

As Introduced

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H. B. No. 666

Representative Stinziano

Cosponsor: Representative Antonio

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A B I L L

To amend section 5747.01 and to enact section 5747.82 1
of the Revised Code to authorize an income tax 2
deduction for income derived from the sale of art 3
created or composed by Ohio artists and 4
performances of that art sold or performed in 5
designated arts and entertainment districts. 6

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

Section 1. That section 5747.01 be amended and section 7
5747.82 of the Revised Code be enacted to read as follows: 8

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

As used in this chapter: 18

(A) "Adjusted gross income" or "Ohio adjusted gross income" 19

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

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

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

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

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

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

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of 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.

"Undistributed net income of a trust" means the taxable income of 51
the trust increased by (a)(i) the additions to adjusted gross 52
income required under division (A) of this section and (ii) the 53
personal exemptions allowed to the trust pursuant to section 54
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 55
deductions to adjusted gross income required under division (A) of 56
this section, (ii) the amount of federal income taxes attributable 57
to such income, and (iii) the amount of taxable income that has 58
been included in the adjusted gross income of a beneficiary by 59
reason of a prior accumulation distribution. Any undistributed net 60
income included in the adjusted gross income of a beneficiary 61
shall reduce the undistributed net income of the trust commencing 62
with the earliest years of the accumulation period. 63

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

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

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

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

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

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

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

under section 152 of the Internal Revenue Code but for the fact 114
that the person fails to meet the income and support limitations 115
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 116

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Deduct, to the extent not otherwise deducted or excluded 327
in computing federal or Ohio adjusted gross income for the taxable 328
year, the amount the taxpayer received during the taxable year as 329
a death benefit paid by the adjutant general under section 5919.33 330
of the Revised Code. 331

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(32) For a taxpayer who is a qualifying Ohio artist, deduct, 422
to the extent not otherwise deducted or excluded in computing 423
federal or Ohio adjusted gross income, any income received in the 424
taxable year from sales made in an arts and entertainment district 425
of works written, composed, or created by the qualifying Ohio 426
artist or from sales of admissions to the showings and 427
performances of those works occurring in a district. For the 428

purpose of division (A)(32) of this section, a work is sold in an 429
arts and entertainment district if the purchaser is physically 430
present in the district when the purchaser pays for the work, 431
regardless of the location to which the work may be delivered. As 432
used in division (A)(32) of this section, "arts and entertainment 433
district," "qualifying Ohio artist," and "work" have the same 434
meanings as in section 5747.82 of the Revised Code. 435

(B) "Business income" means income, including gain or loss, 436
arising from transactions, activities, and sources in the regular 437
course of a trade or business and includes income, gain, or loss 438
from real property, tangible property, and intangible property if 439
the acquisition, rental, management, and disposition of the 440
property constitute integral parts of the regular course of a 441
trade or business operation. "Business income" includes income, 442
including gain or loss, from a partial or complete liquidation of 443
a business, including, but not limited to, gain or loss from the 444
sale or other disposition of goodwill. 445

(C) "Nonbusiness income" means all income other than business 446
income and may include, but is not limited to, compensation, rents 447
and royalties from real or tangible personal property, capital 448
gains, interest, dividends and distributions, patent or copyright 449
royalties, or lottery winnings, prizes, and awards. 450

(D) "Compensation" means any form of remuneration paid to an 451
employee for personal services. 452

(E) "Fiduciary" means a guardian, trustee, executor, 453
administrator, receiver, conservator, or any other person acting 454
in any fiduciary capacity for any individual, trust, or estate. 455

(F) "Fiscal year" means an accounting period of twelve months 456
ending on the last day of any month other than December. 457

(G) "Individual" means any natural person. 458

(H) "Internal Revenue Code" means the "Internal Revenue Code 459

of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 460

(I) "Resident" means any of the following, provided that 461
division (I)(3) of this section applies only to taxable years of a 462
trust beginning in 2002 or thereafter: 463

(1) An individual who is domiciled in this state, subject to 464
section 5747.24 of the Revised Code; 465

(2) The estate of a decedent who at the time of death was 466
domiciled in this state. The domicile tests of section 5747.24 of 467
the Revised Code are not controlling for purposes of division 468
(I)(2) of this section. 469

(3) A trust that, in whole or part, resides in this state. If 470
only part of a trust resides in this state, the trust is a 471
resident only with respect to that part. 472

For the purposes of division (I)(3) of this section: 473

(a) A trust resides in this state for the trust's current 474
taxable year to the extent, as described in division (I)(3)(d) of 475
this section, that the trust consists directly or indirectly, in 476
whole or in part, of assets, net of any related liabilities, that 477
were transferred, or caused to be transferred, directly or 478
indirectly, to the trust by any of the following: 479

(i) A person, a court, or a governmental entity or 480
instrumentality on account of the death of a decedent, but only if 481
the trust is described in division (I)(3)(e)(i) or (ii) of this 482
section; 483

(ii) A person who was domiciled in this state for the 484
purposes of this chapter when the person directly or indirectly 485
transferred assets to an irrevocable trust, but only if at least 486
one of the trust's qualifying beneficiaries is domiciled in this 487
state for the purposes of this chapter during all or some portion 488
of the trust's current taxable year; 489

(iii) A person who was domiciled in this state for the 490
purposes of this chapter when the trust document or instrument or 491
part of the trust document or instrument became irrevocable, but 492
only if at least one of the trust's qualifying beneficiaries is a 493
resident domiciled in this state for the purposes of this chapter 494
during all or some portion of the trust's current taxable year. If 495
a trust document or instrument became irrevocable upon the death 496
of a person who at the time of death was domiciled in this state 497
for purposes of this chapter, that person is a person described in 498
division (I)(3)(a)(iii) of this section. 499

(b) A trust is irrevocable to the extent that the transferor 500
is not considered to be the owner of the net assets of the trust 501
under sections 671 to 678 of the Internal Revenue Code. 502

(c) With respect to a trust other than a charitable lead 503
trust, "qualifying beneficiary" has the same meaning as "potential 504
current beneficiary" as defined in section 1361(e)(2) of the 505
Internal Revenue Code, and with respect to a charitable lead trust 506
"qualifying beneficiary" is any current, future, or contingent 507
beneficiary, but with respect to any trust "qualifying 508
beneficiary" excludes a person or a governmental entity or 509
instrumentality to any of which a contribution would qualify for 510
the charitable deduction under section 170 of the Internal Revenue 511
Code. 512

(d) For the purposes of division (I)(3)(a) of this section, 513
the extent to which a trust consists directly or indirectly, in 514
whole or in part, of assets, net of any related liabilities, that 515
were transferred directly or indirectly, in whole or part, to the 516
trust by any of the sources enumerated in that division shall be 517
ascertained by multiplying the fair market value of the trust's 518
assets, net of related liabilities, by the qualifying ratio, which 519
shall be computed as follows: 520

(i) The first time the trust receives assets, the numerator 521

of the qualifying ratio is the fair market value of those assets 522
at that time, net of any related liabilities, from sources 523
enumerated in division (I)(3)(a) of this section. The denominator 524
of the qualifying ratio is the fair market value of all the 525
trust's assets at that time, net of any related liabilities. 526

(ii) Each subsequent time the trust receives assets, a 527
revised qualifying ratio shall be computed. The numerator of the 528
revised qualifying ratio is the sum of (1) the fair market value 529
of the trust's assets immediately prior to the subsequent 530
transfer, net of any related liabilities, multiplied by the 531
qualifying ratio last computed without regard to the subsequent 532
transfer, and (2) the fair market value of the subsequently 533
transferred assets at the time transferred, net of any related 534
liabilities, from sources enumerated in division (I)(3)(a) of this 535
section. The denominator of the revised qualifying ratio is the 536
fair market value of all the trust's assets immediately after the 537
subsequent transfer, net of any related liabilities. 538

(iii) Whether a transfer to the trust is by or from any of 539
the sources enumerated in division (I)(3)(a) of this section shall 540
be ascertained without regard to the domicile of the trust's 541
beneficiaries. 542

(e) For the purposes of division (I)(3)(a)(i) of this 543
section: 544

(i) A trust is described in division (I)(3)(e)(i) of this 545
section if the trust is a testamentary trust and the testator of 546
that testamentary trust was domiciled in this state at the time of 547
the testator's death for purposes of the taxes levied under 548
Chapter 5731. of the Revised Code. 549

(ii) A trust is described in division (I)(3)(e)(ii) of this 550
section if the transfer is a qualifying transfer described in any 551
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 552

irrevocable inter vivos trust, and at least one of the trust's 553
qualifying beneficiaries is domiciled in this state for purposes 554
of this chapter during all or some portion of the trust's current 555
taxable year. 556

(f) For the purposes of division (I)(3)(e)(ii) of this 557
section, a "qualifying transfer" is a transfer of assets, net of 558
any related liabilities, directly or indirectly to a trust, if the 559
transfer is described in any of the following: 560

(i) The transfer is made to a trust, created by the decedent 561
before the decedent's death and while the decedent was domiciled 562
in this state for the purposes of this chapter, and, prior to the 563
death of the decedent, the trust became irrevocable while the 564
decedent was domiciled in this state for the purposes of this 565
chapter. 566

(ii) The transfer is made to a trust to which the decedent, 567
prior to the decedent's death, had directly or indirectly 568
transferred assets, net of any related liabilities, while the 569
decedent was domiciled in this state for the purposes of this 570
chapter, and prior to the death of the decedent the trust became 571
irrevocable while the decedent was domiciled in this state for the 572
purposes of this chapter. 573

(iii) The transfer is made on account of a contractual 574
relationship existing directly or indirectly between the 575
transferor and either the decedent or the estate of the decedent 576
at any time prior to the date of the decedent's death, and the 577
decedent was domiciled in this state at the time of death for 578
purposes of the taxes levied under Chapter 5731. of the Revised 579
Code. 580

(iv) The transfer is made to a trust on account of a 581
contractual relationship existing directly or indirectly between 582
the transferor and another person who at the time of the 583

decedent's death was domiciled in this state for purposes of this 584
chapter. 585

(v) The transfer is made to a trust on account of the will of 586
a testator who was domiciled in this state at the time of the 587
testator's death for purposes of the taxes levied under Chapter 588
5731. of the Revised Code. 589

(vi) The transfer is made to a trust created by or caused to 590
be created by a court, and the trust was directly or indirectly 591
created in connection with or as a result of the death of an 592
individual who, for purposes of the taxes levied under Chapter 593
5731. of the Revised Code, was domiciled in this state at the time 594
of the individual's death. 595

(g) The tax commissioner may adopt rules to ascertain the 596
part of a trust residing in this state. 597

(J) "Nonresident" means an individual or estate that is not a 598
resident. An individual who is a resident for only part of a 599
taxable year is a nonresident for the remainder of that taxable 600
year. 601

(K) "Pass-through entity" has the same meaning as in section 602
5733.04 of the Revised Code. 603

(L) "Return" means the notifications and reports required to 604
be filed pursuant to this chapter for the purpose of reporting the 605
tax due and includes declarations of estimated tax when so 606
required. 607

(M) "Taxable year" means the calendar year or the taxpayer's 608
fiscal year ending during the calendar year, or fractional part 609
thereof, upon which the adjusted gross income is calculated 610
pursuant to this chapter. 611

(N) "Taxpayer" means any person subject to the tax imposed by 612
section 5747.02 of the Revised Code or any pass-through entity 613

that makes the election under division (D) of section 5747.08 of
the Revised Code. 614
615

(O) "Dependents" means dependents as defined in the Internal
Revenue Code and as claimed in the taxpayer's federal income tax
return for the taxable year or which the taxpayer would have been
permitted to claim had the taxpayer filed a federal income tax
return. 616
617
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619
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(P) "Principal county of employment" means, in the case of a
nonresident, the county within the state in which a taxpayer
performs services for an employer or, if those services are
performed in more than one county, the county in which the major
portion of the services are performed. 621
622
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624
625

(Q) As used in sections 5747.50 to 5747.55 of the Revised
Code: 626
627

(1) "Subdivision" means any county, municipal corporation,
park district, or township. 628
629

(2) "Essential local government purposes" includes all
functions that any subdivision is required by general law to
exercise, including like functions that are exercised under a
charter adopted pursuant to the Ohio Constitution. 630
631
632
633

(R) "Overpayment" means any amount already paid that exceeds
the figure determined to be the correct amount of the tax. 634
635

(S) "Taxable income" or "Ohio taxable income" applies only to
estates and trusts, and means federal taxable income, as defined
and used in the Internal Revenue Code, adjusted as follows: 636
637
638

(1) Add interest or dividends, net of ordinary, necessary,
and reasonable expenses not deducted in computing federal taxable
income, on obligations or securities of any state or of any
political subdivision or authority of any state, other than this
state and its subdivisions and authorities, but only to the extent 639
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643

that such net amount is not otherwise includible in Ohio taxable 644
income and is described in either division (S)(1)(a) or (b) of 645
this section: 646

(a) The net amount is not attributable to the S portion of an 647
electing small business trust and has not been distributed to 648
beneficiaries for the taxable year; 649

(b) The net amount is attributable to the S portion of an 650
electing small business trust for the taxable year. 651

(2) Add interest or dividends, net of ordinary, necessary, 652
and reasonable expenses not deducted in computing federal taxable 653
income, on obligations of any authority, commission, 654
instrumentality, territory, or possession of the United States to 655
the extent that the interest or dividends are exempt from federal 656
income taxes but not from state income taxes, but only to the 657
extent that such net amount is not otherwise includible in Ohio 658
taxable income and is described in either division (S)(1)(a) or 659
(b) of this section; 660

(3) Add the amount of personal exemption allowed to the 661
estate pursuant to section 642(b) of the Internal Revenue Code; 662

(4) Deduct interest or dividends, net of related expenses 663
deducted in computing federal taxable income, on obligations of 664
the United States and its territories and possessions or of any 665
authority, commission, or instrumentality of the United States to 666
the extent that the interest or dividends are exempt from state 667
taxes under the laws of the United States, but only to the extent 668
that such amount is included in federal taxable income and is 669
described in either division (S)(1)(a) or (b) of this section; 670

(5) Deduct the amount of wages and salaries, if any, not 671
otherwise allowable as a deduction but that would have been 672
allowable as a deduction in computing federal taxable income for 673
the taxable year, had the targeted jobs credit allowed under 674

sections 38, 51, and 52 of the Internal Revenue Code not been in 675
effect, but only to the extent such amount relates either to 676
income included in federal taxable income for the taxable year or 677
to income of the S portion of an electing small business trust for 678
the taxable year; 679

(6) Deduct any interest or interest equivalent, net of 680
related expenses deducted in computing federal taxable income, on 681
public obligations and purchase obligations, but only to the 682
extent that such net amount relates either to income included in 683
federal taxable income for the taxable year or to income of the S 684
portion of an electing small business trust for the taxable year; 685

(7) Add any loss or deduct any gain resulting from sale, 686
exchange, or other disposition of public obligations to the extent 687
that such loss has been deducted or such gain has been included in 688
computing either federal taxable income or income of the S portion 689
of an electing small business trust for the taxable year; 690

(8) Except in the case of the final return of an estate, add 691
any amount deducted by the taxpayer on both its Ohio estate tax 692
return pursuant to section 5731.14 of the Revised Code, and on its 693
federal income tax return in determining federal taxable income; 694

(9)(a) Deduct any amount included in federal taxable income 695
solely because the amount represents a reimbursement or refund of 696
expenses that in a previous year the decedent had deducted as an 697
itemized deduction pursuant to section 63 of the Internal Revenue 698
Code and applicable treasury regulations. The deduction otherwise 699
allowed under division (S)(9)(a) of this section shall be reduced 700
to the extent the reimbursement is attributable to an amount the 701
taxpayer or decedent deducted under this section in any taxable 702
year. 703

(b) Add any amount not otherwise included in Ohio taxable 704
income for any taxable year to the extent that the amount is 705

attributable to the recovery during the taxable year of any amount 706
deducted or excluded in computing federal or Ohio taxable income 707
in any taxable year, but only to the extent such amount has not 708
been distributed to beneficiaries for the taxable year. 709

(10) Deduct any portion of the deduction described in section 710
1341(a)(2) of the Internal Revenue Code, for repaying previously 711
reported income received under a claim of right, that meets both 712
of the following requirements: 713

(a) It is allowable for repayment of an item that was 714
included in the taxpayer's taxable income or the decedent's 715
adjusted gross income for a prior taxable year and did not qualify 716
for a credit under division (A) or (B) of section 5747.05 of the 717
Revised Code for that year. 718

(b) It does not otherwise reduce the taxpayer's taxable 719
income or the decedent's adjusted gross income for the current or 720
any other taxable year. 721

(11) Add any amount claimed as a credit under section 722
5747.059 or 5747.65 of the Revised Code to the extent that the 723
amount satisfies either of the following: 724

(a) The amount was deducted or excluded from the computation 725
of the taxpayer's federal taxable income as required to be 726
reported for the taxpayer's taxable year under the Internal 727
Revenue Code; 728

(b) The amount resulted in a reduction in the taxpayer's 729
federal taxable income as required to be reported for any of the 730
taxpayer's taxable years under the Internal Revenue Code. 731

(12) Deduct any amount, net of related expenses deducted in 732
computing federal taxable income, that a trust is required to 733
report as farm income on its federal income tax return, but only 734
if the assets of the trust include at least ten acres of land 735
satisfying the definition of "land devoted exclusively to 736

agricultural use" under section 5713.30 of the Revised Code, 737
regardless of whether the land is valued for tax purposes as such 738
land under sections 5713.30 to 5713.38 of the Revised Code. If the 739
trust is a pass-through entity investor, section 5747.231 of the 740
Revised Code applies in ascertaining if the trust is eligible to 741
claim the deduction provided by division (S)(12) of this section 742
in connection with the pass-through entity's farm income. 743

Except for farm income attributable to the S portion of an 744
electing small business trust, the deduction provided by division 745
(S)(12) of this section is allowed only to the extent that the 746
trust has not distributed such farm income. Division (S)(12) of 747
this section applies only to taxable years of a trust beginning in 748
2002 or thereafter. 749

(13) Add the net amount of income described in section 641(c) 750
of the Internal Revenue Code to the extent that amount is not 751
included in federal taxable income. 752

(14) Add or deduct the amount the taxpayer would be required 753
to add or deduct under division (A)(20) or (21) of this section if 754
the taxpayer's Ohio taxable income were computed in the same 755
manner as an individual's Ohio adjusted gross income is computed 756
under this section. In the case of a trust, division (S)(14) of 757
this section applies only to any of the trust's taxable years 758
beginning in 2002 or thereafter. 759

(T) "School district income" and "school district income tax" 760
have the same meanings as in section 5748.01 of the Revised Code. 761

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 762
of this section, "public obligations," "purchase obligations," and 763
"interest or interest equivalent" have the same meanings as in 764
section 5709.76 of the Revised Code. 765

(V) "Limited liability company" means any limited liability 766
company formed under Chapter 1705. of the Revised Code or under 767

the laws of any other state. 768

(W) "Pass-through entity investor" means any person who, 769
during any portion of a taxable year of a pass-through entity, is 770
a partner, member, shareholder, or equity investor in that 771
pass-through entity. 772

(X) "Banking day" has the same meaning as in section 1304.01 773
of the Revised Code. 774

(Y) "Month" means a calendar month. 775

(Z) "Quarter" means the first three months, the second three 776
months, the third three months, or the last three months of the 777
taxpayer's taxable year. 778

(AA)(1) "Eligible institution" means a state university or 779
state institution of higher education as defined in section 780
3345.011 of the Revised Code, or a private, nonprofit college, 781
university, or other post-secondary institution located in this 782
state that possesses a certificate of authorization issued by the 783
Ohio board of regents pursuant to Chapter 1713. of the Revised 784
Code or a certificate of registration issued by the state board of 785
career colleges and schools under Chapter 3332. of the Revised 786
Code. 787

(2) "Qualified tuition and fees" means tuition and fees 788
imposed by an eligible institution as a condition of enrollment or 789
attendance, not exceeding two thousand five hundred dollars in 790
each of the individual's first two years of post-secondary 791
education. If the individual is a part-time student, "qualified 792
tuition and fees" includes tuition and fees paid for the academic 793
equivalent of the first two years of post-secondary education 794
during a maximum of five taxable years, not exceeding a total of 795
five thousand dollars. "Qualified tuition and fees" does not 796
include: 797

(a) Expenses for any course or activity involving sports, 798

games, or hobbies unless the course or activity is part of the 799
individual's degree or diploma program; 800

(b) The cost of books, room and board, student activity fees, 801
athletic fees, insurance expenses, or other expenses unrelated to 802
the individual's academic course of instruction; 803

(c) Tuition, fees, or other expenses paid or reimbursed 804
through an employer, scholarship, grant in aid, or other 805
educational benefit program. 806

(BB)(1) "Modified business income" means the business income 807
included in a trust's Ohio taxable income after such taxable 808
income is first reduced by the qualifying trust amount, if any. 809

(2) "Qualifying trust amount" of a trust means capital gains 810
and losses from the sale, exchange, or other disposition of equity 811
or ownership interests in, or debt obligations of, a qualifying 812
investee to the extent included in the trust's Ohio taxable 813
income, but only if the following requirements are satisfied: 814

(a) The book value of the qualifying investee's physical 815
assets in this state and everywhere, as of the last day of the 816
qualifying investee's fiscal or calendar year ending immediately 817
prior to the date on which the trust recognizes the gain or loss, 818
is available to the trust. 819

(b) The requirements of section 5747.011 of the Revised Code 820
are satisfied for the trust's taxable year in which the trust 821
recognizes the gain or loss. 822

Any gain or loss that is not a qualifying trust amount is 823
modified business income, qualifying investment income, or 824
modified nonbusiness income, as the case may be. 825

(3) "Modified nonbusiness income" means a trust's Ohio 826
taxable income other than modified business income, other than the 827
qualifying trust amount, and other than qualifying investment 828

income, as defined in section 5747.012 of the Revised Code, to the 829
extent such qualifying investment income is not otherwise part of 830
modified business income. 831

(4) "Modified Ohio taxable income" applies only to trusts, 832
and means the sum of the amounts described in divisions (BB)(4)(a) 833
to (c) of this section: 834

(a) The fraction, calculated under section 5747.013, and 835
applying section 5747.231 of the Revised Code, multiplied by the 836
sum of the following amounts: 837

(i) The trust's modified business income; 838

(ii) The trust's qualifying investment income, as defined in 839
section 5747.012 of the Revised Code, but only to the extent the 840
qualifying investment income does not otherwise constitute 841
modified business income and does not otherwise constitute a 842
qualifying trust amount. 843

(b) The qualifying trust amount multiplied by a fraction, the 844
numerator of which is the sum of the book value of the qualifying 845
investee's physical assets in this state on the last day of the 846
qualifying investee's fiscal or calendar year ending immediately 847
prior to the day on which the trust recognizes the qualifying 848
trust amount, and the denominator of which is the sum of the book 849
value of the qualifying investee's total physical assets 850
everywhere on the last day of the qualifying investee's fiscal or 851
calendar year ending immediately prior to the day on which the 852
trust recognizes the qualifying trust amount. If, for a taxable 853
year, the trust recognizes a qualifying trust amount with respect 854
to more than one qualifying investee, the amount described in 855
division (BB)(4)(b) of this section shall equal the sum of the 856
products so computed for each such qualifying investee. 857

(c)(i) With respect to a trust or portion of a trust that is 858
a resident as ascertained in accordance with division (I)(3)(d) of 859

this section, its modified nonbusiness income. 860

(ii) With respect to a trust or portion of a trust that is 861
not a resident as ascertained in accordance with division 862
(I)(3)(d) of this section, the amount of its modified nonbusiness 863
income satisfying the descriptions in divisions (B)(2) to (5) of 864
section 5747.20 of the Revised Code, except as otherwise provided 865
in division (BB)(4)(c)(ii) of this section. With respect to a 866
trust or portion of a trust that is not a resident as ascertained 867
in accordance with division (I)(3)(d) of this section, the trust's 868
portion of modified nonbusiness income recognized from the sale, 869
exchange, or other disposition of a debt interest in or equity 870
interest in a section 5747.212 entity, as defined in section 871
5747.212 of the Revised Code, without regard to division (A) of 872
that section, shall not be allocated to this state in accordance 873
with section 5747.20 of the Revised Code but shall be apportioned 874
to this state in accordance with division (B) of section 5747.212 875
of the Revised Code without regard to division (A) of that 876
section. 877

If the allocation and apportionment of a trust's income under 878
divisions (BB)(4)(a) and (c) of this section do not fairly 879
represent the modified Ohio taxable income of the trust in this 880
state, the alternative methods described in division (C) of 881
section 5747.21 of the Revised Code may be applied in the manner 882
and to the same extent provided in that section. 883

(5)(a) Except as set forth in division (BB)(5)(b) of this 884
section, "qualifying investee" means a person in which a trust has 885
an equity or ownership interest, or a person or unit of government 886
the debt obligations of either of which are owned by a trust. For 887
the purposes of division (BB)(2)(a) of this section and for the 888
purpose of computing the fraction described in division (BB)(4)(b) 889
of this section, all of the following apply: 890

(i) If the qualifying investee is a member of a qualifying 891

controlled group on the last day of the qualifying investee's 892
fiscal or calendar year ending immediately prior to the date on 893
which the trust recognizes the gain or loss, then "qualifying 894
investee" includes all persons in the qualifying controlled group 895
on such last day. 896

(ii) If the qualifying investee, or if the qualifying 897
investee and any members of the qualifying controlled group of 898
which the qualifying investee is a member on the last day of the 899
qualifying investee's fiscal or calendar year ending immediately 900
prior to the date on which the trust recognizes the gain or loss, 901
separately or cumulatively own, directly or indirectly, on the 902
last day of the qualifying investee's fiscal or calendar year 903
ending immediately prior to the date on which the trust recognizes 904
the qualifying trust amount, more than fifty per cent of the 905
equity of a pass-through entity, then the qualifying investee and 906
the other members are deemed to own the proportionate share of the 907
pass-through entity's physical assets which the pass-through 908
entity directly or indirectly owns on the last day of the 909
pass-through entity's calendar or fiscal year ending within or 910
with the last day of the qualifying investee's fiscal or calendar 911
year ending immediately prior to the date on which the trust 912
recognizes the qualifying trust amount. 913

(iii) For the purposes of division (BB)(5)(a)(iii) of this 914
section, "upper level pass-through entity" means a pass-through 915
entity directly or indirectly owning any equity of another 916
pass-through entity, and "lower level pass-through entity" means 917
that other pass-through entity. 918

An upper level pass-through entity, whether or not it is also 919
a qualifying investee, is deemed to own, on the last day of the 920
upper level pass-through entity's calendar or fiscal year, the 921
proportionate share of the lower level pass-through entity's 922
physical assets that the lower level pass-through entity directly 923

or indirectly owns on the last day of the lower level pass-through 924
entity's calendar or fiscal year ending within or with the last 925
day of the upper level pass-through entity's fiscal or calendar 926
year. If the upper level pass-through entity directly and 927
indirectly owns less than fifty per cent of the equity of the 928
lower level pass-through entity on each day of the upper level 929
pass-through entity's calendar or fiscal year in which or with 930
which ends the calendar or fiscal year of the lower level 931
pass-through entity and if, based upon clear and convincing 932
evidence, complete information about the location and cost of the 933
physical assets of the lower pass-through entity is not available 934
to the upper level pass-through entity, then solely for purposes 935
of ascertaining if a gain or loss constitutes a qualifying trust 936
amount, the upper level pass-through entity shall be deemed as 937
owning no equity of the lower level pass-through entity for each 938
day during the upper level pass-through entity's calendar or 939
fiscal year in which or with which ends the lower level 940
pass-through entity's calendar or fiscal year. Nothing in division 941
(BB)(5)(a)(iii) of this section shall be construed to provide for 942
any deduction or exclusion in computing any trust's Ohio taxable 943
income. 944

(b) With respect to a trust that is not a resident for the 945
taxable year and with respect to a part of a trust that is not a 946
resident for the taxable year, "qualifying investee" for that 947
taxable year does not include a C corporation if both of the 948
following apply: 949

(i) During the taxable year the trust or part of the trust 950
recognizes a gain or loss from the sale, exchange, or other 951
disposition of equity or ownership interests in, or debt 952
obligations of, the C corporation. 953

(ii) Such gain or loss constitutes nonbusiness income. 954

(6) "Available" means information is such that a person is 955

able to learn of the information by the due date plus extensions, 956
if any, for filing the return for the taxable year in which the 957
trust recognizes the gain or loss. 958

(CC) "Qualifying controlled group" has the same meaning as in 959
section 5733.04 of the Revised Code. 960

(DD) "Related member" has the same meaning as in section 961
5733.042 of the Revised Code. 962

(EE)(1) For the purposes of division (EE) of this section: 963

(a) "Qualifying person" means any person other than a 964
qualifying corporation. 965

(b) "Qualifying corporation" means any person classified for 966
federal income tax purposes as an association taxable as a 967
corporation, except either of the following: 968

(i) A corporation that has made an election under subchapter 969
S, chapter one, subtitle A, of the Internal Revenue Code for its 970
taxable year ending within, or on the last day of, the investor's 971
taxable year; 972

(ii) A subsidiary that is wholly owned by any corporation 973
that has made an election under subchapter S, chapter one, 974
subtitle A of the Internal Revenue Code for its taxable year 975
ending within, or on the last day of, the investor's taxable year. 976

(2) For the purposes of this chapter, unless expressly stated 977
otherwise, no qualifying person indirectly owns any asset directly 978
or indirectly owned by any qualifying corporation. 979

(FF) For purposes of this chapter and Chapter 5751. of the 980
Revised Code: 981

(1) "Trust" does not include a qualified pre-income tax 982
trust. 983

(2) A "qualified pre-income tax trust" is any pre-income tax 984
trust that makes a qualifying pre-income tax trust election as 985

described in division (FF)(3) of this section. 986

(3) A "qualifying pre-income tax trust election" is an 987
election by a pre-income tax trust to subject to the tax imposed 988
by section 5751.02 of the Revised Code the pre-income tax trust 989
and all pass-through entities of which the trust owns or controls, 990
directly, indirectly, or constructively through related interests, 991
five per cent or more of the ownership or equity interests. The 992
trustee shall notify the tax commissioner in writing of the 993
election on or before April 15, 2006. The election, if timely 994
made, shall be effective on and after January 1, 2006, and shall 995
apply for all tax periods and tax years until revoked by the 996
trustee of the trust. 997

(4) A "pre-income tax trust" is a trust that satisfies all of 998
the following requirements: 999

(a) The document or instrument creating the trust was 1000
executed by the grantor before January 1, 1972; 1001

(b) The trust became irrevocable upon the creation of the 1002
trust; and 1003

(c) The grantor was domiciled in this state at the time the 1004
trust was created. 1005

(GG) "Uniformed services" has the same meaning as in 10
U.S.C. 101. 1007

Sec. 5747.82. (A) As used in this section: 1008

(1) "Qualifying Ohio artist" means an artist who does all of 1009
the following: 1010

(a) Owns or rents residential real property in this state; 1011

(b) Conducts business in an arts and entertainment district; 1012

(c) Derives income from the sale or performance within any 1013
arts and entertainment district of a work that the artist wrote, 1014

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| <u>composed, or created, either alone or with others.</u> | 1015 |
| <u>(2) "Artist" means an individual who composes, writes, or creates, alone or with others, an original and creative work for singular or limited production and not for commercial reproduction.</u> | 1016 1017 1018 1019 |
| <u>(3) "Work" means any of the following:</u> | 1020 |
| <u>(a) A book or other writing;</u> | 1021 |
| <u>(b) A play;</u> | 1022 |
| <u>(c) A musical composition;</u> | 1023 |
| <u>(d) A painting, print, photograph, or other picture;</u> | 1024 |
| <u>(e) A sculpture;</u> | 1025 |
| <u>(f) A traditional or fine craft;</u> | 1026 |
| <u>(g) A film;</u> | 1027 |
| <u>(h) A dance.</u> | 1028 |
| <u>(4) "Arts and entertainment district" means an area designated by the director of development services under division (C) of this section.</u> | 1029 1030 1031 |
| <u>(5) "Eligible subdivision" means a county or municipal corporation.</u> | 1032 1033 |
| <u>(6) "Legislative body" means the legislative authority of a municipal corporation or a board of county commissioners.</u> | 1034 1035 |
| <u>(B)(1) The legislative body of an eligible subdivision may resolve, by an ordinance or resolution adopted by a majority of the body's members, to apply to the director of development services to designate an area as an arts and entertainment district, as follows:</u> | 1036 1037 1038 1039 1040 |
| <u>(a) The legislative authority of a municipal corporation may apply to designate a district within the territory of the</u> | 1041 1042 |

municipal corporation. 1043

(b) A board of county commissioners may apply to designate a district within the unincorporated territory of the county. 1044
1045

(c) A board of county commissioners may apply to designate a district within the territory of a municipal corporation if the legislative authority of that municipal corporation, by resolution or ordinance, approves of or authorizes the county's application. 1046
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(d) Two or more legislative bodies may resolve jointly, by ordinance or resolution adopted by each body, to apply for designation of a district within the territory of each applying eligible subdivision. 1050
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(2) Eligible subdivisions shall submit such applications on forms prescribed by the director of development services and shall include all of the following: 1054
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(a) Sufficient information to allow the director to make the determination required in division (C) of this section; 1057
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(b) A copy of each resolution or ordinance authorizing the application; 1059
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(c) Any other information required by the director. 1061

(3) Eligible subdivisions may apply to the director to expand the boundaries of an existing arts and entertainment district in the same manner as prescribed under division (B) of this section. 1062
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(C) Not later than sixty days after the receipt of an application described in division (B) of this section, the director of development services may designate the area described in the application as an arts or entertainment district if the director determines that the area is a developed district of public and private uses that is distinguished by physical and cultural resources that play a vital role in the life and development of the community and contribute to the public welfare 1065
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through artistic, interpretive, educational, and recreational 1073
uses. 1074

The director's decision on an application is final and may 1075
not be appealed. The legislative body of an eligible subdivision 1076
may reapply to the director under division (B) of this section to 1077
designate as an arts and entertainment district an area that the 1078
director did not previously so designate under this division. 1079

Section 2. That existing section 5747.01 of the Revised Code 1080
is hereby repealed. 1081