

As Introduced

**130th General Assembly
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S. B. No. 170

Senator Kearney

Cosponsor: Senator Turner

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A B I L L

To amend section 5747.01 of the Revised Code to allow 1
an income tax deduction for amounts spent by law 2
enforcement officials for items used in 3
furtherance of official law enforcement 4
activities. 5

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

Section 1. That section 5747.01 of the Revised Code be 6
amended to read as follows: 7

Sec. 5747.01. Except as otherwise expressly provided or 8
clearly appearing from the context, any term used in this chapter 9
that is not otherwise defined in this section has the same meaning 10
as when used in a comparable context in the laws of the United 11
States relating to federal income taxes or if not used in a 12
comparable context in those laws, has the same meaning as in 13
section 5733.40 of the Revised Code. Any reference in this chapter 14
to the Internal Revenue Code includes other laws of the United 15
States relating to federal income taxes. 16

As used in this chapter: 17

(A) "Adjusted gross income" or "Ohio adjusted gross income" 18
means federal adjusted gross income, as defined and used in the 19

Internal Revenue Code, adjusted as provided in this section:	20
(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.	21 22 23
(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.	24 25 26 27 28
(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.	29 30 31 32 33 34
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	35 36
(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.	37 38 39 40
(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.	41 42 43 44 45 46 47 48 49
"Undistributed net income of a trust" means the taxable income of	50

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

(7) Deduct the amount of wages and salaries, if any, not 63
otherwise allowable as a deduction but that would have been 64
allowable as a deduction in computing federal adjusted gross 65
income for the taxable year, had the targeted jobs credit allowed 66
and determined under sections 38, 51, and 52 of the Internal 67
Revenue Code not been in effect. 68

(8) Deduct any interest or interest equivalent on public 69
obligations and purchase obligations to the extent that the 70
interest or interest equivalent is included in federal adjusted 71
gross income. 72

(9) Add any loss or deduct any gain resulting from the sale, 73
exchange, or other disposition of public obligations to the extent 74
that the loss has been deducted or the gain has been included in 75
computing federal adjusted gross income. 76

(10) Deduct or add amounts, as provided under section 5747.70 77
of the Revised Code, related to contributions to variable college 78
savings program accounts made or tuition units purchased pursuant 79
to Chapter 3334. of the Revised Code. 80

(11)(a) Deduct, to the extent not otherwise allowable as a 81

deduction or exclusion in computing federal or Ohio adjusted gross 82
income for the taxable year, the amount the taxpayer paid during 83
the taxable year for medical care insurance and qualified 84
long-term care insurance for the taxpayer, the taxpayer's spouse, 85
and dependents. No deduction for medical care insurance under 86
division (A)(11) of this section shall be allowed either to any 87
taxpayer who is eligible to participate in any subsidized health 88
plan maintained by any employer of the taxpayer or of the 89
taxpayer's spouse, or to any taxpayer who is entitled to, or on 90
application would be entitled to, benefits under part A of Title 91
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 92
301, as amended. For the purposes of division (A)(11)(a) of this 93
section, "subsidized health plan" means a health plan for which 94
the employer pays any portion of the plan's cost. The deduction 95
allowed under division (A)(11)(a) of this section shall be the net 96
of any related premium refunds, related premium reimbursements, or 97
related insurance premium dividends received during the taxable 98
year. 99

(b) Deduct, to the extent not otherwise deducted or excluded 100
in computing federal or Ohio adjusted gross income during the 101
taxable year, the amount the taxpayer paid during the taxable 102
year, not compensated for by any insurance or otherwise, for 103
medical care of the taxpayer, the taxpayer's spouse, and 104
dependents, to the extent the expenses exceed seven and one-half 105
per cent of the taxpayer's federal adjusted gross income. 106

(c) Deduct, to the extent not otherwise deducted or excluded 107
in computing federal or Ohio adjusted gross income, any amount 108
included in federal adjusted gross income under section 105 or not 109
excluded under section 106 of the Internal Revenue Code solely 110
because it relates to an accident and health plan for a person who 111
otherwise would be a "qualifying relative" and thus a "dependent" 112
under section 152 of the Internal Revenue Code but for the fact 113

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

(d) For purposes of division (A)(11) of this section, 116
"medical care" has the meaning given in section 213 of the 117
Internal Revenue Code, subject to the special rules, limitations, 118
and exclusions set forth therein, and "qualified long-term care" 119
has the same meaning given in section 7702B(c) of the Internal 120
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 121
of this section, "dependent" includes a person who otherwise would 122
be a "qualifying relative" and thus a "dependent" under section 123
152 of the Internal Revenue Code but for the fact that the person 124
fails to meet the income and support limitations under section 125
152(d)(1)(B) and (C) of the Internal Revenue Code. 126

(12)(a) Deduct any amount included in federal adjusted gross 127
income solely because the amount represents a reimbursement or 128
refund of expenses that in any year the taxpayer had deducted as 129
an itemized deduction pursuant to section 63 of the Internal 130
Revenue Code and applicable United States department of the 131
treasury regulations. The deduction otherwise allowed under 132
division (A)(12)(a) of this section shall be reduced to the extent 133
the reimbursement is attributable to an amount the taxpayer 134
deducted under this section in any taxable year. 135

(b) Add any amount not otherwise included in Ohio adjusted 136
gross income for any taxable year to the extent that the amount is 137
attributable to the recovery during the taxable year of any amount 138
deducted or excluded in computing federal or Ohio adjusted gross 139
income in any taxable year. 140

(13) Deduct any portion of the deduction described in section 141
1341(a)(2) of the Internal Revenue Code, for repaying previously 142
reported income received under a claim of right, that meets both 143
of the following requirements: 144

(a) It is allowable for repayment of an item that was 145
included in the taxpayer's adjusted gross income for a prior 146
taxable year and did not qualify for a credit under division (A) 147
or (B) of section 5747.05 of the Revised Code for that year; 148

(b) It does not otherwise reduce the taxpayer's adjusted 149
gross income for the current or any other taxable year. 150

(14) Deduct an amount equal to the deposits made to, and net 151
investment earnings of, a medical savings account during the 152
taxable year, in accordance with section 3924.66 of the Revised 153
Code. The deduction allowed by division (A)(14) of this section 154
does not apply to medical savings account deposits and earnings 155
otherwise deducted or excluded for the current or any other 156
taxable year from the taxpayer's federal adjusted gross income. 157

(15)(a) Add an amount equal to the funds withdrawn from a 158
medical savings account during the taxable year, and the net 159
investment earnings on those funds, when the funds withdrawn were 160
used for any purpose other than to reimburse an account holder 161
for, or to pay, eligible medical expenses, in accordance with 162
section 3924.66 of the Revised Code; 163

(b) Add the amounts distributed from a medical savings 164
account under division (A)(2) of section 3924.68 of the Revised 165
Code during the taxable year. 166

(16) Add any amount claimed as a credit under section 167
5747.059 or 5747.65 of the Revised Code to the extent that such 168
amount satisfies either of the following: 169

(a) The amount was deducted or excluded from the computation 170
of the taxpayer's federal adjusted gross income as required to be 171
reported for the taxpayer's taxable year under the Internal 172
Revenue Code; 173

(b) The amount resulted in a reduction of the taxpayer's 174
federal adjusted gross income as required to be reported for any 175

of the taxpayer's taxable years under the Internal Revenue Code. 176

(17) Deduct the amount contributed by the taxpayer to an 177
individual development account program established by a county 178
department of job and family services pursuant to sections 329.11 179
to 329.14 of the Revised Code for the purpose of matching funds 180
deposited by program participants. On request of the tax 181
commissioner, the taxpayer shall provide any information that, in 182
the tax commissioner's opinion, is necessary to establish the 183
amount deducted under division (A)(17) of this section. 184

(18) Beginning in taxable year 2001 but not for any taxable 185
year beginning after December 31, 2005, if the taxpayer is married 186
and files a joint return and the combined federal adjusted gross 187
income of the taxpayer and the taxpayer's spouse for the taxable 188
year does not exceed one hundred thousand dollars, or if the 189
taxpayer is single and has a federal adjusted gross income for the 190
taxable year not exceeding fifty thousand dollars, deduct amounts 191
paid during the taxable year for qualified tuition and fees paid 192
to an eligible institution for the taxpayer, the taxpayer's 193
spouse, or any dependent of the taxpayer, who is a resident of 194
this state and is enrolled in or attending a program that 195
culminates in a degree or diploma at an eligible institution. The 196
deduction may be claimed only to the extent that qualified tuition 197
and fees are not otherwise deducted or excluded for any taxable 198
year from federal or Ohio adjusted gross income. The deduction may 199
not be claimed for educational expenses for which the taxpayer 200
claims a credit under section 5747.27 of the Revised Code. 201

(19) Add any reimbursement received during the taxable year 202
of any amount the taxpayer deducted under division (A)(18) of this 203
section in any previous taxable year to the extent the amount is 204
not otherwise included in Ohio adjusted gross income. 205

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 206
(v) of this section, add five-sixths of the amount of depreciation 207

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 Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

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

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

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

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

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

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

Code by an employer during the employer's taxable year. 271

(ii) "Increase in income taxes withheld" means the amount by 272
which the amount of income taxes withheld by an employer during 273
the employer's current taxable year exceeds the amount of income 274
taxes withheld by that employer during the employer's immediately 275
preceding taxable year. 276

(iii) "Qualifying section 179 depreciation expense" means the 277
difference between (I) the amount of depreciation expense directly 278
or indirectly allowed to a taxpayer under section 179 of the 279
Internal Revised Code, and (II) the amount of depreciation expense 280
directly or indirectly allowed to the taxpayer under section 179 281
of the Internal Revenue Code as that section existed on December 282
31, 2002. 283

(21)(a) If the taxpayer was required to add an amount under 284
division (A)(20)(a) of this section for a taxable year, deduct one 285
of the following: 286

(i) One-fifth of the amount so added for each of the five 287
succeeding taxable years if the amount so added was five-sixths of 288
qualifying section 179 depreciation expense or depreciation 289
expense allowed by subsection (k) of section 168 of the Internal 290
Revenue Code; 291

(ii) One-half of the amount so added for each of the two 292
succeeding taxable years if the amount so added was two-thirds of 293
such depreciation expense; 294

(iii) One-sixth of the amount so added for each of the six 295
succeeding taxable years if the entire amount of such depreciation 296
expense was so added. 297

(b) If the amount deducted under division (A)(21)(a) of this 298
section is attributable to an add-back allocated under division 299
(A)(20)(c) of this section, the amount deducted shall be situated 300
to the same location. Otherwise, the add-back shall be apportioned 301

using the apportionment factors for the taxable year in which the 302
deduction is taken, subject to one or more of the four alternative 303
methods of apportionment enumerated in section 5747.21 of the 304
Revised Code. 305

(c) No deduction is available under division (A)(21)(a) of 306
this section with regard to any depreciation allowed by section 307
168(k) of the Internal Revenue Code and by the qualifying section 308
179 depreciation expense amount to the extent that such 309
depreciation results in or increases a federal net operating loss 310
carryback or carryforward. If no such deduction is available for a 311
taxable year, the taxpayer may carry forward the amount not 312
deducted in such taxable year to the next taxable year and add 313
that amount to any deduction otherwise available under division 314
(A)(21)(a) of this section for that next taxable year. The 315
carryforward of amounts not so deducted shall continue until the 316
entire addition required by division (A)(20)(a) of this section 317
has been deducted. 318

(d) No refund shall be allowed as a result of adjustments 319
made by division (A)(21) of this section. 320

(22) Deduct, to the extent not otherwise deducted or excluded 321
in computing federal or Ohio adjusted gross income for the taxable 322
year, the amount the taxpayer received during the taxable year as 323
reimbursement for life insurance premiums under section 5919.31 of 324
the Revised Code. 325

(23) Deduct, to the extent not otherwise deducted or excluded 326
in computing federal or Ohio adjusted gross income for the taxable 327
year, the amount the taxpayer received during the taxable year as 328
a death benefit paid by the adjutant general under section 5919.33 329
of the Revised Code. 330

(24) Deduct, to the extent included in federal adjusted gross 331
income and not otherwise allowable as a deduction or exclusion in 332

computing federal or Ohio adjusted gross income for the taxable 333
year, military pay and allowances received by the taxpayer during 334
the taxable year for active duty service in the United States 335
army, air force, navy, marine corps, or coast guard or reserve 336
components thereof or the national guard. The deduction may not be 337
claimed for military pay and allowances received by the taxpayer 338
while the taxpayer is stationed in this state. 339

(25) Deduct, to the extent not otherwise allowable as a 340
deduction or exclusion in computing federal or Ohio adjusted gross 341
income for the taxable year and not otherwise compensated for by 342
any other source, the amount of qualified organ donation expenses 343
incurred by the taxpayer during the taxable year, not to exceed 344
ten thousand dollars. A taxpayer may deduct qualified organ 345
donation expenses only once for all taxable years beginning with 346
taxable years beginning in 2007. 347

For the purposes of division (A)(25) of this section: 348

(a) "Human organ" means all or any portion of a human liver, 349
pancreas, kidney, intestine, or lung, and any portion of human 350
bone marrow. 351

(b) "Qualified organ donation expenses" means travel 352
expenses, lodging expenses, and wages and salary forgone by a 353
taxpayer in connection with the taxpayer's donation, while living, 354
of one or more of the taxpayer's human organs to another human 355
being. 356

(26) Deduct, to the extent not otherwise deducted or excluded 357
in computing federal or Ohio adjusted gross income for the taxable 358
year, amounts received by the taxpayer as retired military 359
personnel pay for service in the United States army, navy, air 360
force, coast guard, or marine corps or reserve components thereof, 361
or the national guard, or received by the surviving spouse or 362
former spouse of such a taxpayer under the survivor benefit plan 363

on account of such a taxpayer's death. If the taxpayer receives 364
income on account of retirement paid under the federal civil 365
service retirement system or federal employees retirement system, 366
or under any successor retirement program enacted by the congress 367
of the United States that is established and maintained for 368
retired employees of the United States government, and such 369
retirement income is based, in whole or in part, on credit for the 370
taxpayer's military service, the deduction allowed under this 371
division shall include only that portion of such retirement income 372
that is attributable to the taxpayer's military service, to the 373
extent that portion of such retirement income is otherwise 374
included in federal adjusted gross income and is not otherwise 375
deducted under this section. Any amount deducted under division 376
(A)(26) of this section is not included in a taxpayer's adjusted 377
gross income for the purposes of section 5747.055 of the Revised 378
Code. No amount may be deducted under division (A)(26) of this 379
section on the basis of which a credit was claimed under section 380
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 loss from wagering transactions that is allowed as an 394
itemized deduction under section 165 of the Internal Revenue Code 395

and that the taxpayer deducted in computing federal taxable 396
income. 397

(30) Deduct, to the extent not otherwise deducted or excluded 398
in computing federal or Ohio adjusted gross income for the taxable 399
year, any income derived from providing public services under a 400
contract through a project owned by the state, as described in 401
section 126.604 of the Revised Code or derived from a transfer 402
agreement or from the enterprise transferred under that agreement 403
under section 4313.02 of the Revised Code. 404

(31) Deduct, to the extent not otherwise deducted or excluded 405
in computing federal or Ohio adjusted gross income for the taxable 406
year, Ohio college opportunity or federal Pell grant amounts 407
received by the taxpayer or the taxpayer's spouse or dependent 408
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 409
1070a, et seq., and used to pay room or board furnished by the 410
educational institution for which the grant was awarded at the 411
institution's facilities, including meal plans administered by the 412
institution. For the purposes of this division, receipt of a grant 413
includes the distribution of a grant directly to an educational 414
institution and the crediting of the grant to the enrollee's 415
account with the institution. 416

(32) Deduct, to the extent not otherwise deducted or excluded 417
in computing federal or Ohio adjusted gross income for the taxable 418
year, amounts spent by a law enforcement officer during the 419
taxable year on items used by that individual for official law 420
enforcement activities, not to exceed one thousand dollars. 421

On request of the tax commissioner, the law enforcement 422
officer shall provide a receipt for each item used in calculating 423
the deduction and a letter from the law enforcement officer's 424
employer confirming that the items were used for official law 425
enforcement activities. 426

For purposes of division (A)(30) of this section, "law enforcement officer" means a sheriff, deputy sheriff, constable, municipal police officer, police officer of a township or joint township police district, marshal, deputy marshal, or state highway patrolman, and also means any officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, the authority to arrest violators is conferred, when the officer, agent, or employee is acting within the limits of statutory authority.

(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.	458
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	459 460
(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:	461 462 463
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	464 465
(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.	466 467 468 469
(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.	470 471 472
For the purposes of division (I)(3) of this section:	473
(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:	474 475 476 477 478 479
(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;	480 481 482 483
(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	484 485 486 487

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 section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(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.

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

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

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

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

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

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

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

political subdivision or authority of any state, other than this 642
state and its subdivisions and authorities, but only to the extent 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 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 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 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:	797
(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;	798 799 800
(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;	801 802 803
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.	804 805 806
(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.	807 808 809
(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:	810 811 812 813 814
(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.	815 816 817 818 819
(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.	820 821 822
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.	823 824 825
(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 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.	955 956 957 958
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	959 960
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	961 962
(EE)(1) For the purposes of division (EE) of this section:	963
(a) "Qualifying person" means any person other than a qualifying corporation.	964 965
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	966 967 968
(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;	969 970 971 972
(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.	973 974 975 976
(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.	977 978 979
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	980 981
(1) "Trust" does not include a qualified pre-income tax trust.	982 983

(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.

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

Section 3. The amendment by this act of section 5747.01 of the Revised Code applies to taxable years ending on or after the effective date of this act.

Section 4. Section 5747.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. H.B.

167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th 1013
General Assembly. The General Assembly, applying the principle 1014
stated in division (B) of section 1.52 of the Revised Code that 1015
amendments are to be harmonized if reasonably capable of 1016
simultaneous operation, finds that the composite is the resulting 1017
version of the section in effect prior to the effective date of 1018
the section as presented in this act. 1019