570  
received by the taxpayer or the taxpayer's spouse or dependent 571  
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 572  
1070a, et seq., and used to pay room or board furnished by the 573  
educational institution for which the grant was awarded at the 574  
institution's facilities, including meal plans administered by the 575  
institution. For the purposes of this division, receipt of a grant 576  
includes the distribution of a grant directly to an educational 577  
institution and the crediting of the grant to the enrollee's 578  
account with the institution. 579

(31) Deduct one-half of the taxpayer's Ohio small business 580  
investor income, the deduction not to exceed sixty-two thousand 581  
five hundred dollars for each spouse if spouses file separate 582  
returns under section 5747.08 of the Revised Code or one hundred 583  
twenty-five thousand dollars for all other taxpayers. No 584  
pass-through entity may claim a deduction under this division. 585

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

(32) Adjust the amount as required in section 5747.014 of the Revised Code.

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

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

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

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

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

(G) "Individual" means any natural person.	617
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	618 619
(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	620 621 622
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	623 624
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.	625 626 627 628
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	629 630 631
For the purposes of division (I)(3) of this section:	632
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	633 634 635 636 637 638
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;	639 640 641 642
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this	643 644 645 646

state for the purposes of this chapter during all or some portion 647  
of the trust's current taxable year; 648

(iii) A person who was domiciled in this state for the 649  
purposes of this chapter when the trust document or instrument or 650  
part of the trust document or instrument became irrevocable, but 651  
only if at least one of the trust's qualifying beneficiaries is a 652  
resident domiciled in this state for the purposes of this chapter 653  
during all or some portion of the trust's current taxable year. If 654  
a trust document or instrument became irrevocable upon the death 655  
of a person who at the time of death was domiciled in this state 656  
for purposes of this chapter, that person is a person described in 657  
division (I)(3)(a)(iii) of this section. 658

(b) A trust is irrevocable to the extent that the transferor 659  
is not considered to be the owner of the net assets of the trust 660  
under sections 671 to 678 of the Internal Revenue Code. 661

(c) With respect to a trust other than a charitable lead 662  
trust, "qualifying beneficiary" has the same meaning as "potential 663  
current beneficiary" as defined in section 1361(e)(2) of the 664  
Internal Revenue Code, and with respect to a charitable lead trust 665  
"qualifying beneficiary" is any current, future, or contingent 666  
beneficiary, but with respect to any trust "qualifying 667  
beneficiary" excludes a person or a governmental entity or 668  
instrumentality to any of which a contribution would qualify for 669  
the charitable deduction under section 170 of the Internal Revenue 670  
Code. 671

(d) For the purposes of division (I)(3)(a) of this section, 672  
the extent to which a trust consists directly or indirectly, in 673  
whole or in part, of assets, net of any related liabilities, that 674  
were transferred directly or indirectly, in whole or part, to the 675  
trust by any of the sources enumerated in that division shall be 676  
ascertained by multiplying the fair market value of the trust's 677  
assets, net of related liabilities, by the qualifying ratio, which 678

shall be computed as follows: 679

(i) The first time the trust receives assets, the numerator 680  
of the qualifying ratio is the fair market value of those assets 681  
at that time, net of any related liabilities, from sources 682  
enumerated in division (I)(3)(a) of this section. The denominator 683  
of the qualifying ratio is the fair market value of all the 684  
trust's assets at that time, net of any related liabilities. 685

(ii) Each subsequent time the trust receives assets, a 686  
revised qualifying ratio shall be computed. The numerator of the 687  
revised qualifying ratio is the sum of (1) the fair market value 688  
of the trust's assets immediately prior to the subsequent 689  
transfer, net of any related liabilities, multiplied by the 690  
qualifying ratio last computed without regard to the subsequent 691  
transfer, and (2) the fair market value of the subsequently 692  
transferred assets at the time transferred, net of any related 693  
liabilities, from sources enumerated in division (I)(3)(a) of this 694  
section. The denominator of the revised qualifying ratio is the 695  
fair market value of all the trust's assets immediately after the 696  
subsequent transfer, net of any related liabilities. 697

(iii) Whether a transfer to the trust is by or from any of 698  
the sources enumerated in division (I)(3)(a) of this section shall 699  
be ascertained without regard to the domicile of the trust's 700  
beneficiaries. 701

(e) For the purposes of division (I)(3)(a)(i) of this 702  
section: 703

(i) A trust is described in division (I)(3)(e)(i) of this 704  
section if the trust is a testamentary trust and the testator of 705  
that testamentary trust was domiciled in this state at the time of 706  
the testator's death for purposes of the taxes levied under 707  
Chapter 5731. of the Revised Code. 708

(ii) A trust is described in division (I)(3)(e)(ii) of this 709

section if the transfer is a qualifying transfer described in any 710  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 711  
irrevocable inter vivos trust, and at least one of the trust's 712  
qualifying beneficiaries is domiciled in this state for purposes 713  
of this chapter during all or some portion of the trust's current 714  
taxable year. 715

(f) For the purposes of division (I)(3)(e)(ii) of this 716  
section, a "qualifying transfer" is a transfer of assets, net of 717  
any related liabilities, directly or indirectly to a trust, if the 718  
transfer is described in any of the following: 719

(i) The transfer is made to a trust, created by the decedent 720  
before the decedent's death and while the decedent was domiciled 721  
in this state for the purposes of this chapter, and, prior to the 722  
death of the decedent, the trust became irrevocable while the 723  
decedent was domiciled in this state for the purposes of this 724  
chapter. 725

(ii) The transfer is made to a trust to which the decedent, 726  
prior to the decedent's death, had directly or indirectly 727  
transferred assets, net of any related liabilities, while the 728  
decedent was domiciled in this state for the purposes of this 729  
chapter, and prior to the death of the decedent the trust became 730  
irrevocable while the decedent was domiciled in this state for the 731  
purposes of this chapter. 732

(iii) The transfer is made on account of a contractual 733  
relationship existing directly or indirectly between the 734  
transferor and either the decedent or the estate of the decedent 735  
at any time prior to the date of the decedent's death, and the 736  
decedent was domiciled in this state at the time of death for 737  
purposes of the taxes levied under Chapter 5731. of the Revised 738  
Code. 739

(iv) The transfer is made to a trust on account of a 740



contractual relationship existing directly or indirectly between 741  
the transferor and another person who at the time of the 742  
decedent's death was domiciled in this state for purposes of this 743  
chapter. 744

(v) The transfer is made to a trust on account of the will of 745  
a testator who was domiciled in this state at the time of the 746  
testator's death for purposes of the taxes levied under Chapter 747  
5731. of the Revised Code. 748

(vi) The transfer is made to a trust created by or caused to 749  
be created by a court, and the trust was directly or indirectly 750  
created in connection with or as a result of the death of an 751  
individual who, for purposes of the taxes levied under Chapter 752  
5731. of the Revised Code, was domiciled in this state at the time 753  
of the individual's death. 754

(g) The tax commissioner may adopt rules to ascertain the 755  
part of a trust residing in this state. 756

(J) "Nonresident" means an individual or estate that is not a 757  
resident. An individual who is a resident for only part of a 758  
taxable year is a nonresident for the remainder of that taxable 759  
year. 760

(K) "Pass-through entity" has the same meaning as in section 761  
5733.04 of the Revised Code. 762

(L) "Return" means the notifications and reports required to 763  
be filed pursuant to this chapter for the purpose of reporting the 764  
tax due and includes declarations of estimated tax when so 765  
required. 766

(M) "Taxable year" means the calendar year or the taxpayer's 767  
fiscal year ending during the calendar year, or fractional part 768  
thereof, upon which the adjusted gross income is calculated 769  
pursuant to this chapter. 770

(N) "Taxpayer" means any person subject to the tax imposed by 771  
section 5747.02 of the Revised Code or any pass-through entity 772  
that makes the election under division (D) of section 5747.08 of 773  
the Revised Code. 774

(O) "Dependents" means dependents as defined in the Internal 775  
Revenue Code and as claimed in the taxpayer's federal income tax 776  
return for the taxable year or which the taxpayer would have been 777  
permitted to claim had the taxpayer filed a federal income tax 778  
return. 779

(P) "Principal county of employment" means, in the case of a 780  
nonresident, the county within the state in which a taxpayer 781  
performs services for an employer or, if those services are 782  
performed in more than one county, the county in which the major 783  
portion of the services are performed. 784

(Q) As used in sections 5747.50 to 5747.55 of the Revised 785  
Code: 786

(1) "Subdivision" means any county, municipal corporation, 787  
park district, or township. 788

(2) "Essential local government purposes" includes all 789  
functions that any subdivision is required by general law to 790  
exercise, including like functions that are exercised under a 791  
charter adopted pursuant to the Ohio Constitution. 792

(R) "Overpayment" means any amount already paid that exceeds 793  
the figure determined to be the correct amount of the tax. 794

(S) "Taxable income" or "Ohio taxable income" applies only to 795  
estates and trusts, and means federal taxable income, as defined 796  
and used in the Internal Revenue Code, adjusted as follows: 797

(1) Add interest or dividends, net of ordinary, necessary, 798  
and reasonable expenses not deducted in computing federal taxable 799  
income, on obligations or securities of any state or of any 800

political subdivision or authority of any state, other than this 801  
state and its subdivisions and authorities, but only to the extent 802  
that such net amount is not otherwise includible in Ohio taxable 803  
income and is described in either division (S)(1)(a) or (b) of 804  
this section: 805

(a) The net amount is not attributable to the S portion of an 806  
electing small business trust and has not been distributed to 807  
beneficiaries for the taxable year; 808

(b) The net amount is attributable to the S portion of an 809  
electing small business trust for the taxable year. 810

(2) Add interest or dividends, net of ordinary, necessary, 811  
and reasonable expenses not deducted in computing federal taxable 812  
income, on obligations of any authority, commission, 813  
instrumentality, territory, or possession of the United States to 814  
the extent that the interest or dividends are exempt from federal 815  
income taxes but not from state income taxes, but only to the 816  
extent that such net amount is not otherwise includible in Ohio 817  
taxable income and is described in either division (S)(1)(a) or 818  
(b) of this section; 819

(3) Add the amount of personal exemption allowed to the 820  
estate pursuant to section 642(b) of the Internal Revenue Code; 821

(4) Deduct interest or dividends, net of related expenses 822  
deducted in computing federal taxable income, on obligations of 823  
the United States and its territories and possessions or of any 824  
authority, commission, or instrumentality of the United States to 825  
the extent that the interest or dividends are exempt from state 826  
taxes under the laws of the United States, but only to the extent 827  
that such amount is included in federal taxable income and is 828  
described in either division (S)(1)(a) or (b) of this section; 829

(5) Deduct the amount of wages and salaries, if any, not 830  
otherwise allowable as a deduction but that would have been 831

allowable as a deduction in computing federal taxable income for 832  
the taxable year, had the targeted jobs credit allowed under 833  
sections 38, 51, and 52 of the Internal Revenue Code not been in 834  
effect, but only to the extent such amount relates either to 835  
income included in federal taxable income for the taxable year or 836  
to income of the S portion of an electing small business trust for 837  
the taxable year; 838

(6) Deduct any interest or interest equivalent, net of 839  
related expenses deducted in computing federal taxable income, on 840  
public obligations and purchase obligations, but only to the 841  
extent that such net amount relates either to income included in 842  
federal taxable income for the taxable year or to income of the S 843  
portion of an electing small business trust for the taxable year; 844

(7) Add any loss or deduct any gain resulting from sale, 845  
exchange, or other disposition of public obligations to the extent 846  
that such loss has been deducted or such gain has been included in 847  
computing either federal taxable income or income of the S portion 848  
of an electing small business trust for the taxable year; 849

(8) Except in the case of the final return of an estate, add 850  
any amount deducted by the taxpayer on both its Ohio estate tax 851  
return pursuant to section 5731.14 of the Revised Code, and on its 852  
federal income tax return in determining federal taxable income; 853

(9)(a) Deduct any amount included in federal taxable income 854  
solely because the amount represents a reimbursement or refund of 855  
expenses that in a previous year the decedent had deducted as an 856  
itemized deduction pursuant to section 63 of the Internal Revenue 857  
Code and applicable treasury regulations. The deduction otherwise 858  
allowed under division (S)(9)(a) of this section shall be reduced 859  
to the extent the reimbursement is attributable to an amount the 860  
taxpayer or decedent deducted under this section in any taxable 861  
year. 862

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

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

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

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

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

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

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

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only

if the assets of the trust include at least ten acres of land 894  
satisfying the definition of "land devoted exclusively to 895  
agricultural use" under section 5713.30 of the Revised Code, 896  
regardless of whether the land is valued for tax purposes as such 897  
land under sections 5713.30 to 5713.38 of the Revised Code. If the 898  
trust is a pass-through entity investor, section 5747.231 of the 899  
Revised Code applies in ascertaining if the trust is eligible to 900  
claim the deduction provided by division (S)(12) of this section 901  
in connection with the pass-through entity's farm income. 902

Except for farm income attributable to the S portion of an 903  
electing small business trust, the deduction provided by division 904  
(S)(12) of this section is allowed only to the extent that the 905  
trust has not distributed such farm income. Division (S)(12) of 906  
this section applies only to taxable years of a trust beginning in 907  
2002 or thereafter. 908

(13) Add the net amount of income described in section 641(c) 909  
of the Internal Revenue Code to the extent that amount is not 910  
included in federal taxable income. 911

(14) Add or deduct the amount the taxpayer would be required 912  
to add or deduct under division (A)(20) or (21) of this section if 913  
the taxpayer's Ohio taxable income were computed in the same 914  
manner as an individual's Ohio adjusted gross income is computed 915  
under this section. In the case of a trust, division (S)(14) of 916  
this section applies only to any of the trust's taxable years 917  
beginning in 2002 or thereafter. 918

(T) "School district income" and "school district income tax" 919  
have the same meanings as in section 5748.01 of the Revised Code. 920

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 921  
of this section, "public obligations," "purchase obligations," and 922  
"interest or interest equivalent" have the same meanings as in 923  
section 5709.76 of the Revised Code. 924

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

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

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

(Y) "Month" means a calendar month.

(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.

(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.

(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:	956
(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;	957 958 959
(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;	960 961 962
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.	963 964 965
(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	966 967 968
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	969 970 971 972 973
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.	974 975 976 977 978
(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.	979 980 981
Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.	982 983 984
(3) "Modified nonbusiness income" means a trust's Ohio	985



taxable income other than modified business income, other than the 986  
qualifying trust amount, and other than qualifying investment 987  
income, as defined in section 5747.012 of the Revised Code, to the 988  
extent such qualifying investment income is not otherwise part of 989  
modified business income. 990

(4) "Modified Ohio taxable income" applies only to trusts, 991  
and means the sum of the amounts described in divisions (BB)(4)(a) 992  
to (c) of this section: 993

(a) The fraction, calculated under section 5747.013, and 994  
applying section 5747.231 of the Revised Code, multiplied by the 995  
sum of the following amounts: 996

(i) The trust's modified business income; 997

(ii) The trust's qualifying investment income, as defined in 998  
section 5747.012 of the Revised Code, but only to the extent the 999  
qualifying investment income does not otherwise constitute 1000  
modified business income and does not otherwise constitute a 1001  
qualifying trust amount. 1002

(b) The qualifying trust amount multiplied by a fraction, the 1003  
numerator of which is the sum of the book value of the qualifying 1004  
investee's physical assets in this state on the last day of the 1005  
qualifying investee's fiscal or calendar year ending immediately 1006  
prior to the day on which the trust recognizes the qualifying 1007  
trust amount, and the denominator of which is the sum of the book 1008  
value of the qualifying investee's total physical assets 1009  
everywhere on the last day of the qualifying investee's fiscal or 1010  
calendar year ending immediately prior to the day on which the 1011  
trust recognizes the qualifying trust amount. If, for a taxable 1012  
year, the trust recognizes a qualifying trust amount with respect 1013  
to more than one qualifying investee, the amount described in 1014  
division (BB)(4)(b) of this section shall equal the sum of the 1015  
products so computed for each such qualifying investee. 1016

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

(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: 1049

(i) If the qualifying investee is a member of a qualifying 1050  
controlled group on the last day of the qualifying investee's 1051  
fiscal or calendar year ending immediately prior to the date on 1052  
which the trust recognizes the gain or loss, then "qualifying 1053  
investee" includes all persons in the qualifying controlled group 1054  
on such last day. 1055

(ii) If the qualifying investee, or if the qualifying 1056  
investee and any members of the qualifying controlled group of 1057  
which the qualifying investee is a member on 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  
separately or cumulatively own, directly or indirectly, on the 1061  
last day of the qualifying investee's fiscal or calendar year 1062  
ending immediately prior to the date on which the trust recognizes 1063  
the qualifying trust amount, more than fifty per cent of the 1064  
equity of a pass-through entity, then the qualifying investee and 1065  
the other members are deemed to own the proportionate share of the 1066  
pass-through entity's physical assets which the pass-through 1067  
entity directly or indirectly owns on the last day of the 1068  
pass-through entity's calendar or fiscal year ending within or 1069  
with the last day of the qualifying investee's fiscal or calendar 1070  
year ending immediately prior to the date on which the trust 1071  
recognizes the qualifying trust amount. 1072

(iii) For the purposes of division (BB)(5)(a)(iii) of this 1073  
section, "upper level pass-through entity" means a pass-through 1074  
entity directly or indirectly owning any equity of another 1075  
pass-through entity, and "lower level pass-through entity" means 1076  
that other pass-through entity. 1077

An upper level pass-through entity, whether or not it is also 1078  
a qualifying investee, is deemed to own, on the last day of the 1079  
upper level pass-through entity's calendar or fiscal year, the 1080

proportionate share of the lower level pass-through entity's 1081  
physical assets that the lower level pass-through entity directly 1082  
or indirectly owns on the last day of the lower level pass-through 1083  
entity's calendar or fiscal year ending within or with the last 1084  
day of the upper level pass-through entity's fiscal or calendar 1085  
year. If the upper level pass-through entity directly and 1086  
indirectly owns less than fifty per cent of the equity of the 1087  
lower level pass-through entity on each day of the upper level 1088  
pass-through entity's calendar or fiscal year in which or with 1089  
which ends the calendar or fiscal year of the lower level 1090  
pass-through entity and if, based upon clear and convincing 1091  
evidence, complete information about the location and cost of the 1092  
physical assets of the lower pass-through entity is not available 1093  
to the upper level pass-through entity, then solely for purposes 1094  
of ascertaining if a gain or loss constitutes a qualifying trust 1095  
amount, the upper level pass-through entity shall be deemed as 1096  
owning no equity of the lower level pass-through entity for each 1097  
day during the upper level pass-through entity's calendar or 1098  
fiscal year in which or with which ends the lower level 1099  
pass-through entity's calendar or fiscal year. Nothing in division 1100  
(BB)(5)(a)(iii) of this section shall be construed to provide for 1101  
any deduction or exclusion in computing any trust's Ohio taxable 1102  
income. 1103

(b) With respect to a trust that is not a resident for the 1104  
taxable year and with respect to a part of a trust that is not a 1105  
resident for the taxable year, "qualifying investee" for that 1106  
taxable year does not include a C corporation if both of the 1107  
following apply: 1108

(i) During the taxable year the trust or part of the trust 1109  
recognizes a gain or loss from the sale, exchange, or other 1110  
disposition of equity or ownership interests in, or debt 1111  
obligations of, the C corporation. 1112

(ii) Such gain or loss constitutes nonbusiness income.	1113
(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.	1114 1115 1116 1117
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	1118 1119
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	1120 1121
(EE)(1) For the purposes of division (EE) of this section:	1122
(a) "Qualifying person" means any person other than a qualifying corporation.	1123 1124
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1125 1126 1127
(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;	1128 1129 1130 1131
(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.	1132 1133 1134 1135
(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.	1136 1137 1138
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1139 1140
(1) "Trust" does not include a qualified pre-income tax trust.	1141 1142

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

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

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

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

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

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

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

Sec. 5747.014. In calculating Ohio adjusted gross income under section 5747.01 of the Revised Code, a taxpayer may make the following adjustments:

(A) To the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, deduct the following amounts for any taxable year beginning

<u>on or after January 1, 2014:</u>	1173
<u>(1) Expenses of elementary and secondary school teachers that</u>	1174
<u>would have been deductible under section 62 of the Internal</u>	1175
<u>Revenue Code had that deduction applied to taxable years beginning</u>	1176
<u>in or after 2014;</u>	1177
<u>(2) Income from the discharge of indebtedness that would be</u>	1178
<u>excludable from federal adjusted gross income under section 108 of</u>	1179
<u>the Internal Revenue Code disregarding the deadline for the</u>	1180
<u>discharge of such indebtedness prescribed by subparagraph</u>	1181
<u>(a)(1)(E) of that section;</u>	1182
<u>(3) Qualified transportation fringes that would be excludable</u>	1183
<u>from federal adjusted gross income under subsection 132(f) of the</u>	1184
<u>Internal Revenue Code had that exclusion applied on and after</u>	1185
<u>January 1, 2014;</u>	1186
<u>(4) Qualified tuition and related expenses that would be</u>	1187
<u>deductible from federal adjusted gross income under section 222 of</u>	1188
<u>the Internal Revenue Code disregarding the termination date</u>	1189
<u>prescribed by subsection (e) of that section;</u>	1190
<u>(5) Qualified charitable distributions that would be</u>	1191
<u>excludable from federal adjusted gross income under paragraph (8)</u>	1192
<u>of subsection 408(d) of the Internal Revenue Code disregarding the</u>	1193
<u>termination date prescribed by subparagraph (d)(8)(F) of that</u>	1194
<u>section.</u>	1195
<u>(B) Adjust the cost recovery period for race horses</u>	1196
<u>disregarding the dates specified in subclauses (e)(3)(A)(i)(I) and</u>	1197
<u>(II) of section 168 of the Internal Revenue Code.</u>	1198
<u>(C) Adjust cost recovery period for qualified leasehold</u>	1199
<u>improvement property, qualified restaurant property, and qualified</u>	1200
<u>retail improvement property as allowed under subsection 168(e) of</u>	1201
<u>the Internal Revenue Code, disregarding the dates specified in</u>	1202
<u>clauses (e)(3)(E)(iv), (v), and (ix) of that subsection.</u>	1203

(D) Adjust the cost recovery period for motorsports entertainment complexes as allowed under subsection 168(i) of the Internal Revenue Code, disregarding the date specified in subparagraph (i)(15)(D) of that subsection. 1204  
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(E) Adjust the depreciation for business property on an Indian reservation as allowed under subsection 168(j) of the Internal Revenue Code, disregarding the date specified in paragraph (j)(8) of that subsection. 1208  
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(F) Adjust the depreciation of qualified property as allowed by paragraphs (1) and (2) of subsection 168(k) of the Internal Revenue Code, disregarding the phrases "and before January 1, 2014," "before January 1, 2014," and "before January 1, 2015," in those paragraphs and, if applicable, in paragraph (6) of subsection 406(c) of the Internal Revenue Code. If adjustments are made under division (F) of this section, the adjustments required under divisions (A)(20) and (21) of section 5747.01 of the Revised Code shall be made. 1212  
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(G) Adjust the appreciation deduction and adjusted basis of qualified second generation biofuel plant property as allowed under subsection 168(l) of the Internal Revenue Code, disregarding the date specified in subparagraph (l)(2)(D) of that section. 1221  
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(H) The adjustments allowed by section 179 of the Internal Revenue Code as if the election allowed by that section were allowed for the taxable year and the limitations of subparagraphs (1)(B) and (2)(B) of subsection (b) of that section applied to the taxable year, and disregarding, if applicable, the limitations on taxable years specified in subsection (f) of that section. If adjustments are made under division (H) of this section, the adjustments required by divisions (A)(20) and (21) of section 5747.01 of the Revised Code shall be made. 1225  
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(I) The adjustments for energy efficient commercial building 1234



property allowed by section 179D of the Internal Revenue Code, 1235  
disregarding subsection (h) of that section. 1236

(J) The adjustments for qualified advanced mine safety 1237  
equipment property allowed by section 179E of the Internal Revenue 1238  
Code, disregarding subsection (g) of that section. 1239

(K) The adjustments for qualified film or television 1240  
productions allowed by section 181 of the Internal Revenue Code, 1241  
disregarding subsection (f) of that section. 1242

(L) The adjustments for income attributable to domestic 1243  
production activities in Puerto Rico allowed by paragraph (8) of 1244  
subsection 199(d) of the Internal Revenue Code, disregarding 1245  
subparagraph (d)(8)(C) of that section. 1246

(M) The exclusion for gain from certain small business stock 1247  
allowed by section 1202 of the Internal Revenue Code, applying 1248  
subsection (a)(4) of that section, but disregarding the phrase 1249  
"and before January 1, 2014." 1250

(N) The adjustments to basis allowed by paragraph (2) of 1251  
subsection 1367(a) of the Internal Revenue Code for charitable 1252  
contributions, disregarding the December 31, 2013, termination 1253  
date prescribed by that paragraph. 1254

(O) Any adjustment to federal gross income that would be 1255  
allowed if the designation period of an empowerment zone did not 1256  
terminate on December 31, 2013, as provided in paragraph (1) of 1257  
subsection 1391(d) of the Internal Revenue Code. This division 1258  
does not allow any adjustment for a taxable year beginning after 1259  
any earlier termination of the designation period under 1260  
subparagraphs (B) and (C) of that paragraph. 1261

**Section 2.** That existing sections 5725.33 and 5747.01 of the 1262  
Revised Code are hereby repealed. 1263

**Section 3.** This act is hereby declared to be an emergency 1264

measure necessary for the immediate preservation of the public	1265
peace, health, and safety. The reason for such necessity is to	1266
ensure that Ohio taxpayers continue receiving certain income tax	1267
incentives on their state return for tax year 2014 even if the	1268
corresponding federal incentives are not renewed in time.	1269
Therefore, this act shall go into immediate effect.	1270