

As Introduced

**130th General Assembly
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S. B. No. 203

Senators Schaffer, Tavares

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A B I L L

To amend sections 5739.02, 5747.01, and 5747.98 and 1
to enact sections 5739.40 and 5747.78 of the 2
Revised Code to authorize an income tax credit for 3
individuals that earn a nonprofit management 4
degree or certain professional designations and to 5
allow a sales tax exemption for out-of-state 6
nonprofit corporations that relocate jobs to Ohio. 7

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

Section 1. That sections 5739.02, 5747.01, and 5747.98 be 8
amended and sections 5739.40 and 5747.78 of the Revised Code be 9
enacted to read as follows: 10

Sec. 5739.02. For the purpose of providing revenue with which 11
to meet the needs of the state, for the use of the general revenue 12
fund of the state, for the purpose of securing a thorough and 13
efficient system of common schools throughout the state, for the 14
purpose of affording revenues, in addition to those from general 15
property taxes, permitted under constitutional limitations, and 16
from other sources, for the support of local governmental 17
functions, and for the purpose of reimbursing the state for the 18
expense of administering this chapter, an excise tax is hereby 19
levied on each retail sale made in this state. 20

(A)(1) The tax shall be collected as provided in section 21
5739.025 of the Revised Code. The rate of the tax shall be five 22
and one-half per cent. The tax applies and is collectible when the 23
sale is made, regardless of the time when the price is paid or 24
delivered. 25

(2) In the case of the lease or rental, with a fixed term of 26
more than thirty days or an indefinite term with a minimum period 27
of more than thirty days, of any motor vehicles designed by the 28
manufacturer to carry a load of not more than one ton, watercraft, 29
outboard motor, or aircraft, or of any tangible personal property, 30
other than motor vehicles designed by the manufacturer to carry a 31
load of more than one ton, to be used by the lessee or renter 32
primarily for business purposes, the tax shall be collected by the 33
vendor at the time the lease or rental is consummated and shall be 34
calculated by the vendor on the basis of the total amount to be 35
paid by the lessee or renter under the lease agreement. If the 36
total amount of the consideration for the lease or rental includes 37
amounts that are not calculated at the time the lease or rental is 38
executed, the tax shall be calculated and collected by the vendor 39
at the time such amounts are billed to the lessee or renter. In 40
the case of an open-end lease or rental, the tax shall be 41
calculated by the vendor on the basis of the total amount to be 42
paid during the initial fixed term of the lease or rental, and for 43
each subsequent renewal period as it comes due. As used in this 44
division, "motor vehicle" has the same meaning as in section 45
4501.01 of the Revised Code, and "watercraft" includes an outdrive 46
unit attached to the watercraft. 47

A lease with a renewal clause and a termination penalty or 48
similar provision that applies if the renewal clause is not 49
exercised is presumed to be a sham transaction. In such a case, 50
the tax shall be calculated and paid on the basis of the entire 51
length of the lease period, including any renewal periods, until 52

the termination penalty or similar provision no longer applies. 53
The taxpayer shall bear the burden, by a preponderance of the 54
evidence, that the transaction or series of transactions is not a 55
sham transaction. 56

(3) Except as provided in division (A)(2) of this section, in 57
the case of a sale, the price of which consists in whole or in 58
part of the lease or rental of tangible personal property, the tax 59
shall be measured by the installments of that lease or rental. 60

(4) In the case of a sale of a physical fitness facility 61
service or recreation and sports club service, the price of which 62
consists in whole or in part of a membership for the receipt of 63
the benefit of the service, the tax applicable to the sale shall 64
be measured by the installments thereof. 65

(B) The tax does not apply to the following: 66

(1) Sales to the state or any of its political subdivisions, 67
or to any other state or its political subdivisions if the laws of 68
that state exempt from taxation sales made to this state and its 69
political subdivisions; 70

(2) Sales of food for human consumption off the premises 71
where sold; 72

(3) Sales of food sold to students only in a cafeteria, 73
dormitory, fraternity, or sorority maintained in a private, 74
public, or parochial school, college, or university; 75

(4) Sales of newspapers and of magazine subscriptions and 76
sales or transfers of magazines distributed as controlled 77
circulation publications; 78

(5) The furnishing, preparing, or serving of meals without 79
charge by an employer to an employee provided the employer records 80
the meals as part compensation for services performed or work 81
done; 82

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided

in division (B)(9)(b) of this section. If the number of days on 115
which such sales are made exceeds six in any calendar year, the 116
church or organization shall be considered to be engaged in 117
business and all subsequent sales by it shall be subject to the 118
tax. In counting the number of days, all sales by groups within a 119
church or within an organization shall be considered to be sales 120
of that church or organization. 121

(b) The limitation on the number of days on which tax-exempt 122
sales may be made by a church or organization under division 123
(B)(9)(a) of this section does not apply to sales made by student 124
clubs and other groups of students of a primary or secondary 125
school, or a parent-teacher association, booster group, or similar 126
organization that raises money to support or fund curricular or 127
extracurricular activities of a primary or secondary school. 128

(c) Divisions (B)(9)(a) and (b) of this section do not apply 129
to sales by a noncommercial educational radio or television 130
broadcasting station. 131

(10) Sales not within the taxing power of this state under 132
the Constitution of the United States; 133

(11) Except for transactions that are sales under division 134
(B)(3)(r) of section 5739.01 of the Revised Code, the 135
transportation of persons or property, unless the transportation 136
is by a private investigation and security service; 137

(12) Sales of tangible personal property or services to 138
churches, to organizations exempt from taxation under section 139
501(c)(3) of the Internal Revenue Code of 1986, and to any other 140
nonprofit organizations operated exclusively for charitable 141
purposes in this state, no part of the net income of which inures 142
to the benefit of any private shareholder or individual, and no 143
substantial part of the activities of which consists of carrying 144
on propaganda or otherwise attempting to influence legislation; 145

sales to offices administering one or more homes for the aged or 146
one or more hospital facilities exempt under section 140.08 of the 147
Revised Code; and sales to organizations described in division (D) 148
of section 5709.12 of the Revised Code. 149

"Charitable purposes" means the relief of poverty; the 150
improvement of health through the alleviation of illness, disease, 151
or injury; the operation of an organization exclusively for the 152
provision of professional, laundry, printing, and purchasing 153
services to hospitals or charitable institutions; the operation of 154
a home for the aged, as defined in section 5701.13 of the Revised 155
Code; the operation of a radio or television broadcasting station 156
that is licensed by the federal communications commission as a 157
noncommercial educational radio or television station; the 158
operation of a nonprofit animal adoption service or a county 159
humane society; the promotion of education by an institution of 160
learning that maintains a faculty of qualified instructors, 161
teaches regular continuous courses of study, and confers a 162
recognized diploma upon completion of a specific curriculum; the 163
operation of a parent-teacher association, booster group, or 164
similar organization primarily engaged in the promotion and 165
support of the curricular or extracurricular activities of a 166
primary or secondary school; the operation of a community or area 167
center in which presentations in music, dramatics, the arts, and 168
related fields are made in order to foster public interest and 169
education therein; the production of performances in music, 170
dramatics, and the arts; or the promotion of education by an 171
organization engaged in carrying on research in, or the 172
dissemination of, scientific and technological knowledge and 173
information primarily for the public. 174

Nothing in this division shall be deemed to exempt sales to 175
any organization for use in the operation or carrying on of a 176
trade or business, or sales to a home for the aged for use in the 177

operation of independent living facilities as defined in division 178
(A) of section 5709.12 of the Revised Code. 179

(13) Building and construction materials and services sold to 180
construction contractors for incorporation into a structure or 181
improvement to real property under a construction contract with 182
this state or a political subdivision of this state, or with the 183
United States government or any of its agencies; building and 184
construction materials and services sold to construction 185
contractors for incorporation into a structure or improvement to 186
real property that are accepted for ownership by this state or any 187
of its political subdivisions, or by the United States government 188
or any of its agencies at the time of completion of the structures 189
or improvements; building and construction materials sold to 190
construction contractors for incorporation into a horticulture 191
structure or livestock structure for a person engaged in the 192
business of horticulture or producing livestock; building 193
materials and services sold to a construction contractor for 194
incorporation into a house of public worship or religious 195
education, or a building used exclusively for charitable purposes 196
under a construction contract with an organization whose purpose 197
is as described in division (B)(12) of this section; building 198
materials and services sold to a construction contractor for 199
incorporation into a building under a construction contract with 200
an organization exempt from taxation under section 501(c)(3) of 201
the Internal Revenue Code of 1986 when the building is to be used 202
exclusively for the organization's exempt purposes; building and 203
construction materials sold for incorporation into the original 204
construction of a sports facility under section 307.696 of the 205
Revised Code; building and construction materials and services 206
sold to a construction contractor for incorporation into real 207
property outside this state if such materials and services, when 208
sold to a construction contractor in the state in which the real 209
property is located for incorporation into real property in that 210

state, would be exempt from a tax on sales levied by that state; 211
and, until one calendar year after the construction of a 212
convention center that qualifies for property tax exemption under 213
section 5709.084 of the Revised Code is completed, building and 214
construction materials and services sold to a construction 215
contractor for incorporation into the real property comprising 216
that convention center; 217

(14) Sales of ships or vessels or rail rolling stock used or 218
to be used principally in interstate or foreign commerce, and 219
repairs, alterations, fuel, and lubricants for such ships or 220
vessels or rail rolling stock; 221

(15) Sales to persons primarily engaged in any of the 222
activities mentioned in division (B)(42)(a), (g), or (h) of this 223
section, to persons engaged in making retail sales, or to persons 224
who purchase for sale from a manufacturer tangible personal 225
property that was produced by the manufacturer in accordance with 226
specific designs provided by the purchaser, of packages, including 227
material, labels, and parts for packages, and of machinery, 228
equipment, and material for use primarily in packaging tangible 229
personal property produced for sale, including any machinery, 230
equipment, and supplies used to make labels or packages, to 231
prepare packages or products for labeling, or to label packages or 232
products, by or on the order of the person doing the packaging, or 233
sold at retail. "Packages" includes bags, baskets, cartons, 234
crates, boxes, cans, bottles, bindings, wrappings, and other 235
similar devices and containers, but does not include motor 236
vehicles or bulk tanks, trailers, or similar devices attached to 237
motor vehicles. "Packaging" means placing in a package. Division 238
(B)(15) of this section does not apply to persons engaged in 239
highway transportation for hire. 240

(16) Sales of food to persons using supplemental nutrition 241
assistance program benefits to purchase the food. As used in this 242

division, "food" has the same meaning as in 7 U.S.C. 2012 and 243
federal regulations adopted pursuant to the Food and Nutrition Act 244
of 2008. 245

(17) Sales to persons engaged in farming, agriculture, 246
horticulture, or floriculture, of tangible personal property for 247
use or consumption primarily in the production by farming, 248
agriculture, horticulture, or floriculture of other tangible 249
personal property for use or consumption primarily in the 250
production of tangible personal property for sale by farming, 251
agriculture, horticulture, or floriculture; or material and parts 252
for incorporation into any such tangible personal property for use 253
or consumption in production; and of tangible personal property 254
for such use or consumption in the conditioning or holding of 255
products produced by and for such use, consumption, or sale by 256
persons engaged in farming, agriculture, horticulture, or 257
floriculture, except where such property is incorporated into real 258
property; 259

(18) Sales of drugs for a human being that may be dispensed 260
only pursuant to a prescription; insulin as recognized in the 261
official United States pharmacopoeia; urine and blood testing 262
materials when used by diabetics or persons with hypoglycemia to 263
test for glucose or acetone; hypodermic syringes and needles when 264
used by diabetics for insulin injections; epoetin alfa when 265
purchased for use in the treatment of persons with medical 266
disease; hospital beds when purchased by hospitals, nursing homes, 267
or other medical facilities; and medical oxygen and medical 268
oxygen-dispensing equipment when purchased by hospitals, nursing 269
homes, or other medical facilities; 270

(19) Sales of prosthetic devices, durable medical equipment 271
for home use, or mobility enhancing equipment, when made pursuant 272
to a prescription and when such devices or equipment are for use 273
by a human being. 274

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| (20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state; | 275 276 277 278 279 |
| (21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser; | 280 281 282 283 284 285 |
| (22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities; | 286 287 288 289 290 |
| (23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code; | 291 292 293 |
| (24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, | 294 295 296 297 298 299 300 301 302 303 304 305 306 |

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| cartons, closure materials, labels, and labeling materials, and | 307 |
| "packaging" means placing therein. | 308 |
| (25)(a) Sales of water to a consumer for residential use; | 309 |
| (b) Sales of water by a nonprofit corporation engaged | 310 |
| exclusively in the treatment, distribution, and sale of water to | 311 |
| consumers, if such water is delivered to consumers through pipes | 312 |
| or tubing. | 313 |
| (26) Fees charged for inspection or reinspection of motor | 314 |
| vehicles under section 3704.14 of the Revised Code; | 315 |
| (27) Sales to persons licensed to conduct a food service | 316 |
| operation pursuant to section 3717.43 of the Revised Code, of | 317 |
| tangible personal property primarily used directly for the | 318 |
| following: | 319 |
| (a) To prepare food for human consumption for sale; | 320 |
| (b) To preserve food that has been or will be prepared for | 321 |
| human consumption for sale by the food service operator, not | 322 |
| including tangible personal property used to display food for | 323 |
| selection by the consumer; | 324 |
| (c) To clean tangible personal property used to prepare or | 325 |
| serve food for human consumption for sale. | 326 |
| (28) Sales of animals by nonprofit animal adoption services | 327 |
| or county humane societies; | 328 |
| (29) Sales of services to a corporation described in division | 329 |
| (A) of section 5709.72 of the Revised Code, and sales of tangible | 330 |
| personal property that qualifies for exemption from taxation under | 331 |
| section 5709.72 of the Revised Code; | 332 |
| (30) Sales and installation of agricultural land tile, as | 333 |
| defined in division (B)(5)(a) of section 5739.01 of the Revised | 334 |
| Code; | 335 |
| (31) Sales and erection or installation of portable grain | 336 |

bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and

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| describes tangible personal property offered for retail sale. | 369 |
| (b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section; | 370 371 372 373 374 375 |
| (c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales. | 376 377 378 |
| (d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer. | 379 380 381 |
| For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier. | 382 383 384 385 386 387 388 389 |
| (36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure; | 390 391 392 |
| (37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students; | 393 394 395 396 397 |
| (38) Sales to a professional racing team of any of the following: | 398 399 |

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| (a) Motor racing vehicles; | 400 |
| (b) Repair services for motor racing vehicles; | 401 |
| (c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication. | 402 403 404 405 406 407 408 409 |
| (39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; | 410 411 412 |
| (40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity. | 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 |

(41) Sales to a person providing services under division 431
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 432
personal property and services used directly and primarily in 433
providing taxable services under that section. 434

(42) Sales where the purpose of the purchaser is to do any of 435
the following: 436

(a) To incorporate the thing transferred as a material or a 437
part into tangible personal property to be produced for sale by 438
manufacturing, assembling, processing, or refining; or to use or 439
consume the thing transferred directly in producing tangible 440
personal property for sale by mining, including, without 441
limitation, the extraction from the earth of all substances that 442
are classed geologically as minerals, production of crude oil and 443
natural gas, or directly in the rendition of a public utility 444
service, except that the sales tax levied by this section shall be 445
collected upon all meals, drinks, and food for human consumption 446
sold when transporting persons. Persons engaged in rendering 447
services in the exploration for, and production of, crude oil and 448
natural gas for others are deemed engaged directly in the 449
exploration for, and production of, crude oil and natural gas. 450
This paragraph does not exempt from "retail sale" or "sales at 451
retail" the sale of tangible personal property that is to be 452
incorporated into a structure or improvement to real property. 453

(b) To hold the thing transferred as security for the 454
performance of an obligation of the vendor; 455

(c) To resell, hold, use, or consume the thing transferred as 456
evidence of a contract of insurance; 457

(d) To use or consume the thing directly in commercial 458
fishing; 459

(e) To incorporate the thing transferred as a material or a 460
part into, or to use or consume the thing transferred directly in 461

the production of, magazines distributed as controlled circulation 462
publications; 463

(f) To use or consume the thing transferred in the production 464
and preparation in suitable condition for market and sale of 465
printed, imprinted, overprinted, lithographic, multilithic, 466
blueprinted, photostatic, or other productions or reproductions of 467
written or graphic matter; 468

(g) To use the thing transferred, as described in section 469
5739.011 of the Revised Code, primarily in a manufacturing 470
operation to produce tangible personal property for sale; 471

(h) To use the benefit of a warranty, maintenance or service 472
contract, or similar agreement, as described in division (B)(7) of 473
section 5739.01 of the Revised Code, to repair or maintain 474
tangible personal property, if all of the property that is the 475
subject of the warranty, contract, or agreement would not be 476
subject to the tax imposed by this section; 477

(i) To use the thing transferred as qualified research and 478
development equipment; 479

(j) To use or consume the thing transferred primarily in 480
storing, transporting, mailing, or otherwise handling purchased 481
sales inventory in a warehouse, distribution center, or similar 482
facility when the inventory is primarily distributed outside this 483
state to retail stores of the person who owns or controls the 484
warehouse, distribution center, or similar facility, to retail 485
stores of an affiliated group of which that person is a member, or 486
by means of direct marketing. This division does not apply to 487
motor vehicles registered for operation on the public highways. As 488
used in this division, "affiliated group" has the same meaning as 489
in division (B)(3)(e) of section 5739.01 of the Revised Code and 490
"direct marketing" has the same meaning as in division (B)(35) of 491
this section. 492

(k) To use or consume the thing transferred to fulfill a 493
contractual obligation incurred by a warrantor pursuant to a 494
warranty provided as a part of the price of the tangible personal 495
property sold or by a vendor of a warranty, maintenance or service 496
contract, or similar agreement the provision of which is defined 497
as a sale under division (B)(7) of section 5739.01 of the Revised 498
Code; 499

(l) To use or consume the thing transferred in the production 500
of a newspaper for distribution to the public; 501

(m) To use tangible personal property to perform a service 502
listed in division (B)(3) of section 5739.01 of the Revised Code, 503
if the property is or is to be permanently transferred to the 504
consumer of the service as an integral part of the performance of 505
the service; 506

(n) To use or consume the thing transferred primarily in 507
producing tangible personal property for sale by farming, 508
agriculture, horticulture, or floriculture. Persons engaged in 509
rendering farming, agriculture, horticulture, or floriculture 510
services for others are deemed engaged primarily in farming, 511
agriculture, horticulture, or floriculture. This paragraph does 512
not exempt from "retail sale" or "sales at retail" the sale of 513
tangible personal property that is to be incorporated into a 514
structure or improvement to real property. 515

(o) To use or consume the thing transferred in acquiring, 516
formatting, editing, storing, and disseminating data or 517
information by electronic publishing. 518

As used in division (B)(42) of this section, "thing" includes 519
all transactions included in divisions (B)(3)(a), (b), and (e) of 520
section 5739.01 of the Revised Code. 521

(43) Sales conducted through a coin operated device that 522
activates vacuum equipment or equipment that dispenses water, 523

whether or not in combination with soap or other cleaning agents 524
or wax, to the consumer for the consumer's use on the premises in 525
washing, cleaning, or waxing a motor vehicle, provided no other 526
personal property or personal service is provided as part of the 527
transaction. 528

(44) Sales of replacement and modification parts for engines, 529
airframes, instruments, and interiors in, and paint for, aircraft 530
used primarily in a fractional aircraft ownership program, and 531
sales of services for the repair, modification, and maintenance of 532
such aircraft, and machinery, equipment, and supplies primarily 533
used to provide those services. 534

(45) Sales of telecommunications service that is used 535
directly and primarily to perform the functions of a call center. 536
As used in this division, "call center" means any physical 537
location where telephone calls are placed or received in high 538
volume for the purpose of making sales, marketing, customer 539
service, technical support, or other specialized business 540
activity, and that employs at least fifty individuals that engage 541
in call center activities on a full-time basis, or sufficient 542
individuals to fill fifty full-time equivalent positions. 543

(46) Sales by a telecommunications service vendor of 900 544
service to a subscriber. This division does not apply to 545
information services, as defined in division (FF) of section 546
5739.01 of the Revised Code. 547

(47) Sales of value-added non-voice data service. This 548
division does not apply to any similar service that is not 549
otherwise a telecommunications service. 550

(48)(a) Sales of machinery, equipment, and software to a 551
qualified direct selling entity for use in a warehouse or 552
distribution center primarily for storing, transporting, or 553
otherwise handling inventory that is held for sale to independent 554

salespersons who operate as direct sellers and that is held 555
primarily for distribution outside this state; 556

(b) As used in division (B)(48)(a) of this section: 557

(i) "Direct seller" means a person selling consumer products 558
to individuals for personal or household use and not from a fixed 559
retail location, including selling such product at in-home product 560
demonstrations, parties, and other one-on-one selling. 561

(ii) "Qualified direct selling entity" means an entity 562
selling to direct sellers at the time the entity enters into a tax 563
credit agreement with the tax credit authority pursuant to section 564
122.17 of the Revised Code, provided that the agreement was 565
entered into on or after January 1, 2007. Neither contingencies 566
relevant to the granting of, nor later developments with respect 567
to, the tax credit shall impair the status of the qualified direct 568
selling entity under division (B)(48) of this section after 569
execution of the tax credit agreement by the tax credit authority. 570

(c) Division (B)(48) of this section is limited to machinery, 571
equipment, and software first stored, used, or consumed in this 572
state within the period commencing June 24, 2008, and ending on 573
the date that is five years after that date. 574

(49) Sales of materials, parts, equipment, or engines used in 575
the repair or maintenance of aircraft or avionics systems of such 576
aircraft, and sales of repair, remodeling, replacement, or 577
maintenance services in this state performed on aircraft or on an 578
aircraft's avionics, engine, or component materials or parts. As 579
used in division (B)(49) of this section, "aircraft" means 580
aircraft of more than six thousand pounds maximum certified 581
takeoff weight or used exclusively in general aviation. 582

(50) Sales of full flight simulators that are used for pilot 583
or flight-crew training, sales of repair or replacement parts or 584
components, and sales of repair or maintenance services for such 585

full flight simulators. "Full flight simulator" means a replica of 586
a specific type, or make, model, and series of aircraft cockpit. 587
It includes the assemblage of equipment and computer programs 588
necessary to represent aircraft operations in ground and flight 589
conditions, a visual system providing an out-of-the-cockpit view, 590
and a system that provides cues at least equivalent to those of a 591
three-degree-of-freedom motion system, and has the full range of 592
capabilities of the systems installed in the device as described 593
in appendices A and B of part 60 of chapter 1 of title 14 of the 594
Code of Federal Regulations. 595

(51) Any transfer or lease of tangible personal property 596
between the state and a successful proposer in accordance with 597
sections 126.60 to 126.605 of the Revised Code, provided the 598
property is part of a project as defined in section 126.60 of the 599
Revised Code and the state retains ownership of the project or 600
part thereof that is being transferred or leased, between the 601
state and JobsOhio in accordance with section 4313.02 of the 602
Revised Code. 603

(52) Sales of tangible personal property or services to a 604
nonprofit corporation that holds a job relocation exemption 605
certificate issued under section 5739.40 of the Revised Code. 606

(C) For the purpose of the proper administration of this 607
chapter, and to prevent the evasion of the tax, it is presumed 608
that all sales made in this state are subject to the tax until the 609
contrary is established. 610

(D) The levy of this tax on retail sales of recreation and 611
sports club service shall not prevent a municipal corporation from 612
levying any tax on recreation and sports club dues or on any 613
income generated by recreation and sports club dues. 614

(E) The tax collected by the vendor from the consumer under 615
this chapter is not part of the price, but is a tax collection for 616

the benefit of the state, and of counties levying an additional 617
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 618
Code and of transit authorities levying an additional sales tax 619
pursuant to section 5739.023 of the Revised Code. Except for the 620
discount authorized under section 5739.12 of the Revised Code and 621
the effects of any rounding pursuant to section 5703.055 of the 622
Revised Code, no person other than the state or such a county or 623
transit authority shall derive any benefit from the collection or 624
payment of the tax levied by this section or section 5739.021, 625
5739.023, or 5739.026 of the Revised Code. 626

Sec. 5739.40. (A) As used in this section: 627

(1) "Nonprofit corporation" has the same meaning as in 628
section 1702.01 of the Revised Code. 629

(2) "Qualifying nonprofit corporation" means a nonprofit 630
corporation that relocates at least fifty full-time employment 631
positions from one or more other states to this state within one 632
year after the nonprofit corporation first establishes a physical 633
presence in this state. 634

(B) A qualifying nonprofit corporation may apply to the tax 635
commissioner for a job relocation exemption certificate. The 636
application shall be in the form prescribed by the commissioner. 637
Within thirty days of the receipt of an application, the tax 638
commissioner shall issue a job relocation exemption certificate to 639
the nonprofit corporation if the nonprofit corporation meets the 640
criteria described in division (A)(2) of this section. Except as 641
provided in division (C) of this section, the certificate shall be 642
valid for three years from the date the tax commissioner issues 643
the certificate. The certificate shall otherwise comply with the 644
requirements for exemption certificates prescribed under section 645
5739.03 of the Revised Code. 646

(C) If a qualifying nonprofit corporation that receives a job 647

relocation exemption certificate fails to maintain at least fifty 648
full-time employment positions in this state during the three-year 649
period for which the certificate is issued, the tax commissioner 650
shall immediately revoke the certificate. The commissioner may 651
require a qualifying nonprofit corporation that receives a job 652
relocation exemption certificate to periodically report to the 653
commissioner the number of full-time employees that the qualifying 654
nonprofit corporation employs in the state, along with any other 655
information the commissioner considers necessary to administer 656
this section. 657

Sec. 5747.01. Except as otherwise expressly provided or 658
clearly appearing from the context, any term used in this chapter 659
that is not otherwise defined in this section has the same meaning 660
as when used in a comparable context in the laws of the United 661
States relating to federal income taxes or if not used in a 662
comparable context in those laws, has the same meaning as in 663
section 5733.40 of the Revised Code. Any reference in this chapter 664
to the Internal Revenue Code includes other laws of the United 665
States relating to federal income taxes. 666

As used in this chapter: 667

(A) "Adjusted gross income" or "Ohio adjusted gross income" 668
means federal adjusted gross income, as defined and used in the 669
Internal Revenue Code, adjusted as provided in this section: 670

(1) Add interest or dividends on obligations or securities of 671
any state or of any political subdivision or authority of any 672
state, other than this state and its subdivisions and authorities. 673

(2) Add interest or dividends on obligations of any 674
authority, commission, instrumentality, territory, or possession 675
of the United States to the extent that the interest or dividends 676
are exempt from federal income taxes but not from state income 677
taxes. 678

(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 the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary

shall reduce the undistributed net income of the trust commencing 711
with the earliest years of the accumulation period. 712

(7) Deduct the amount of wages and salaries, if any, not 713
otherwise allowable as a deduction but that would have been 714
allowable as a deduction in computing federal adjusted gross 715
income for the taxable year, had the targeted jobs credit allowed 716
and determined under sections 38, 51, and 52 of the Internal 717
Revenue Code not been in effect. 718

(8) Deduct any interest or interest equivalent on public 719
obligations and purchase obligations to the extent that the 720
interest or interest equivalent is included in federal adjusted 721
gross income. 722

(9) Add any loss or deduct any gain resulting from the sale, 723
exchange, or other disposition of public obligations to the extent 724
that the loss has been deducted or the gain has been included in 725
computing federal adjusted gross income. 726

(10) Deduct or add amounts, as provided under section 5747.70 727
of the Revised Code, related to contributions to variable college 728
savings program accounts made or tuition units purchased pursuant 729
to Chapter 3334. of the Revised Code. 730

(11)(a) Deduct, to the extent not otherwise allowable as a 731
deduction or exclusion in computing federal or Ohio adjusted gross 732
income for the taxable year, the amount the taxpayer paid during 733
the taxable year for medical care insurance and qualified 734
long-term care insurance for the taxpayer, the taxpayer's spouse, 735
and dependents. No deduction for medical care insurance under 736
division (A)(11) of this section shall be allowed either to any 737
taxpayer who is eligible to participate in any subsidized health 738
plan maintained by any employer of the taxpayer or of the 739
taxpayer's spouse, or to any taxpayer who is entitled to, or on 740
application would be entitled to, benefits under part A of Title 741

XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 742
301, as amended. For the purposes of division (A)(11)(a) of this 743
section, "subsidized health plan" means a health plan for which 744
the employer pays any portion of the plan's cost. The deduction 745
allowed under division (A)(11)(a) of this section shall be the net 746
of any related premium refunds, related premium reimbursements, or 747
related insurance premium dividends received during the taxable 748
year. 749

(b) Deduct, to the extent not otherwise deducted or excluded 750
in computing federal or Ohio adjusted gross income during the 751
taxable year, the amount the taxpayer paid during the taxable 752
year, not compensated for by any insurance or otherwise, for 753
medical care of the taxpayer, the taxpayer's spouse, and 754
dependents, to the extent the expenses exceed seven and one-half 755
per cent of the taxpayer's federal adjusted gross income. 756

(c) Deduct, to the extent not otherwise deducted or excluded 757
in computing federal or Ohio adjusted gross income, any amount 758
included in federal adjusted gross income under section 105 or not 759
excluded under section 106 of the Internal Revenue Code solely 760
because it relates to an accident and health plan for a person who 761
otherwise would be a "qualifying relative" and thus a "dependent" 762
under section 152 of the Internal Revenue Code but for the fact 763
that the person fails to meet the income and support limitations 764
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 765

(d) For purposes of division (A)(11) of this section, 766
"medical care" has the meaning given in section 213 of the 767
Internal Revenue Code, subject to the special rules, limitations, 768
and exclusions set forth therein, and "qualified long-term care" 769
has the same meaning given in section 7702B(c) of the Internal 770
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 771
of this section, "dependent" includes a person who otherwise would 772
be a "qualifying relative" and thus a "dependent" under section 773

152 of the Internal Revenue Code but for the fact that the person 774
fails to meet the income and support limitations under section 775
152(d)(1)(B) and (C) of the Internal Revenue Code. 776

(12)(a) Deduct any amount included in federal adjusted gross 777
income solely because the amount represents a reimbursement or 778
refund of expenses that in any year the taxpayer had deducted as 779
an itemized deduction pursuant to section 63 of the Internal 780
Revenue Code and applicable United States department of the 781
treasury regulations. The deduction otherwise allowed under 782
division (A)(12)(a) of this section shall be reduced to the extent 783
the reimbursement is attributable to an amount the taxpayer 784
deducted under this section in any taxable year. 785

(b) Add any amount not otherwise included in Ohio adjusted 786
gross income for any taxable year to the extent that the amount is 787
attributable to the recovery during the taxable year of any amount 788
deducted or excluded in computing federal or Ohio adjusted gross 789
income in any taxable year. 790

(13) Deduct any portion of the deduction described in section 791
1341(a)(2) of the Internal Revenue Code, for repaying previously 792
reported income received under a claim of right, that meets both 793
of the following requirements: 794

(a) It is allowable for repayment of an item that was 795
included in the taxpayer's adjusted gross income for a prior 796
taxable year and did not qualify for a credit under division (A) 797
or (B) of section 5747.05 of the Revised Code for that year; 798

(b) It does not otherwise reduce the taxpayer's adjusted 799
gross income for the current or any other taxable year. 800

(14) Deduct an amount equal to the deposits made to, and net 801
investment earnings of, a medical savings account during the 802
taxable year, in accordance with section 3924.66 of the Revised 803
Code. The deduction allowed by division (A)(14) of this section 804

does not apply to medical savings account deposits and earnings 805
otherwise deducted or excluded for the current or any other 806
taxable year from the taxpayer's federal adjusted gross income. 807

(15)(a) Add an amount equal to the funds withdrawn from a 808
medical savings account during the taxable year, and the net 809
investment earnings on those funds, when the funds withdrawn were 810
used for any purpose other than to reimburse an account holder 811
for, or to pay, eligible medical expenses, in accordance with 812
section 3924.66 of the Revised Code; 813

(b) Add the amounts distributed from a medical savings 814
account under division (A)(2) of section 3924.68 of the Revised 815
Code during the taxable year. 816

(16) Add any amount claimed as a credit under section 817
5747.059 or 5747.65 of the Revised Code to the extent that such 818
amount satisfies either of the following: 819

(a) The amount was deducted or excluded from the computation 820
of the taxpayer's federal adjusted gross income as required to be 821
reported for the taxpayer's taxable year under the Internal 822
Revenue Code; 823

(b) The amount resulted in a reduction of the taxpayer's 824
federal adjusted gross income as required to be reported for any 825
of the taxpayer's taxable years under the Internal Revenue Code. 826

(17) Deduct the amount contributed by the taxpayer to an 827
individual development account program established by a county 828
department of job and family services pursuant to sections 329.11 829
to 329.14 of the Revised Code for the purpose of matching funds 830
deposited by program participants. On request of the tax 831
commissioner, the taxpayer shall provide any information that, in 832
the tax commissioner's opinion, is necessary to establish the 833
amount deducted under division (A)(17) of this section. 834

(18) Beginning in taxable year 2001 but not for any taxable 835

year beginning after December 31, 2005, if the taxpayer is married 836
and files a joint return and the combined federal adjusted gross 837
income of the taxpayer and the taxpayer's spouse for the taxable 838
year does not exceed one hundred thousand dollars, or if the 839
taxpayer is single and has a federal adjusted gross income for the 840
taxable year not exceeding fifty thousand dollars, deduct amounts 841
paid during the taxable year for qualified tuition and fees paid 842
to an eligible institution for the taxpayer, the taxpayer's 843
spouse, or any dependent of the taxpayer, who is a resident of 844
this state and is enrolled in or attending a program that 845
culminates in a degree or diploma at an eligible institution. The 846
deduction may be claimed only to the extent that qualified tuition 847
and fees are not otherwise deducted or excluded for any taxable 848
year from federal or Ohio adjusted gross income. The deduction may 849
not be claimed for educational expenses for which the taxpayer 850
claims a credit under section 5747.27 or 5747.78 of the Revised 851
Code. 852

(19) Add any reimbursement received during the taxable year 853
of any amount the taxpayer deducted under division (A)(18) of this 854
section in any previous taxable year to the extent the amount is 855
not otherwise included in Ohio adjusted gross income. 856

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 857
(v) of this section, add five-sixths of the amount of depreciation 858
expense allowed by subsection (k) of section 168 of the Internal 859
Revenue Code, including the taxpayer's proportionate or 860
distributive share of the amount of depreciation expense allowed 861
by that subsection to a pass-through entity in which the taxpayer 862
has a direct or indirect ownership interest. 863

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 864
this section, add five-sixths of the amount of qualifying section 865
179 depreciation expense, including the taxpayer's proportionate 866
or distributive share of the amount of qualifying section 179 867

depreciation expense allowed to any pass-through entity in which 868
the taxpayer has a direct or indirect ownership interest. 869

(iii) Subject to division (A)(20)(a)(v) of this section, for 870
taxable years beginning in 2012 or thereafter, if the increase in 871
income taxes withheld by the taxpayer is equal to or greater than 872
ten per cent of income taxes withheld by the taxpayer during the 873
taxpayer's immediately preceding taxable year, "two-thirds" shall 874
be substituted for "five-sixths" for the purpose of divisions 875
(A)(20)(a)(i) and (ii) of this section. 876

(iv) Subject to division (A)(20)(a)(v) of this section, for 877
taxable years beginning in 2012 or thereafter, a taxpayer is not 878
required to add an amount under division (A)(20) of this section 879
if the increase in income taxes withheld by the taxpayer and by 880
any pass-through entity in which the taxpayer has a direct or 881
indirect ownership interest is equal to or greater than the sum of 882
(I) the amount of qualifying section 179 depreciation expense and 883
(II) the amount of depreciation expense allowed to the taxpayer by 884
subsection (k) of section 168 of the Internal Revenue Code, and 885
including the taxpayer's proportionate or distributive shares of 886
such amounts allowed to any such pass-through entities. 887

(v) If a taxpayer directly or indirectly incurs a net 888
operating loss for the taxable year for federal income tax 889
purposes, to the extent such loss resulted from depreciation 890
expense allowed by subsection (k) of section 168 of the Internal 891
Revenue Code and by qualifying section 179 depreciation expense, 892
"the entire" shall be substituted for "five-sixths of the" for the 893
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 894

The tax commissioner, under procedures established by the 895
commissioner, may waive the add-backs related to a pass-through 896
entity if the taxpayer owns, directly or indirectly, less than 897
five per cent of the pass-through entity. 898

(b) Nothing in division (A)(20) of this section shall be 899
construed to adjust or modify the adjusted basis of any asset. 900

(c) To the extent the add-back required under division 901
(A)(20)(a) of this section is attributable to property generating 902
nonbusiness income or loss allocated under section 5747.20 of the 903
Revised Code, the add-back shall be situated to the same location 904
as the nonbusiness income or loss generated by the property for 905
the purpose of determining the credit under division (A) of 906
section 5747.05 of the Revised Code. Otherwise, the add-back shall 907
be apportioned, subject to one or more of the four alternative 908
methods of apportionment enumerated in section 5747.21 of the 909
Revised Code. 910

(d) For the purposes of division (A)(20)(a)(v) of this 911
section, net operating loss carryback and carryforward shall not 912
include the allowance of any net operating loss deduction 913
carryback or carryforward to the taxable year to the extent such 914
loss resulted from depreciation allowed by section 168(k) of the 915
Internal Revenue Code and by the qualifying section 179 916
depreciation expense amount. 917

(e) For the purposes of divisions (A)(20) and (21) of this 918
section: 919

(i) "Income taxes withheld" means the total amount withheld 920
and remitted under sections 5747.06 and 5747.07 of the Revised 921
Code by an employer during the employer's taxable year. 922

(ii) "Increase in income taxes withheld" means the amount by 923
which the amount of income taxes withheld by an employer during 924
the employer's current taxable year exceeds the amount of income 925
taxes withheld by that employer during the employer's immediately 926
preceding taxable year. 927

(iii) "Qualifying section 179 depreciation expense" means the 928
difference between (I) the amount of depreciation expense directly 929

or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

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

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

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

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

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

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such

depreciation results in or increases a federal net operating loss 961
carryback or carryforward. If no such deduction is available for a 962
taxable year, the taxpayer may carry forward the amount not 963
deducted in such taxable year to the next taxable year and add 964
that amount to any deduction otherwise available under division 965
(A)(21)(a) of this section for that next taxable year. The 966
carryforward of amounts not so deducted shall continue until the 967
entire addition required by division (A)(20)(a) of this section 968
has been deducted. 969

(d) No refund shall be allowed as a result of adjustments 970
made by division (A)(21) of this section. 971

(22) Deduct, to the extent not otherwise deducted or excluded 972
in computing federal or Ohio adjusted gross income for the taxable 973
year, the amount the taxpayer received during the taxable year as 974
reimbursement for life insurance premiums under section 5919.31 of 975
the Revised Code. 976

(23) Deduct, to the extent not otherwise deducted or excluded 977
in computing federal or Ohio adjusted gross income for the taxable 978
year, the amount the taxpayer received during the taxable year as 979
a death benefit paid by the adjutant general under section 5919.33 980
of the Revised Code. 981

(24) Deduct, to the extent included in federal adjusted gross 982
income and not otherwise allowable as a deduction or exclusion in 983
computing federal or Ohio adjusted gross income for the taxable 984
year, military pay and allowances received by the taxpayer during 985
the taxable year for active duty service in the United States 986
army, air force, navy, marine corps, or coast guard or reserve 987
components thereof or the national guard. The deduction may not be 988
claimed for military pay and allowances received by the taxpayer 989
while the taxpayer is stationed in this state. 990

(25) Deduct, to the extent not otherwise allowable as a 991

deduction or exclusion in computing federal or Ohio adjusted gross 992
income for the taxable year and not otherwise compensated for by 993
any other source, the amount of qualified organ donation expenses 994
incurred by the taxpayer during the taxable year, not to exceed 995
ten thousand dollars. A taxpayer may deduct qualified organ 996
donation expenses only once for all taxable years beginning with 997
taxable years beginning in 2007. 998

For the purposes of division (A)(25) of this section: 999

(a) "Human organ" means all or any portion of a human liver, 1000
pancreas, kidney, intestine, or lung, and any portion of human 1001
bone marrow. 1002

(b) "Qualified organ donation expenses" means travel 1003
expenses, lodging expenses, and wages and salary forgone by a 1004
taxpayer in connection with the taxpayer's donation, while living, 1005
of one or more of the taxpayer's human organs to another human 1006
being. 1007

(26) Deduct, to the extent not otherwise deducted or excluded 1008
in computing federal or Ohio adjusted gross income for the taxable 1009
year, amounts received by the taxpayer as retired military 1010
personnel pay for service in the United States army, navy, air 1011
force, coast guard, or marine corps or reserve components thereof, 1012
or the national guard, or received by the surviving spouse or 1013
former spouse of such a taxpayer under the survivor benefit plan 1014
on account of such a taxpayer's death. If the taxpayer receives 1015
income on account of retirement paid under the federal civil 1016
service retirement system or federal employees retirement system, 1017
or under any successor retirement program enacted by the congress 1018
of the United States that is established and maintained for 1019
retired employees of the United States government, and such 1020
retirement income is based, in whole or in part, on credit for the 1021
taxpayer's military service, the deduction allowed under this 1022
division shall include only that portion of such retirement income 1023

that is attributable to the taxpayer's military service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

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

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

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

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

(31) Deduct, to the extent not otherwise deducted or excluded 1056
in computing federal or Ohio adjusted gross income for the taxable 1057
year, Ohio college opportunity or federal Pell grant amounts 1058
received by the taxpayer or the taxpayer's spouse or dependent 1059
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1060
1070a, et seq., and used to pay room or board furnished by the 1061
educational institution for which the grant was awarded at the 1062
institution's facilities, including meal plans administered by the 1063
institution. For the purposes of this division, receipt of a grant 1064
includes the distribution of a grant directly to an educational 1065
institution and the crediting of the grant to the enrollee's 1066
account with the institution. 1067

(B) "Business income" means income, including gain or loss, 1068
arising from transactions, activities, and sources in the regular 1069
course of a trade or business and includes income, gain, or loss 1070
from real property, tangible property, and intangible property if 1071
the acquisition, rental, management, and disposition of the 1072
property constitute integral parts of the regular course of a 1073
trade or business operation. "Business income" includes income, 1074
including gain or loss, from a partial or complete liquidation of 1075
a business, including, but not limited to, gain or loss from the 1076
sale or other disposition of goodwill. 1077

(C) "Nonbusiness income" means all income other than business 1078
income and may include, but is not limited to, compensation, rents 1079
and royalties from real or tangible personal property, capital 1080
gains, interest, dividends and distributions, patent or copyright 1081
royalties, or lottery winnings, prizes, and awards. 1082

(D) "Compensation" means any form of remuneration paid to an 1083
employee for personal services. 1084

(E) "Fiduciary" means a guardian, trustee, executor, 1085
administrator, receiver, conservator, or any other person acting 1086
in any fiduciary capacity for any individual, trust, or estate. 1087

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| (F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. | 1088 1089 |
| (G) "Individual" means any natural person. | 1090 |
| (H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. | 1091 1092 |
| (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: | 1093 1094 1095 |
| (1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; | 1096 1097 |
| (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. | 1098 1099 1100 1101 |
| (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. | 1102 1103 1104 |
| For the purposes of division (I)(3) of this section: | 1105 |
| (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: | 1106 1107 1108 1109 1110 1111 |
| (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; | 1112 1113 1114 1115 |
| (ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly | 1116 1117 |

transferred assets to an irrevocable trust, but only if at least 1118
one of the trust's qualifying beneficiaries is domiciled in this 1119
state for the purposes of this chapter during all or some portion 1120
of the trust's current taxable year; 1121

(iii) A person who was domiciled in this state for the 1122
purposes of this chapter when the trust document or instrument or 1123
part of the trust document or instrument became irrevocable, but 1124
only if at least one of the trust's qualifying beneficiaries is a 1125
resident domiciled in this state for the purposes of this chapter 1126
during all or some portion of the trust's current taxable year. If 1127
a trust document or instrument became irrevocable upon the death 1128
of a person who at the time of death was domiciled in this state 1129
for purposes of this chapter, that person is a person described in 1130
division (I)(3)(a)(iii) of this section. 1131

(b) A trust is irrevocable to the extent that the transferor 1132
is not considered to be the owner of the net assets of the trust 1133
under sections 671 to 678 of the Internal Revenue Code. 1134

(c) With respect to a trust other than a charitable lead 1135
trust, "qualifying beneficiary" has the same meaning as "potential 1136
current beneficiary" as defined in section 1361(e)(2) of the 1137
Internal Revenue Code, and with respect to a charitable lead trust 1138
"qualifying beneficiary" is any current, future, or contingent 1139
beneficiary, but with respect to any trust "qualifying 1140
beneficiary" excludes a person or a governmental entity or 1141
instrumentality to any of which a contribution would qualify for 1142
the charitable deduction under section 170 of the Internal Revenue 1143
Code. 1144

(d) For the purposes of division (I)(3)(a) of this section, 1145
the extent to which a trust consists directly or indirectly, in 1146
whole or in part, of assets, net of any related liabilities, that 1147
were transferred directly or indirectly, in whole or part, to the 1148
trust by any of the sources enumerated in that division shall be 1149

ascertained by multiplying the fair market value of the trust's 1150
assets, net of related liabilities, by the qualifying ratio, which 1151
shall be computed as follows: 1152

(i) The first time the trust receives assets, the numerator 1153
of the qualifying ratio is the fair market value of those assets 1154
at that time, net of any related liabilities, from sources 1155
enumerated in division (I)(3)(a) of this section. The denominator 1156
of the qualifying ratio is the fair market value of all the 1157
trust's assets at that time, net of any related liabilities. 1158

(ii) Each subsequent time the trust receives assets, a 1159
revised qualifying ratio shall be computed. The numerator of the 1160
revised qualifying ratio is the sum of (1) the fair market value 1161
of the trust's assets immediately prior to the subsequent 1162
transfer, net of any related liabilities, multiplied by the 1163
qualifying ratio last computed without regard to the subsequent 1164
transfer, and (2) the fair market value of the subsequently 1165
transferred assets at the time transferred, net of any related 1166
liabilities, from sources enumerated in division (I)(3)(a) of this 1167
section. The denominator of the revised qualifying ratio is the 1168
fair market value of all the trust's assets immediately after the 1169
subsequent transfer, net of any related liabilities. 1170

(iii) Whether a transfer to the trust is by or from any of 1171
the sources enumerated in division (I)(3)(a) of this section shall 1172
be ascertained without regard to the domicile of the trust's 1173
beneficiaries. 1174

(e) For the purposes of division (I)(3)(a)(i) of this 1175
section: 1176

(i) A trust is described in division (I)(3)(e)(i) of this 1177
section if the trust is a testamentary trust and the testator of 1178
that testamentary trust was domiciled in this state at the time of 1179
the testator's death for purposes of the taxes levied under 1180

Chapter 5731. of the Revised Code. 1181

(ii) A trust is described in division (I)(3)(e)(ii) of this 1182
section if the transfer is a qualifying transfer described in any 1183
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 1184
irrevocable inter vivos trust, and at least one of the trust's 1185
qualifying beneficiaries is domiciled in this state for purposes 1186
of this chapter during all or some portion of the trust's current 1187
taxable year. 1188

(f) For the purposes of division (I)(3)(e)(ii) of this 1189
section, a "qualifying transfer" is a transfer of assets, net of 1190
any related liabilities, directly or indirectly to a trust, if the 1191
transfer is described in any of the following: 1192

(i) The transfer is made to a trust, created by the decedent 1193
before the decedent's death and while the decedent was domiciled 1194
in this state for the purposes of this chapter, and, prior to the 1195
death of the decedent, the trust became irrevocable while the 1196
decedent was domiciled in this state for the purposes of this 1197
chapter. 1198

(ii) The transfer is made to a trust to which the decedent, 1199
prior to the decedent's death, had directly or indirectly 1200
transferred assets, net of any related liabilities, while the 1201
decedent was domiciled in this state for the purposes of this 1202
chapter, and prior to the death of the decedent the trust became 1203
irrevocable while the decedent was domiciled in this state for the 1204
purposes of this chapter. 1205

(iii) The transfer is made on account of a contractual 1206
relationship existing directly or indirectly between the 1207
transferor and either the decedent or the estate of the decedent 1208
at any time prior to the date of the decedent's death, and the 1209
decedent was domiciled in this state at the time of death for 1210
purposes of the taxes levied under Chapter 5731. of the Revised 1211

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| Code. | 1212 |
| (iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter. | 1213 1214 1215 1216 1217 |
| (v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code. | 1218 1219 1220 1221 |
| (vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death. | 1222 1223 1224 1225 1226 1227 |
| (g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state. | 1228 1229 |
| (J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year. | 1230 1231 1232 1233 |
| (K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. | 1234 1235 |
| (L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required. | 1236 1237 1238 1239 |
| (M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part | 1240 1241 |

thereof, upon which the adjusted gross income is calculated 1242
pursuant to this chapter. 1243

(N) "Taxpayer" means any person subject to the tax imposed by 1244
section 5747.02 of the Revised Code or any pass-through entity 1245
that makes the election under division (D) of section 5747.08 of 1246
the Revised Code. 1247

(O) "Dependents" means dependents as defined in the Internal 1248
Revenue Code and as claimed in the taxpayer's federal income tax 1249
return for the taxable year or which the taxpayer would have been 1250
permitted to claim had the taxpayer filed a federal income tax 1251
return. 1252

(P) "Principal county of employment" means, in the case of a 1253
nonresident, the county within the state in which a taxpayer 1254
performs services for an employer or, if those services are 1255
performed in more than one county, the county in which the major 1256
portion of the services are performed. 1257

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1258
Code: 1259

(1) "Subdivision" means any county, municipal corporation, 1260
park district, or township. 1261

(2) "Essential local government purposes" includes all 1262
functions that any subdivision is required by general law to 1263
exercise, including like functions that are exercised under a 1264
charter adopted pursuant to the Ohio Constitution. 1265

(R) "Overpayment" means any amount already paid that exceeds 1266
the figure determined to be the correct amount of the tax. 1267

(S) "Taxable income" or "Ohio taxable income" applies only to 1268
estates and trusts, and means federal taxable income, as defined 1269
and used in the Internal Revenue Code, adjusted as follows: 1270

(1) Add interest or dividends, net of ordinary, necessary, 1271

and reasonable expenses not deducted in computing federal taxable 1272
income, on obligations or securities of any state or of any 1273
political subdivision or authority of any state, other than this 1274
state and its subdivisions and authorities, but only to the extent 1275
that such net amount is not otherwise includible in Ohio taxable 1276
income and is described in either division (S)(1)(a) or (b) of 1277
this section: 1278

(a) The net amount is not attributable to the S portion of an 1279
electing small business trust and has not been distributed to 1280
beneficiaries for the taxable year; 1281

(b) The net amount is attributable to the S portion of an 1282
electing small business trust for the taxable year. 1283

(2) Add interest or dividends, net of ordinary, necessary, 1284
and reasonable expenses not deducted in computing federal taxable 1285
income, on obligations of any authority, commission, 1286
instrumentality, territory, or possession of the United States to 1287
the extent that the interest or dividends are exempt from federal 1288
income taxes but not from state income taxes, but only to the 1289
extent that such net amount is not otherwise includible in Ohio 1290
taxable income and is described in either division (S)(1)(a) or 1291
(b) of this section; 1292

(3) Add the amount of personal exemption allowed to the 1293
estate pursuant to section 642(b) of the Internal Revenue Code; 1294

(4) Deduct interest or dividends, net of related expenses 1295
deducted in computing federal taxable income, on obligations of 1296
the United States and its territories and possessions or of any 1297
authority, commission, or instrumentality of the United States to 1298
the extent that the interest or dividends are exempt from state 1299
taxes under the laws of the United States, but only to the extent 1300
that such amount is included in federal taxable income and is 1301
described in either division (S)(1)(a) or (b) of this section; 1302

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

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

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

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

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

year. 1335

(b) Add any amount not otherwise included in Ohio taxable 1336
income for any taxable year to the extent that the amount is 1337
attributable to the recovery during the taxable year of any amount 1338
deducted or excluded in computing federal or Ohio taxable income 1339
in any taxable year, but only to the extent such amount has not 1340
been distributed to beneficiaries for the taxable year. 1341

(10) Deduct any portion of the deduction described in section 1342
1341(a)(2) of the Internal Revenue Code, for repaying previously 1343
reported income received under a claim of right, that meets both 1344
of the following requirements: 1345

(a) It is allowable for repayment of an item that was 1346
included in the taxpayer's taxable income or the decedent's 1347
adjusted gross income for a prior taxable year and did not qualify 1348
for a credit under division (A) or (B) of section 5747.05 of the 1349
Revised Code for that year. 1350

(b) It does not otherwise reduce the taxpayer's taxable 1351
income or the decedent's adjusted gross income for the current or 1352
any other taxable year. 1353

(11) Add any amount claimed as a credit under section 1354
5747.059 or 5747.65 of the Revised Code to the extent that the 1355
amount satisfies either of the following: 1356

(a) The amount was deducted or excluded from the computation 1357
of the taxpayer's federal taxable income as required to be 1358
reported for the taxpayer's taxable year under the Internal 1359
Revenue Code; 1360

(b) The amount resulted in a reduction in the taxpayer's 1361
federal taxable income as required to be reported for any of the 1362
taxpayer's taxable years under the Internal Revenue Code. 1363

(12) Deduct any amount, net of related expenses deducted in 1364

computing federal taxable income, that a trust is required to 1365
report as farm income on its federal income tax return, but only 1366
if the assets of the trust include at least ten acres of land 1367
satisfying the definition of "land devoted exclusively to 1368
agricultural use" under section 5713.30 of the Revised Code, 1369
regardless of whether the land is valued for tax purposes as such 1370
land under sections 5713.30 to 5713.38 of the Revised Code. If the 1371
trust is a pass-through entity investor, section 5747.231 of the 1372
Revised Code applies in ascertaining if the trust is eligible to 1373
claim the deduction provided by division (S)(12) of this section 1374
in connection with the pass-through entity's farm income. 1375

Except for farm income attributable to the S portion of an 1376
electing small business trust, the deduction provided by division 1377
(S)(12) of this section is allowed only to the extent that the 1378
trust has not distributed such farm income. Division (S)(12) of 1379
this section applies only to taxable years of a trust beginning in 1380
2002 or thereafter. 1381

(13) Add the net amount of income described in section 641(c) 1382
of the Internal Revenue Code to the extent that amount is not 1383
included in federal taxable income. 1384

(14) Add or deduct the amount the taxpayer would be required 1385
to add or deduct under division (A)(20) or (21) of this section if 1386
the taxpayer's Ohio taxable income were computed in the same 1387
manner as an individual's Ohio adjusted gross income is computed 1388
under this section. In the case of a trust, division (S)(14) of 1389
this section applies only to any of the trust's taxable years 1390
beginning in 2002 or thereafter. 1391

(T) "School district income" and "school district income tax" 1392
have the same meanings as in section 5748.01 of the Revised Code. 1393

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 1394
of this section, "public obligations," "purchase obligations," and 1395

"interest or interest equivalent" have the same meanings as in 1396
section 5709.76 of the Revised Code. 1397

(V) "Limited liability company" means any limited liability 1398
company formed under Chapter 1705. of the Revised Code or under 1399
the laws of any other state. 1400

(W) "Pass-through entity investor" means any person who, 1401
during any portion of a taxable year of a pass-through entity, is 1402
a partner, member, shareholder, or equity investor in that 1403
pass-through entity. 1404

(X) "Banking day" has the same meaning as in section 1304.01 1405
of the Revised Code. 1406

(Y) "Month" means a calendar month. 1407

(Z) "Quarter" means the first three months, the second three 1408
months, the third three months, or the last three months of the 1409
taxpayer's taxable year. 1410

(AA)(1) "Eligible institution" means a state university or 1411
state institution of higher education as defined in section 1412
3345.011 of the Revised Code, or a private, nonprofit college, 1413
university, or other post-secondary institution located in this 1414
state that possesses a certificate of authorization issued by the 1415
Ohio board of regents pursuant to Chapter 1713. of the Revised 1416
Code or a certificate of registration issued by the state board of 1417
career colleges and schools under Chapter 3332. of the Revised 1418
Code. 1419

(2) "Qualified tuition and fees" means tuition and fees 1420
imposed by an eligible institution as a condition of enrollment or 1421
attendance, not exceeding two thousand five hundred dollars in 1422
each of the individual's first two years of post-secondary 1423
education. If the individual is a part-time student, "qualified 1424
tuition and fees" includes tuition and fees paid for the academic 1425
equivalent of the first two years of post-secondary education 1426

during a maximum of five taxable years, not exceeding a total of 1427
five thousand dollars. "Qualified tuition and fees" does not 1428
include: 1429

(a) Expenses for any course or activity involving sports, 1430
games, or hobbies unless the course or activity is part of the 1431
individual's degree or diploma program; 1432

(b) The cost of books, room and board, student activity fees, 1433
athletic fees, insurance expenses, or other expenses unrelated to 1434
the individual's academic course of instruction; 1435

(c) Tuition, fees, or other expenses paid or reimbursed 1436
through an employer, scholarship, grant in aid, or other 1437
educational benefit program. 1438

(BB)(1) "Modified business income" means the business income 1439
included in a trust's Ohio taxable income after such taxable 1440
income is first reduced by the qualifying trust amount, if any. 1441

(2) "Qualifying trust amount" of a trust means capital gains 1442
and losses from the sale, exchange, or other disposition of equity 1443
or ownership interests in, or debt obligations of, a qualifying 1444
investee to the extent included in the trust's Ohio taxable 1445
income, but only if the following requirements are satisfied: 1446

(a) The book value of the qualifying investee's physical 1447
assets in this state and everywhere, as of the last day of the 1448
qualifying investee's fiscal or calendar year ending immediately 1449
prior to the date on which the trust recognizes the gain or loss, 1450
is available to the trust. 1451

(b) The requirements of section 5747.011 of the Revised Code 1452
are satisfied for the trust's taxable year in which the trust 1453
recognizes the gain or loss. 1454

Any gain or loss that is not a qualifying trust amount is 1455
modified business income, qualifying investment income, or 1456

modified nonbusiness income, as the case may be. 1457

(3) "Modified nonbusiness income" means a trust's Ohio 1458
taxable income other than modified business income, other than the 1459
qualifying trust amount, and other than qualifying investment 1460
income, as defined in section 5747.012 of the Revised Code, to the 1461
extent such qualifying investment income is not otherwise part of 1462
modified business income. 1463

(4) "Modified Ohio taxable income" applies only to trusts, 1464
and means the sum of the amounts described in divisions (BB)(4)(a) 1465
to (c) of this section: 1466

(a) The fraction, calculated under section 5747.013, and 1467
applying section 5747.231 of the Revised Code, multiplied by the 1468
sum of the following amounts: 1469

(i) The trust's modified business income; 1470

(ii) The trust's qualifying investment income, as defined in 1471
section 5747.012 of the Revised Code, but only to the extent the 1472
qualifying investment income does not otherwise constitute 1473
modified business income and does not otherwise constitute a 1474
qualifying trust amount. 1475

(b) The qualifying trust amount multiplied by a fraction, the 1476
numerator of which is the sum of the book value of the qualifying 1477
investee's physical assets in this state on the last day of the 1478
qualifying investee's fiscal or calendar year ending immediately 1479
prior to the day on which the trust recognizes the qualifying 1480
trust amount, and the denominator of which is the sum of the book 1481
value of the qualifying investee's total physical assets 1482
everywhere on the last day of the qualifying investee's fiscal or 1483
calendar year ending immediately prior to the day on which the 1484
trust recognizes the qualifying trust amount. If, for a taxable 1485
year, the trust recognizes a qualifying trust amount with respect 1486
to more than one qualifying investee, the amount described in 1487

division (BB)(4)(b) of this section shall equal the sum of the 1488
products so computed for each such qualifying investee. 1489

(c)(i) With respect to a trust or portion of a trust that is 1490
a resident as ascertained in accordance with division (I)(3)(d) of 1491
this section, its modified nonbusiness income. 1492

(ii) With respect to a trust or portion of a trust that is 1493
not a resident as ascertained in accordance with division 1494
(I)(3)(d) of this section, the amount of its modified nonbusiness 1495
income satisfying the descriptions in divisions (B)(2) to (5) of 1496
section 5747.20 of the Revised Code, except as otherwise provided 1497
in division (BB)(4)(c)(ii) of this section. With respect to a 1498
trust or portion of a trust that is not a resident as ascertained 1499
in accordance with division (I)(3)(d) of this section, the trust's 1500
portion of modified nonbusiness income recognized from the sale, 1501
exchange, or other disposition of a debt interest in or equity 1502
interest in a section 5747.212 entity, as defined in section 1503
5747.212 of the Revised Code, without regard to division (A) of 1504
that section, shall not be allocated to this state in accordance 1505
with section 5747.20 of the Revised Code but shall be apportioned 1506
to this state in accordance with division (B) of section 5747.212 1507
of the Revised Code without regard to division (A) of that 1508
section. 1509

If the allocation and apportionment of a trust's income under 1510
divisions (BB)(4)(a) and (c) of this section do not fairly 1511
represent the modified Ohio taxable income of the trust in this 1512
state, the alternative methods described in division (C) of 1513
section 5747.21 of the Revised Code may be applied in the manner 1514
and to the same extent provided in that section. 1515

(5)(a) Except as set forth in division (BB)(5)(b) of this 1516
section, "qualifying investee" means a person in which a trust has 1517
an equity or ownership interest, or a person or unit of government 1518
the debt obligations of either of which are owned by a trust. For 1519

the purposes of division (BB)(2)(a) of this section and for the 1520
purpose of computing the fraction described in division (BB)(4)(b) 1521
of this section, all of the following apply: 1522

(i) If the qualifying investee is a member of a qualifying 1523
controlled group on the last day of the qualifying investee's 1524
fiscal or calendar year ending immediately prior to the date on 1525
which the trust recognizes the gain or loss, then "qualifying 1526
investee" includes all persons in the qualifying controlled group 1527
on such last day. 1528

(ii) If the qualifying investee, or if the qualifying 1529
investee and any members of the qualifying controlled group of 1530
which the qualifying investee is a member on the last day of the 1531
qualifying investee's fiscal or calendar year ending immediately 1532
prior to the date on which the trust recognizes the gain or loss, 1533
separately or cumulatively own, directly or indirectly, on the 1534
last day of the qualifying investee's fiscal or calendar year 1535
ending immediately prior to the date on which the trust recognizes 1536
the qualifying trust amount, more than fifty per cent of the 1537
equity of a pass-through entity, then the qualifying investee and 1538
the other members are deemed to own the proportionate share of the 1539
pass-through entity's physical assets which the pass-through 1540
entity directly or indirectly owns on the last day of the 1541
pass-through entity's calendar or fiscal year ending within or 1542
with the last day of the qualifying investee's fiscal or calendar 1543
year ending immediately prior to the date on which the trust 1544
recognizes the qualifying trust amount. 1545

(iii) For the purposes of division (BB)(5)(a)(iii) of this 1546
section, "upper level pass-through entity" means a pass-through 1547
entity directly or indirectly owning any equity of another 1548
pass-through entity, and "lower level pass-through entity" means 1549
that other pass-through entity. 1550

An upper level pass-through entity, whether or not it is also 1551

a qualifying investee, is deemed to own, on the last day of the 1552
upper level pass-through entity's calendar or fiscal year, the 1553
proportionate share of the lower level pass-through entity's 1554
physical assets that the lower level pass-through entity directly 1555
or indirectly owns on the last day of the lower level pass-through 1556
entity's calendar or fiscal year ending within or with the last 1557
day of the upper level pass-through entity's fiscal or calendar 1558
year. If the upper level pass-through entity directly and 1559
indirectly owns less than fifty per cent of the equity of the 1560
lower level pass-through entity on each day of the upper level 1561
pass-through entity's calendar or fiscal year in which or with 1562
which ends the calendar or fiscal year of the lower level 1563
pass-through entity and if, based upon clear and convincing 1564
evidence, complete information about the location and cost of the 1565
physical assets of the lower pass-through entity is not available 1566
to the upper level pass-through entity, then solely for purposes 1567
of ascertaining if a gain or loss constitutes a qualifying trust 1568
amount, the upper level pass-through entity shall be deemed as 1569
owning no equity of the lower level pass-through entity for each 1570
day during the upper level pass-through entity's calendar or 1571
fiscal year in which or with which ends the lower level 1572
pass-through entity's calendar or fiscal year. Nothing in division 1573
(BB)(5)(a)(iii) of this section shall be construed to provide for 1574
any deduction or exclusion in computing any trust's Ohio taxable 1575
income. 1576

(b) With respect to a trust that is not a resident for the 1577
taxable year and with respect to a part of a trust that is not a 1578
resident for the taxable year, "qualifying investee" for that 1579
taxable year does not include a C corporation if both of the 1580
following apply: 1581

(i) During the taxable year the trust or part of the trust 1582
recognizes a gain or loss from the sale, exchange, or other 1583

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| disposition of equity or ownership interests in, or debt obligations of, the C corporation. | 1584 1585 |
| (ii) Such gain or loss constitutes nonbusiness income. | 1586 |
| (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. | 1587 1588 1589 1590 |
| (CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code. | 1591 1592 |
| (DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code. | 1593 1594 |
| (EE)(1) For the purposes of division (EE) of this section: | 1595 |
| (a) "Qualifying person" means any person other than a qualifying corporation. | 1596 1597 |
| (b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following: | 1598 1599 1600 |
| (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; | 1601 1602 1603 1604 |
| (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. | 1605 1606 1607 1608 |
| (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. | 1609 1610 1611 |
| (FF) For purposes of this chapter and Chapter 5751. of the Revised Code: | 1612 1613 |

(1) "Trust" does not include a qualified pre-income tax trust. 1614
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(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. 1616
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(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. 1619
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 1630
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(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 1632
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(b) The trust became irrevocable upon the creation of the trust; and 1634
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(c) The grantor was domiciled in this state at the time the trust was created. 1636
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Sec. 5747.78. (A) There is hereby allowed a nonrefundable credit against the tax imposed under section 5747.02 of the Revised Code for a taxpayer who pays tuition and fees during a taxable year to an eligible institution, at which the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer is enrolled in or attending a program that culminates in a degree in nonprofit 1638
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management. The amount of the credit equals the lesser of one 1644
thousand five hundred dollars or the amount of tuition and fees 1645
paid to the eligible institution during the taxable year. 1646

(B) There is hereby allowed a nonrefundable credit against 1647
the tax imposed under section 5747.02 of the Revised Code for a 1648
taxpayer who incurs expenses during the taxable year to complete 1649
the institute of organization management program sponsored by the 1650
United States chamber of commerce, to complete the lobbying 1651
certificate program sponsored by the American league of lobbyists, 1652
to receive an accreditation in public relations, or to become 1653
certified as a certified fund raising executive, certified sports 1654
event executive, certified destination marketing executive, or 1655
certified meeting planner. The amount of the credit equals the 1656
lesser of five hundred dollars or fifty per cent of the expenses 1657
incurred, provided that, if the taxpayer receives reimbursement 1658
for the taxpayer's expenses from any source, the amount of the 1659
credit equals the lesser of five hundred dollars or fifty per cent 1660
of the expenses incurred after subtracting the amount reimbursed 1661
to the taxpayer. 1662

(C) A taxpayer shall claim a credit allowed under division 1663
(A) or (B) of this section in the order required under section 1664
5747.98 of the Revised Code. The taxpayer may carry forward a 1665
credit to the extent that the credit exceeds the amount of tax due 1666
after allowing for any other credits that precede the credit in 1667
the order prescribed by section 5747.98 of the Revised Code. 1668

Sec. 5747.98. (A) To provide a uniform procedure for 1669
calculating the amount of tax due under section 5747.02 of the 1670
Revised Code, a taxpayer shall claim any credits to which the 1671
taxpayer is entitled in the following order: 1672

(1) The retirement income credit under division (B) of 1673
section 5747.055 of the Revised Code; 1674

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| (2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code; | 1675 1676 |
| (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code; | 1677 1678 |
| (4) The dependent care credit under section 5747.054 of the Revised Code; | 1679 1680 |
| (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code; | 1681 1682 |
| (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code; | 1683 1684 |
| (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code; | 1685 1686 |
| (8) The low-income credit under section 5747.056 of the Revised Code; | 1687 1688 |
| (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; | 1689 1690 |
| (10) The campaign contribution credit under section 5747.29 of the Revised Code; | 1691 1692 |
| (11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code; | 1693 1694 |
| (12) The joint filing credit under division (G) of section 5747.05 of the Revised Code; | 1695 1696 |
| (13) The nonresident credit under division (A) of section 5747.05 of the Revised Code; | 1697 1698 |
| (14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; | 1699 1700 |
| (15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code; | 1701 1702 |
| (16) The credit for employers that reimburse employee child | 1703 |

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| care expenses under section 5747.36 of the Revised Code; | 1704 |
| (17) The credit for adoption of a minor child under section 5747.37 of the Revised Code; | 1705 1706 |
| (18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code; | 1707 1708 |
| (19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code; | 1709 1710 |
| (20) The credit for selling alternative fuel under section 5747.77 of the Revised Code; | 1711 1712 |
| (21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code; | 1713 1714 1715 |
| (22) The job training credit under section 5747.39 of the Revised Code; | 1716 1717 |
| (23) The enterprise zone credit under section 5709.66 of the Revised Code; | 1718 1719 |
| (24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code; | 1720 1721 |
| (25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code; | 1722 1723 |
| (26) The ethanol plant investment credit under section 5747.75 of the Revised Code; | 1724 1725 |
| (27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code; | 1726 1727 |
| (28) The small business investment credit under section 5747.81 of the Revised Code; | 1728 1729 |
| (29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code; | 1730 1731 |
| (30) The enterprise zone credits under section 5709.65 of the | 1732 |

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| Revised Code; | 1733 |
| (31) The research and development credit under section 5747.331 of the Revised Code; | 1734 1735 |
| (32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code; | 1736 1737 |
| (33) <u>The credit for tuition and fees paid to earn a degree in nonprofit management under division (A) of section 5747.78 of the Revised Code;</u> | 1738 1739 1740 |
| (34) <u>The credit for expenses incurred to complete a professional certification program or obtain a professional designation under division (B) of section 5747.78 of the Revised Code;</u> | 1741 1742 1743 1744 |
| (35) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code; | 1745 1746 |
| (34) (36) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code; | 1747 1748 |
| (35) (37) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; | 1749 1750 |
| (36) (38) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code; | 1751 1752 1753 |
| (37) (39) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code; | 1754 1755 1756 |
| (38) (40) The refundable motion picture production credit under section 5747.66 of the Revised Code. | 1757 1758 |
| (39) (41) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code. | 1759 1760 1761 |

(B) For any credit, except the refundable credits enumerated 1762
in this section and the credit granted under division (I) of 1763
section 5747.08 of the Revised Code, the amount of the credit for 1764
a taxable year shall not exceed the tax due after allowing for any 1765
other credit that precedes it in the order required under this 1766
section. Any excess amount of a particular credit may be carried 1767
forward if authorized under the section creating that credit. 1768
Nothing in this chapter shall be construed to allow a taxpayer to 1769
claim, directly or indirectly, a credit more than once for a 1770
taxable year. 1771

Section 2. That existing sections 5739.02, 5747.01, and 1772
5747.98 of the Revised Code are hereby repealed. 1773

Section 3. The General Assembly, applying the principle 1774
stated in division (B) of section 1.52 of the Revised Code that 1775
amendments are to be harmonized if reasonably capable of 1776
simultaneous operation, finds that the following sections, 1777
presented in this act as composites of the sections as amended by 1778
the acts indicated, are the resulting versions of the sections in 1779
effect prior to the effective date of the sections as presented in 1780
this act: 1781

Section 5739.02 of the Revised Code as amended by both Am. 1782
Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly. 1783

Section 5747.01 of the Revised Code as amended by Am. H.B. 1784
167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th 1785
General Assembly. 1786

Section 5747.98 of the Revised Code as amended by both Am. 1787
Sub. H.B. 386 and Am. Sub. H.B. 510 of the 129th General Assembly. 1788