

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 139

Senators Gavarone, Peterson

A BILL

To amend section 5747.01 and to enact sections
193.01, 193.02, 193.03, 193.04, 193.05, 193.06,
and 193.07 of the Revised Code to enact the
First-time Home Buyer Savings Act, authorizing
income tax deductions for contributions to and
earnings on savings accounts designated for the
purchase of a home.

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

Section 1. That section 5747.01 be amended and sections
193.01, 193.02, 193.03, 193.04, 193.05, 193.06, and 193.07 of
the Revised Code be enacted to read as follows:

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Sec. 193.01. As used in this chapter:

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(A) "Account holder" means an individual who establishes,
individually or jointly with the individual's spouse, a first-
time home buyer savings account.

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(B) "Allowable closing costs" means a disbursement listed
on a closing disclosure for the purchase of a single-family
residence in this state by a qualified beneficiary.

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(C) "Eligible costs" means the down payment and allowable

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closing costs for the purchase of a single-family residence in 19
this state by a qualified beneficiary. 20

(D) "Financial institution" means any bank, trust company, 21
savings institution, industrial loan association, consumer 22
finance company, credit union, or any benefit association, 23
insurance company, safe deposit company, money market mutual 24
fund, or similar entity authorized to do business in this state. 25

(E) "First-time home buyer" means an individual who 26
resides in this state and has not owned or purchased, either 27
individually or jointly, a single-family residence during the 28
three years immediately preceding the purchase of a single- 29
family residence using amounts from a first-time home buyer 30
savings account. 31

(F) "First-time home buyer savings account" or "account" 32
means an account at a financial institution that is designated 33
by the account holder as a first-time home buyer savings account 34
pursuant to this chapter for the purpose of paying or 35
reimbursing eligible costs for the purchase of a single-family 36
residence in this state by a qualified beneficiary. 37

(G) "Qualified beneficiary" means a first-time home buyer 38
who is designated by the account holder of a first-time home 39
buyer savings account. 40

(H) "Closing disclosure" means the statement of receipts 41
and disbursement for a transaction related to real estate, 42
including a statement prescribed under the "Real Estate 43
Settlement Procedures Act of 1974," 12 U.S.C. 2601 et seq., as 44
amended, and regulations thereunder. 45

(I) "Single-family residence" means a dwelling, including 46
a unit in a multiple-unit dwelling and a manufactured home or 47

mobile home, owned and occupied by a qualified beneficiary as a 48
principal residence. A single-family residence includes so much 49
of the land surrounding it as is reasonably necessary for the 50
use of the dwelling or unit as a home. 51

(J) "Manufactured home" has the same meaning as in section 52
3781.06 of the Revised Code. 53

(K) "Mobile home" has the same meaning as in section 54
4501.01 of the Revised Code. 55

Sec. 193.02. (A) Any individual may open an account at a 56
financial institution and designate the account, in its 57
entirety, as a first-time home buyer savings account to be used 58
to pay or reimburse a qualified beneficiary's eligible costs for 59
the purchase of a single-family residence in this state. 60
Individuals who are married may jointly open, designate, and own 61
a first-time home buyer savings account but, otherwise, a first- 62
time home buyer savings account shall be owned by not more than 63
one account holder. 64

(B) An account holder shall designate one first-time home 65
buyer as the qualified beneficiary of the first-time home buyer 66
savings account not later than the fifteenth day of April of the 67
year following the year in which the account is opened. An 68
account holder may designate the account holder as the qualified 69
beneficiary and may change the designated qualified beneficiary 70
at any time. 71

(C) A first-time home buyer savings account shall not have 72
more than one qualified beneficiary at any time. 73

(D) An individual may be the account holder of more than 74
one first-time home buyer savings account. However, an account 75
holder shall not designate the same qualified beneficiary for 76

more than one account. 77

(E) An individual may be designated as the qualified 78
beneficiary on more than one first-time home buyer savings 79
account only if the accounts are owned by different account 80
holders. 81

(F) Only cash and marketable securities may be deposited 82
to a first-time home buyer savings account. 83

(G) Any person may deposit money in a first-time home 84
buyer savings account. There is no limitation on the amount of 85
money that may be deposited to or retained in a first-time home 86
buyer savings account. Only deposits made by an account holder 87
qualify for the income tax deduction authorized under section 88
193.05 of the Revised Code. 89

Sec. 193.03. (A) For each taxable year that an account 90
holder claims a deduction or is required to make an addition to 91
the account holder's federal adjusted gross income under section 92
193.05 of the Revised Code, the account holder shall include the 93
following information with the account holder's state income tax 94
return filed pursuant to section 5747.08 of the Revised Code in 95
the manner prescribed by the tax commissioner: 96

(1) A ledger listing the deposits to and withdrawals from 97
each first-time home buyer savings account owned by the account 98
holder during the taxable year, including debits for service 99
fees associated with administering the account; 100

(2) The internal revenue service form 1099 issued pursuant 101
to the Internal Revenue Code by the financial institution or 102
financial institutions with which the account or accounts are 103
held. 104

(B) In addition to the reporting requirements of division 105

(A) of this section, each time money is withdrawn from a first- 106
time home buyer savings account for purposes other than 107
reimbursing the financial institution with which the account is 108
held for a service fee associated with administering the 109
account, the account holder shall provide the following 110
information to the department of taxation: 111

(1) The amount of money withdrawn from the account; 112

(2) The amount of money remaining in the account, if any; 113

(3) If the withdrawn money was used to pay eligible costs 114
for the purchase of a single-family residence by the account's 115
qualified beneficiary or to reimburse the qualified beneficiary 116
for such eligible costs, a detailed accounting of the eligible 117
costs toward which the money was applied; 118

(4) If the money was transferred to another first-time 119
home buyer savings account, the name of the financial 120
institution with which the new account is held and the qualified 121
beneficiary of the new account; 122

(5) If the money was withdrawn due to the death or 123
disability of the account holder, the name and address of each 124
person to which the money was distributed. 125

(C) In complying with the reporting obligations prescribed 126
by this section, the account holder shall use the forms 127
prescribed by the tax commissioner pursuant to section 193.07 of 128
the Revised Code. 129

Sec. 193.04. (A) A financial institution shall not be 130
required to do any of the following: 131

(1) Designate an account as a first-time home buyer 132
savings account, or designate the qualified beneficiary of an 133

account, in the financial institution's account contracts or 134
systems or in any other way; 135

(2) Track the use money withdrawn from a first-time home 136
buyer savings account; 137

(3) Allocate funds in a first-time home buyer savings 138
account among joint account holder or multiple qualified 139
beneficiaries; 140

(4) Report any information not otherwise required by law 141
to the department of taxation or any other governmental agency. 142

(B) A financial institution is not responsible or liable 143
for any of the following: 144

(1) Determining or ensuring that an account satisfies the 145
requirements to be a first-time home buyer savings account; 146

(2) Determining or ensuring that funds in a first-time 147
home buyer savings account are used for eligible costs; 148

(3) Reporting or remitting taxes or penalties related to 149
the use of a first-time home buyer savings account. 150

(C) Upon being furnished proof of the death of the account 151
holder and such other information required by the contract 152
governing the first-time home buyer savings account, a financial 153
institution shall distribute the principal and accumulated 154
interest or other income in the account in accordance with the 155
terms of the contract governing the account. 156

Sec. 193.05. (A) Subject to the limitations prescribed by 157
division (C) of this section, in determining Ohio adjusted gross 158
income under Chapter 5747. of the Revised Code an account holder 159
may deduct the following amounts, to the extent such amounts 160
have not otherwise been deducted or excluded in determining the 161

account holder's federal adjusted gross income: 162

(1) The total of the deposits that the account holder made 163
to one or more first-time home buyer savings accounts owned by 164
the account holder or the account holder's spouse during the 165
taxable year; 166

(2) The interest and other income on the principal balance 167
of each of the account holder's first-time home buyer savings 168
accounts; 169

(B) In determining Ohio adjusted gross income under 170
Chapter 5747. of the Revised Code, an account holder shall add 171
to the account holder's federal adjusted gross income an amount 172
equal to the sum of the amounts described in divisions (B) (1), 173
(2), and (3) of this section to the extent that such amounts 174
were included in the account holder's federal adjusted gross 175
income in a prior taxable year and were deducted in determining 176
the account holder's Ohio adjusted gross income for that taxable 177
year. In determining the extent to which such amounts shall be 178
included in the account holder's Ohio adjusted gross income, the 179
tax commissioner shall be guided by sections 72 and 408 of the 180
Internal Revenue Code governing the determination of the amount 181
of withdrawals from an individual retirement account to be 182
included in federal adjusted gross income. 183

(1) Amounts withdrawn from a first-time home buyer savings 184
account owned by the account holder that are not transferred to 185
another first-time home buyer savings account, debited by the 186
financial institution with which the account is held to pay a 187
service fee for administering the account, or used to pay 188
eligible costs for the purchase of a single-family residence by 189
a qualified beneficiary or to reimburse a qualified beneficiary 190
for such eligible costs; 191

(2) Investment earnings during the taxable year on amounts 192
withdrawn from the account that are described in division (B) (1) 193
of this section; 194

(3) Amounts remaining in the account on the thirty-first 195
day of December of the fourteenth taxable year following the 196
taxable year in which the account was opened. For the purposes 197
of division (B) (3) of this section, a first-time home buyer 198
savings account is "opened" in the taxable year in which the 199
account was established under section 193.02 of the Revised Code 200
or, if the account includes amounts transferred from other 201
first-time home buyer savings accounts, in the earliest taxable 202
year for which the account holder claimed a deduction under 203
division (A) of this section with respect to the first such 204
account. Changing the qualified beneficiary of the account does 205
not affect the taxable year in which the account is opened. 206

(C) (1) The total amount of deposits deducted by an account 207
holder under division (A) (1) of this section for a taxable year, 208
regardless of how many first-time home buyer savings accounts 209
the account holder owns, shall not exceed ten thousand dollars 210
for spouses filing a joint income tax return under section 211
5747.08 of the Revised Code, or five thousand dollars for all 212
other account holders. 213

(2) The total amount of deposits, interest, and other 214
income deducted by an account holder under divisions (A) (1) and 215
(2) of this section for all taxable years, regardless of how 216
many first-time home buyer savings accounts the account holder 217
owns, shall not exceed one hundred thousand dollars for spouses 218
filing a joint income tax return under section 5747.08 of the 219
Revised Code or fifty thousand dollars for all other account 220
holders. 221

(3) No account holder may claim a deduction under division 222
(A) of this section after the fourteenth taxable year following 223
the taxable year in which the account holder first opens a 224
first-time home buyer savings account under section 193.02 of 225
the Revised Code. 226

(D) A person other than the account holder who deposits 227
money in a first-time home buyer savings account is not entitled 228
to the deduction provided for under this section. 229

Sec. 193.06. (A) Except as otherwise provided in division 230
(B) of this section, an account holder shall pay a penalty equal 231
to ten per cent of the amounts described in divisions (B)(1) and 232
(3) of section 193.05 of the Revised Code for the taxable year 233
in which the account holder is required to add the amounts in 234
computing the account holder's Ohio adjusted gross income under 235
Chapter 5747. of the Revised Code. The penalty imposed under 236
this section shall be in addition to all other taxes and 237
penalties imposed on the amounts. The penalty shall be 238
considered as revenue arising from the taxes imposed by Chapter 239
5747. of the Revised Code and the tax commissioner may collect 240
past due penalties and interest thereon by assessment under 241
section 5747.13 of the Revised Code in the same manner as taxes 242
that are past due. 243

(B) The penalty imposed under this section does not apply 244
to any of the following: 245

(1) Amounts withdrawn by reason of the account holder's 246
death or disability; 247

(2) A disbursement of assets of the account pursuant to a 248
filing for protection under the United States Bankruptcy Code, 249
11 U.S.C. 101, et seq., more than one year after the date the 250

account was established under section 193.02 of the Revised Code 251
or, if the account includes amounts transferred from other 252
first-time home buyer savings accounts, more than one year after 253
the earliest date that a first-time home buyer savings account 254
from which the funds were transferred was established; 255

(3) Amounts transferred from one first-time home buyer 256
savings account to another first-time home buyers savings 257
account; 258

(4) Amounts debited from the account by the financial 259
institution with which the account is held to pay a service fee 260
for administering the account. 261

Sec. 193.07. (A) The tax commissioner may adopt rules in 262
accordance with Chapter 119. of the Revised Code to implement 263
this chapter. 264

(B) The commissioner shall prepare forms for all of the 265
following: 266

(1) The designation of an account with a financial 267
institution to serve as a first-time home buyer savings account; 268

(2) The designation of a qualified beneficiary of a first- 269
time home buyer savings account; 270

(3) For an account holder to annually submit to the 271
department detailed information regarding the first-time home 272
buyer savings account, including a list of transactions for the 273
account during a taxable year, and identifying any supporting 274
documentation that is required to be maintained by the account 275
holder. 276

(C) The department of taxation shall prepare and 277
distribute informational materials on the first-time home buyer 278

savings account program to financial institutions and potential 279
home buyers to publicize the availability of the program. 280

Sec. 5747.01. Except as otherwise expressly provided or 281
clearly appearing from the context, any term used in this 282
chapter that is not otherwise defined in this section has the 283
same meaning as when used in a comparable context in the laws of 284
the United States relating to federal income taxes or if not 285
used in a comparable context in those laws, has the same meaning 286
as in section 5733.40 of the Revised Code. Any reference in this 287
chapter to the Internal Revenue Code includes other laws of the 288
United States relating to federal income taxes. 289

As used in this chapter: 290

(A) "Adjusted gross income" or "Ohio adjusted gross 291
income" means federal adjusted gross income, as defined and used 292
in the Internal Revenue Code, adjusted as provided in this 293
section: 294

(1) Add interest or dividends on obligations or securities 295
of any state or of any political subdivision or authority of any 296
state, other than this state and its subdivisions and 297
authorities. 298

(2) Add interest or dividends on obligations of any 299
authority, commission, instrumentality, territory, or possession 300
of the United States to the extent that the interest or 301
dividends are exempt from federal income taxes but not from 302
state income taxes. 303

(3) Deduct interest or dividends on obligations of the 304
United States and its territories and possessions or of any 305
authority, commission, or instrumentality of the United States 306
to the extent that the interest or dividends are included in 307

federal adjusted gross income but exempt from state income taxes 308
under the laws of the United States. 309

(4) Deduct disability and survivor's benefits to the 310
extent included in federal adjusted gross income. 311

(5) Deduct benefits under Title II of the Social Security 312
Act and tier 1 railroad retirement benefits to the extent 313
included in federal adjusted gross income under section 86 of 314
the Internal Revenue Code. 315

(6) In the case of a taxpayer who is a beneficiary of a 316
trust that makes an accumulation distribution as defined in 317
section 665 of the Internal Revenue Code, add, for the 318
beneficiary's taxable years beginning before 2002, the portion, 319
if any, of such distribution that does not exceed the 320
undistributed net income of the trust for the three taxable 321
years preceding the taxable year in which the distribution is 322
made to the extent that the portion was not included in the 323
trust's taxable income for any of the trust's taxable years 324
beginning in 2002 or thereafter. "Undistributed net income of a 325
trust" means the taxable income of the trust increased by (a) (i) 326
the additions to adjusted gross income required under division 327
(A) of this section and (ii) the personal exemptions allowed to 328
the trust pursuant to section 642(b) of the Internal Revenue 329
Code, and decreased by (b) (i) the deductions to adjusted gross 330
income required under division (A) of this section, (ii) the 331
amount of federal income taxes attributable to such income, and 332
(iii) the amount of taxable income that has been included in the 333
adjusted gross income of a beneficiary by reason of a prior 334
accumulation distribution. Any undistributed net income included 335
in the adjusted gross income of a beneficiary shall reduce the 336
undistributed net income of the trust commencing with the 337

earliest years of the accumulation period. 338

(7) Deduct the amount of wages and salaries, if any, not 339
otherwise allowable as a deduction but that would have been 340
allowable as a deduction in computing federal adjusted gross 341
income for the taxable year, had the targeted jobs credit 342
allowed and determined under sections 38, 51, and 52 of the 343
Internal Revenue Code not been in effect. 344

(8) Deduct any interest or interest equivalent on public 345
obligations and purchase obligations to the extent that the 346
interest or interest equivalent is included in federal adjusted 347
gross income. 348

(9) Add any loss or deduct any gain resulting from the 349
sale, exchange, or other disposition of public obligations to 350
the extent that the loss has been deducted or the gain has been 351
included in computing federal adjusted gross income. 352

(10) Deduct or add amounts, as provided under section 353
5747.70 of the Revised Code, related to contributions to 354
variable college savings program accounts made or tuition units 355
purchased pursuant to Chapter 3334. of the Revised Code. 356

(11) (a) Deduct, to the extent not otherwise allowable as a 357
deduction or exclusion in computing federal or Ohio adjusted 358
gross income for the taxable year, the amount the taxpayer paid 359
during the taxable year for medical care insurance and qualified 360
long-term care insurance for the taxpayer, the taxpayer's 361
spouse, and dependents. No deduction for medical care insurance 362
under division (A) (11) of this section shall be allowed either 363
to any taxpayer who is eligible to participate in any subsidized 364
health plan maintained by any employer of the taxpayer or of the 365
taxpayer's spouse, or to any taxpayer who is entitled to, or on 366

application would be entitled to, benefits under part A of Title 367
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 368
U.S.C. 301, as amended. For the purposes of division (A)(11)(a) 369
of this section, "subsidized health plan" means a health plan 370
for which the employer pays any portion of the plan's cost. The 371
deduction allowed under division (A)(11)(a) of this section 372
shall be the net of any related premium refunds, related premium 373
reimbursements, or related insurance premium dividends received 374
during the taxable year. 375

(b) Deduct, to the extent not otherwise deducted or 376
excluded in computing federal or Ohio adjusted gross income 377
during the taxable year, the amount the taxpayer paid during the 378
taxable year, not compensated for by any insurance or otherwise, 379
for medical care of the taxpayer, the taxpayer's spouse, and 380
dependents, to the extent the expenses exceed seven and one-half 381
per cent of the taxpayer's federal adjusted gross income. 382

(c) Deduct, to the extent not otherwise deducted or 383
excluded in computing federal or Ohio adjusted gross income, any 384
amount included in federal adjusted gross income under section 385
105 or not excluded under section 106 of the Internal Revenue 386
Code solely because it relates to an accident and health plan 387
for a person who otherwise would be a "qualifying relative" and 388
thus a "dependent" under section 152 of the Internal Revenue 389
Code but for the fact that the person fails to meet the income 390
and support limitations under section 152(d)(1)(B) and (C) of 391
the Internal Revenue Code. 392

(d) For purposes of division (A)(11) of this section, 393
"medical care" has the meaning given in section 213 of the 394
Internal Revenue Code, subject to the special rules, 395
limitations, and exclusions set forth therein, and "qualified 396

long-term care" has the same meaning given in section 7702B(c) 397
of the Internal Revenue Code. Solely for purposes of divisions 398
(A) (11) (a) and (c) of this section, "dependent" includes a 399
person who otherwise would be a "qualifying relative" and thus a 400
"dependent" under section 152 of the Internal Revenue Code but 401
for the fact that the person fails to meet the income and 402
support limitations under section 152(d) (1) (B) and (C) of the 403
Internal Revenue Code. 404

(12) (a) Deduct any amount included in federal adjusted 405
gross income solely because the amount represents a 406
reimbursement or refund of expenses that in any year the 407
taxpayer had deducted as an itemized deduction pursuant to 408
section 63 of the Internal Revenue Code and applicable United 409
States department of the treasury regulations. The deduction 410
otherwise allowed under division (A) (12) (a) of this section 411
shall be reduced to the extent the reimbursement is attributable 412
to an amount the taxpayer deducted under this section in any 413
taxable year. 414

(b) Add any amount not otherwise included in Ohio adjusted 415
gross income for any taxable year to the extent that the amount 416
is attributable to the recovery during the taxable year of any 417
amount deducted or excluded in computing federal or Ohio 418
adjusted gross income in any taxable year. 419

(13) Deduct any portion of the deduction described in 420
section 1341(a) (2) of the Internal Revenue Code, for repaying 421
previously reported income received under a claim of right, that 422
meets both of the following requirements: 423

(a) It is allowable for repayment of an item that was 424
included in the taxpayer's adjusted gross income for a prior 425
taxable year and did not qualify for a credit under division (A) 426

or (B) of section 5747.05 of the Revised Code for that year; 427

(b) It does not otherwise reduce the taxpayer's adjusted 428
gross income for the current or any other taxable year. 429

(14) Deduct an amount equal to the deposits made to, and 430
net investment earnings of, a medical savings account during the 431
taxable year, in accordance with section 3924.66 of the Revised 432
Code. The deduction allowed by division (A) (14) of this section 433
does not apply to medical savings account deposits and earnings 434
otherwise deducted or excluded for the current or any other 435
taxable year from the taxpayer's federal adjusted gross income. 436

(15) (a) Add an amount equal to the funds withdrawn from a 437
medical savings account during the taxable year, and the net 438
investment earnings on those funds, when the funds withdrawn 439
were used for any purpose other than to reimburse an account 440
holder for, or to pay, eligible medical expenses, in accordance 441
with section 3924.66 of the Revised Code; 442

(b) Add the amounts distributed from a medical savings 443
account under division (A) (2) of section 3924.68 of the Revised 444
Code during the taxable year. 445

(16) Add any amount claimed as a credit under section 446
5747.059 or 5747.65 of the Revised Code to the extent that such 447
amount satisfies either of the following: 448

(a) The amount was deducted or excluded from the 449
computation of the taxpayer's federal adjusted gross income as 450
required to be reported for the taxpayer's taxable year under 451
the Internal Revenue Code; 452

(b) The amount resulted in a reduction of the taxpayer's 453
federal adjusted gross income as required to be reported for any 454
of the taxpayer's taxable years under the Internal Revenue Code. 455

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

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

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

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 486
(v) of this section, add five-sixths of the amount of 487
depreciation expense allowed by subsection (k) of section 168 of 488
the Internal Revenue Code, including the taxpayer's 489
proportionate or distributive share of the amount of 490
depreciation expense allowed by that subsection to a pass- 491
through entity in which the taxpayer has a direct or indirect 492
ownership interest. 493

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 494
of this section, add five-sixths of the amount of qualifying 495
section 179 depreciation expense, including the taxpayer's 496
proportionate or distributive share of the amount of qualifying 497
section 179 depreciation expense allowed to any pass-through 498
entity in which the taxpayer has a direct or indirect ownership 499
interest. 500

(iii) Subject to division (A) (20) (a) (v) of this section, 501
for taxable years beginning in 2012 or thereafter, if the 502
increase in income taxes withheld by the taxpayer is equal to or 503
greater than ten per cent of income taxes withheld by the 504
taxpayer during the taxpayer's immediately preceding taxable 505
year, "two-thirds" shall be substituted for "five-sixths" for 506
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 507

(iv) Subject to division (A) (20) (a) (v) of this section, 508
for taxable years beginning in 2012 or thereafter, a taxpayer is 509
not required to add an amount under division (A) (20) of this 510
section if the increase in income taxes withheld by the taxpayer 511
and by any pass-through entity in which the taxpayer has a 512
direct or indirect ownership interest is equal to or greater 513
than the sum of (I) the amount of qualifying section 179 514
depreciation expense and (II) the amount of depreciation expense 515

allowed to the taxpayer by subsection (k) of section 168 of the 516
Internal Revenue Code, and including the taxpayer's 517
proportionate or distributive shares of such amounts allowed to 518
any such pass-through entities. 519

(v) If a taxpayer directly or indirectly incurs a net 520
operating loss for the taxable year for federal income tax 521
purposes, to the extent such loss resulted from depreciation 522
expense allowed by subsection (k) of section 168 of the Internal 523
Revenue Code and by qualifying section 179 depreciation expense, 524
"the entire" shall be substituted for "five-sixths of the" for 525
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 526

The tax commissioner, under procedures established by the 527
commissioner, may waive the add-backs related to a pass-through 528
entity if the taxpayer owns, directly or indirectly, less than 529
five per cent of the pass-through entity. 530

(b) Nothing in division (A) (20) of this section shall be 531
construed to adjust or modify the adjusted basis of any asset. 532

(c) To the extent the add-back required under division (A) 533
(20) (a) of this section is attributable to property generating 534
nonbusiness income or loss allocated under section 5747.20 of 535
the Revised Code, the add-back shall be situated to the same 536
location as the nonbusiness income or loss generated by the 537
property for the purpose of determining the credit under 538
division (A) of section 5747.05 of the Revised Code. Otherwise, 539
the add-back shall be apportioned, subject to one or more of the 540
four alternative methods of apportionment enumerated in section 541
5747.21 of the Revised Code. 542

(d) For the purposes of division (A) (20) (a) (v) of this 543
section, net operating loss carryback and carryforward shall not 544

include the allowance of any net operating loss deduction 545
carryback or carryforward to the taxable year to the extent such 546
loss resulted from depreciation allowed by section 168(k) of the 547
Internal Revenue Code and by the qualifying section 179 548
depreciation expense amount. 549

(e) For the purposes of divisions (A) (20) and (21) of this 550
section: 551

(i) "Income taxes withheld" means the total amount 552
withheld and remitted under sections 5747.06 and 5747.07 of the 553
Revised Code by an employer during the employer's taxable year. 554

(ii) "Increase in income taxes withheld" means the amount 555
by which the amount of income taxes withheld by an employer 556
during the employer's current taxable year exceeds the amount of 557
income taxes withheld by that employer during the employer's 558
immediately preceding taxable year. 559

(iii) "Qualifying section 179 depreciation expense" means 560
the difference between (I) the amount of depreciation expense 561
directly or indirectly allowed to a taxpayer under section 179 562
of the Internal Revised Code, and (II) the amount of 563
depreciation expense directly or indirectly allowed to the 564
taxpayer under section 179 of the Internal Revenue Code as that 565
section existed on December 31, 2002. 566

(21) (a) If the taxpayer was required to add an amount 567
under division (A) (20) (a) of this section for a taxable year, 568
deduct one of the following: 569

(i) One-fifth of the amount so added for each of the five 570
succeeding taxable years if the amount so added was five-sixths 571
of qualifying section 179 depreciation expense or depreciation 572
expense allowed by subsection (k) of section 168 of the Internal 573

Revenue Code; 574

(ii) One-half of the amount so added for each of the two 575
succeeding taxable years if the amount so added was two-thirds 576
of such depreciation expense; 577

(iii) One-sixth of the amount so added for each of the six 578
succeeding taxable years if the entire amount of such 579
depreciation expense was so added. 580

(b) If the amount deducted under division (A) (21) (a) of 581
this section is attributable to an add-back allocated under 582
division (A) (20) (c) of this section, the amount deducted shall 583
be situated to the same location. Otherwise, the add-back shall 584
be apportioned using the apportionment factors for the taxable 585
year in which the deduction is taken, subject to one or more of 586
the four alternative methods of apportionment enumerated in 587
section 5747.21 of the Revised Code. 588

(c) No deduction is available under division (A) (21) (a) of 589
this section with regard to any depreciation allowed by section 590
168(k) of the Internal Revenue Code and by the qualifying 591
section 179 depreciation expense amount to the extent that such 592
depreciation results in or increases a federal net operating 593
loss carryback or carryforward. If no such deduction is 594
available for a taxable year, the taxpayer may carry forward the 595
amount not deducted in such taxable year to the next taxable 596
year and add that amount to any deduction otherwise available 597
under division (A) (21) (a) of this section for that next taxable 598
year. The carryforward of amounts not so deducted shall continue 599
until the entire addition required by division (A) (20) (a) of 600
this section has been deducted. 601

(d) No refund shall be allowed as a result of adjustments 602

made by division (A) (21) of this section. 603

(22) Deduct, to the extent not otherwise deducted or 604
excluded in computing federal or Ohio adjusted gross income for 605
the taxable year, the amount the taxpayer received during the 606
taxable year as reimbursement for life insurance premiums under 607
section 5919.31 of the Revised Code. 608

(23) Deduct, to the extent not otherwise deducted or 609
excluded in computing federal or Ohio adjusted gross income for 610
the taxable year, the amount the taxpayer received during the 611
taxable year as a death benefit paid by the adjutant general 612
under section 5919.33 of the Revised Code. 613

(24) Deduct, to the extent included in federal adjusted 614
gross income and not otherwise allowable as a deduction or 615
exclusion in computing federal or Ohio adjusted gross income for 616
the taxable year, military pay and allowances received by the 617
taxpayer during the taxable year for active duty service in the 618
United States army, air force, navy, marine corps, or coast 619
guard or reserve components thereof or the national guard. The 620
deduction may not be claimed for military pay and allowances 621
received by the taxpayer while the taxpayer is stationed in this 622
state. 623

(25) Deduct, to the extent not otherwise allowable as a 624
deduction or exclusion in computing federal or Ohio adjusted 625
gross income for the taxable year and not otherwise compensated 626
for by any other source, the amount of qualified organ donation 627
expenses incurred by the taxpayer during the taxable year, not 628
to exceed ten thousand dollars. A taxpayer may deduct qualified 629
organ donation expenses only once for all taxable years 630
beginning with taxable years beginning in 2007. 631

For the purposes of division (A) (25) of this section: 632

(a) "Human organ" means all or any portion of a human 633
liver, pancreas, kidney, intestine, or lung, and any portion of 634
human bone marrow. 635

(b) "Qualified organ donation expenses" means travel 636
expenses, lodging expenses, and wages and salary forgone by a 637
taxpayer in connection with the taxpayer's donation, while 638
living, of one or more of the taxpayer's human organs to another 639
human being. 640

(26) Deduct, to the extent not otherwise deducted or 641
excluded in computing federal or Ohio adjusted gross income for 642
the taxable year, amounts received by the taxpayer as retired 643
personnel pay for service in the uniformed services or reserve 644
components thereof, or the national guard, or received by the 645
surviving spouse or former spouse of such a taxpayer under the 646
survivor benefit plan on account of such a taxpayer's death. If 647
the taxpayer receives income on account of retirement paid under 648
the federal civil service retirement system or federal employees 649
retirement system, or under any successor retirement program 650
enacted by the congress of the United States that is established 651
and maintained for retired employees of the United States 652
government, and such retirement income is based, in whole or in 653
part, on credit for the taxpayer's uniformed service, the 654
deduction allowed under this division shall include only that 655
portion of such retirement income that is attributable to the 656
taxpayer's uniformed service, to the extent that portion of such 657
retirement income is otherwise included in federal adjusted 658
gross income and is not otherwise deducted under this section. 659
Any amount deducted under division (A) (26) of this section is 660
not included in a taxpayer's adjusted gross income for the 661

purposes of section 5747.055 of the Revised Code. No amount may 662
be deducted under division (A) (26) of this section on the basis 663
of which a credit was claimed under section 5747.055 of the 664
Revised Code. 665

(27) Deduct, to the extent not otherwise deducted or 666
excluded in computing federal or Ohio adjusted gross income for 667
the taxable year, the amount the taxpayer received during the 668
taxable year from the military injury relief fund created in 669
section 5902.05 of the Revised Code. 670

(28) Deduct, to the extent not otherwise deducted or 671
excluded in computing federal or Ohio adjusted gross income for 672
the taxable year, the amount the taxpayer received as a veterans 673
bonus during the taxable year from the Ohio department of 674
veterans services as authorized by Section 2r of Article VIII, 675
Ohio Constitution. 676

(29) Deduct, to the extent not otherwise deducted or 677
excluded in computing federal or Ohio adjusted gross income for 678
the taxable year, any income derived from a transfer agreement 679
or from the enterprise transferred under that agreement under 680
section 4313.02 of the Revised Code. 681

(30) Deduct, to the extent not otherwise deducted or 682
excluded in computing federal or Ohio adjusted gross income for 683
the taxable year, Ohio college opportunity or federal Pell grant 684
amounts received by the taxpayer or the taxpayer's spouse or 685
dependent pursuant to section 3333.122 of the Revised Code or 20 686
U.S.C. 1070a, et seq., and used to pay room or board furnished 687
by the educational institution for which the grant was awarded 688
at the institution's facilities, including meal plans 689
administered by the institution. For the purposes of this 690
division, receipt of a grant includes the distribution of a 691

grant directly to an educational institution and the crediting 692
of the grant to the enrollee's account with the institution. 693

(31) (a) For taxable years beginning in 2015, deduct from 694
the portion of an individual's adjusted gross income that is 695
business income, to the extent not otherwise deducted or 696
excluded in computing federal or Ohio adjusted gross income for 697
the taxable year, the lesser of the following amounts: 698

(i) Seventy-five per cent of the individual's business 699
income; 700

(ii) Ninety-three thousand seven hundred fifty dollars for 701
each spouse if spouses file separate returns under section 702
5747.08 of the Revised Code or one hundred eighty-seven thousand 703
five hundred dollars for all other individuals. 704

(b) For taxable years beginning in 2016 or thereafter, 705
deduct from the portion of an individual's adjusted gross income 706
that is business income, to the extent not otherwise deducted or 707
excluded in computing federal adjusted gross income for the 708
taxable year, one hundred twenty-five thousand dollars for each 709
spouse if spouses file separate returns under section 5747.08 of 710
the Revised Code or two hundred fifty thousand dollars for all 711
other individuals. 712

(32) Deduct, as provided under section 5747.78 of the 713
Revised Code, contributions to ABLE savings accounts made in 714
accordance with sections 113.50 to 113.56 of the Revised Code. 715

(33) (a) Deduct, to the extent not otherwise deducted or 716
excluded in computing federal or Ohio adjusted gross income 717
during the taxable year, all of the following: 718

(i) Compensation paid to a qualifying employee described 719
in division (A) (14) (a) of section 5703.94 of the Revised Code to 720

the extent such compensation is for disaster work conducted in 721
this state during a disaster response period pursuant to a 722
qualifying solicitation received by the employee's employer; 723

(ii) Compensation paid to a qualifying employee described 724
in division (A) (14) (b) of section 5703.94 of the Revised Code to 725
the extent such compensation is for disaster work conducted in 726
this state by the employee during the disaster response period 727
on critical infrastructure owned or used by the employee's 728
employer; 729

(iii) Income received by an out-of-state disaster business 730
for disaster work conducted in this state during a disaster 731
response period, or, if the out-of-state disaster business is a 732
pass-through entity, a taxpayer's distributive share of the 733
pass-through entity's income from the business conducting 734
disaster work in this state during a disaster response period, 735
if, in either case, the disaster work is conducted pursuant to a 736
qualifying solicitation received by the business. 737

(b) All terms used in division (A) (33) of this section 738
have the same meanings as in section 5703.94 of the Revised 739
Code. 740

(34) (a) Deduct the amounts described in division (A) of 741
section 193.05 of the Revised Code pertaining to deposits made 742
to, and the interest and other income on the principal balance 743
of, a first-time home buyer savings account during the taxable 744
year. The deduction allowed by division (A) (34) (a) of this 745
section does not apply to first-time home buyer savings account 746
deposits and earnings otherwise deducted or excluded for the 747
current or any other taxable year from the taxpayer's federal 748
adjusted gross income. 749

(b) Add the amounts described in division (B) of section 750
193.05 of the Revised Code pertaining to withdrawals from a 751
first-time home buyer savings account during the taxable year 752
that are not used to pay eligible costs for the purchase of a 753
single-family residence by a qualified beneficiary, investment 754
earnings on such withdrawals, and amounts remaining in a first- 755
time home buyer savings account on the thirty-first day of 756
December of the fourteenth taxable year following the date the 757
account was opened. 758

(B) "Business income" means income, including gain or 759
loss, arising from transactions, activities, and sources in the 760
regular course of a trade or business and includes income, gain, 761
or loss from real property, tangible property, and intangible 762
property if the acquisition, rental, management, and disposition 763
of the property constitute integral parts of the regular course 764
of a trade or business operation. "Business income" includes 765
income, including gain or loss, from a partial or complete 766
liquidation of a business, including, but not limited to, gain 767
or loss from the sale or other disposition of goodwill. 768

(C) "Nonbusiness income" means all income other than 769
business income and may include, but is not limited to, 770
compensation, rents and royalties from real or tangible personal 771
property, capital gains, interest, dividends and distributions, 772
patent or copyright royalties, or lottery winnings, prizes, and 773
awards. 774

(D) "Compensation" means any form of remuneration paid to 775
an employee for personal services. 776

(E) "Fiduciary" means a guardian, trustee, executor, 777
administrator, receiver, conservator, or any other person acting 778
in any fiduciary capacity for any individual, trust, or estate. 779

(F) "Fiscal year" means an accounting period of twelve 780
months ending on the last day of any month other than December. 781

(G) "Individual" means any natural person. 782

(H) "Internal Revenue Code" means the "Internal Revenue 783
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 784

(I) "Resident" means any of the following, provided that 785
division (I)(3) of this section applies only to taxable years of 786
a trust beginning in 2002 or thereafter: 787

(1) An individual who is domiciled in this state, subject 788
to section 5747.24 of the Revised Code; 789

(2) The estate of a decedent who at the time of death was 790
domiciled in this state. The domicile tests of section 5747.24 791
of the Revised Code are not controlling for purposes of division 792
(I)(2) of this section. 793

(3) A trust that, in whole or part, resides in this state. 794
If only part of a trust resides in this state, the trust is a 795
resident only with respect to that part. 796

For the purposes of division (I)(3) of this section: 797

(a) A trust resides in this state for the trust's current 798
taxable year to the extent, as described in division (I)(3)(d) 799
of this section, that the trust consists directly or indirectly, 800
in whole or in part, of assets, net of any related liabilities, 801
that were transferred, or caused to be transferred, directly or 802
indirectly, to the trust by any of the following: 803

(i) A person, a court, or a governmental entity or 804
instrumentality on account of the death of a decedent, but only 805
if the trust is described in division (I)(3)(e)(i) or (ii) of 806
this section; 807

(ii) A person who was domiciled in this state for the 808
purposes of this chapter when the person directly or indirectly 809
transferred assets to an irrevocable trust, but only if at least 810
one of the trust's qualifying beneficiaries is domiciled in this 811
state for the purposes of this chapter during all or some 812
portion of the trust's current taxable year; 813

(iii) A person who was domiciled in this state for the 814
purposes of this chapter when the trust document or instrument 815
or part of the trust document or instrument became irrevocable, 816
but only if at least one of the trust's qualifying beneficiaries 817
is a resident domiciled in this state for the purposes of this 818
chapter during all or some portion of the trust's current 819
taxable year. If a trust document or instrument became 820
irrevocable upon the death of a person who at the time of death 821
was domiciled in this state for purposes of this chapter, that 822
person is a person described in division (I) (3) (a) (iii) of this 823
section. 824

(b) A trust is irrevocable to the extent that the 825
transferor is not considered to be the owner of the net assets 826
of the trust under sections 671 to 678 of the Internal Revenue 827
Code. 828

(c) With respect to a trust other than a charitable lead 829
trust, "qualifying beneficiary" has the same meaning as 830
"potential current beneficiary" as defined in section 1361(e) (2) 831
of the Internal Revenue Code, and with respect to a charitable 832
lead trust "qualifying beneficiary" is any current, future, or 833
contingent beneficiary, but with respect to any trust 834
"qualifying beneficiary" excludes a person or a governmental 835
entity or instrumentality to any of which a contribution would 836
qualify for the charitable deduction under section 170 of the 837

Internal Revenue Code. 838

(d) For the purposes of division (I) (3) (a) of this 839
section, the extent to which a trust consists directly or 840
indirectly, in whole or in part, of assets, net of any related 841
liabilities, that were transferred directly or indirectly, in 842
whole or part, to the trust by any of the sources enumerated in 843
that division shall be ascertained by multiplying the fair 844
market value of the trust's assets, net of related liabilities, 845
by the qualifying ratio, which shall be computed as follows: 846

(i) The first time the trust receives assets, the 847
numerator of the qualifying ratio is the fair market value of 848
those assets at that time, net of any related liabilities, from 849
sources enumerated in division (I) (3) (a) of this section. The 850
denominator of the qualifying ratio is the fair market value of 851
all the trust's assets at that time, net of any related 852
liabilities. 853

(ii) Each subsequent time the trust receives assets, a 854
revised qualifying ratio shall be computed. The numerator of the 855
revised qualifying ratio is the sum of (1) the fair market value 856
of the trust's assets immediately prior to the subsequent 857
transfer, net of any related liabilities, multiplied by the 858
qualifying ratio last computed without regard to the subsequent 859
transfer, and (2) the fair market value of the subsequently 860
transferred assets at the time transferred, net of any related 861
liabilities, from sources enumerated in division (I) (3) (a) of 862
this section. The denominator of the revised qualifying ratio is 863
the fair market value of all the trust's assets immediately 864
after the subsequent transfer, net of any related liabilities. 865

(iii) Whether a transfer to the trust is by or from any of 866
the sources enumerated in division (I) (3) (a) of this section 867

shall be ascertained without regard to the domicile of the 868
trust's beneficiaries. 869

(e) For the purposes of division (I) (3) (a) (i) of this 870
section: 871

(i) A trust is described in division (I) (3) (e) (i) of this 872
section if the trust is a testamentary trust and the testator of 873
that testamentary trust was domiciled in this state at the time 874
of the testator's death for purposes of the taxes levied under 875
Chapter 5731. of the Revised Code. 876

(ii) A trust is described in division (I) (3) (e) (ii) of 877
this section if the transfer is a qualifying transfer described 878
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 879
trust is an irrevocable inter vivos trust, and at least one of 880
the trust's qualifying beneficiaries is domiciled in this state 881
for purposes of this chapter during all or some portion of the 882
trust's current taxable year. 883

(f) For the purposes of division (I) (3) (e) (ii) of this 884
section, a "qualifying transfer" is a transfer of assets, net of 885
any related liabilities, directly or indirectly to a trust, if 886
the transfer is described in any of the following: 887

(i) The transfer is made to a trust, created by the 888
decedent before the decedent's death and while the decedent was 889
domiciled in this state for the purposes of this chapter, and, 890
prior to the death of the decedent, the trust became irrevocable 891
while the decedent was domiciled in this state for the purposes 892
of this chapter. 893

(ii) The transfer is made to a trust to which the 894
decedent, prior to the decedent's death, had directly or 895
indirectly transferred assets, net of any related liabilities, 896

while the decedent was domiciled in this state for the purposes 897
of this chapter, and prior to the death of the decedent the 898
trust became irrevocable while the decedent was domiciled in 899
this state for the purposes of this chapter. 900

(iii) The transfer is made on account of a contractual 901
relationship existing directly or indirectly between the 902
transferor and either the decedent or the estate of the decedent 903
at any time prior to the date of the decedent's death, and the 904
decedent was domiciled in this state at the time of death for 905
purposes of the taxes levied under Chapter 5731. of the Revised 906
Code. 907

(iv) The transfer is made to a trust on account of a 908
contractual relationship existing directly or indirectly between 909
the transferor and another person who at the time of the 910
decedent's death was domiciled in this state for purposes of 911
this chapter. 912

(v) The transfer is made to a trust on account of the will 913
of a testator who was domiciled in this state at the time of the 914
testator's death for purposes of the taxes levied under Chapter 915
5731. of the Revised Code. 916

(vi) The transfer is made to a trust created by or caused 917
to be created by a court, and the trust was directly or 918
indirectly created in connection with or as a result of the 919
death of an individual who, for purposes of the taxes levied 920
under Chapter 5731. of the Revised Code, was domiciled in this 921
state at the time of the individual's death. 922

(g) The tax commissioner may adopt rules to ascertain the 923
part of a trust residing in this state. 924

(J) "Nonresident" means an individual or estate that is 925

not a resident. An individual who is a resident for only part of 926
a taxable year is a nonresident for the remainder of that 927
taxable year. 928

(K) "Pass-through entity" has the same meaning as in 929
section 5733.04 of the Revised Code. 930

(L) "Return" means the notifications and reports required 931
to be filed pursuant to this chapter for the purpose of 932
reporting the tax due and includes declarations of estimated tax 933
when so required. 934

(M) "Taxable year" means the calendar year or the 935
taxpayer's fiscal year ending during the calendar year, or 936
fractional part thereof, upon which the adjusted gross income is 937
calculated pursuant to this chapter. 938

(N) "Taxpayer" means any person subject to the tax imposed 939
by section 5747.02 of the Revised Code or any pass-through 940
entity that makes the election under division (D) of section 941
5747.08 of the Revised Code. 942

(O) "Dependents" means dependents as defined in the 943
Internal Revenue Code and as claimed in the taxpayer's federal 944
income tax return for the taxable year or which the taxpayer 945
would have been permitted to claim had the taxpayer filed a 946
federal income tax return. 947

(P) "Principal county of employment" means, in the case of 948
a nonresident, the county within the state in which a taxpayer 949
performs services for an employer or, if those services are 950
performed in more than one county, the county in which the major 951
portion of the services are performed. 952

(Q) As used in sections 5747.50 to 5747.55 of the Revised 953
Code: 954

(1) "Subdivision" means any county, municipal corporation, 955
park district, or township. 956

(2) "Essential local government purposes" includes all 957
functions that any subdivision is required by general law to 958
exercise, including like functions that are exercised under a 959
charter adopted pursuant to the Ohio Constitution. 960

(R) "Overpayment" means any amount already paid that 961
exceeds the figure determined to be the correct amount of the 962
tax. 963

(S) "Taxable income" or "Ohio taxable income" applies only 964
to estates and trusts, and means federal taxable income, as 965
defined and used in the Internal Revenue Code, adjusted as 966
follows: 967

(1) Add interest or dividends, net of ordinary, necessary, 968
and reasonable expenses not deducted in computing federal 969
taxable income, on obligations or securities of any state or of 970
any political subdivision or authority of any state, other than 971
this state and its subdivisions and authorities, but only to the 972
extent that such net amount is not otherwise includible in Ohio 973
taxable income and is described in either division (S) (1) (a) or 974
(b) of this section: 975

(a) The net amount is not attributable to the S portion of 976
an electing small business trust and has not been distributed to 977
beneficiaries for the taxable year; 978

(b) The net amount is attributable to the S portion of an 979
electing small business trust for the taxable year. 980

(2) Add interest or dividends, net of ordinary, necessary, 981
and reasonable expenses not deducted in computing federal 982
taxable income, on obligations of any authority, commission, 983

instrumentality, territory, or possession of the United States 984
to the extent that the interest or dividends are exempt from 985
federal income taxes but not from state income taxes, but only 986
to the extent that such net amount is not otherwise includible 987
in Ohio taxable income and is described in either division (S) 988
(1) (a) or (b) of this section; 989

(3) Add the amount of personal exemption allowed to the 990
estate pursuant to section 642(b) of the Internal Revenue Code; 991

(4) Deduct interest or dividends, net of related expenses 992
deducted in computing federal taxable income, on obligations of 993
the United States and its territories and possessions or of any 994
authority, commission, or instrumentality of the United States 995
to the extent that the interest or dividends are exempt from 996
state taxes under the laws of the United States, but only to the 997
extent that such amount is included in federal taxable income 998
and is described in either division (S) (1) (a) or (b) of this 999
section; 1000

(5) Deduct the amount of wages and salaries, if any, not 1001
otherwise allowable as a deduction but that would have been 1002
allowable as a deduction in computing federal taxable income for 1003
the taxable year, had the targeted jobs credit allowed under 1004
sections 38, 51, and 52 of the Internal Revenue Code not been in 1005
effect, but only to the extent such amount relates either to 1006
income included in federal taxable income for the taxable year 1007
or to income of the S portion of an electing small business 1008
trust for the taxable year; 1009

(6) Deduct any interest or interest equivalent, net of 1010
related expenses deducted in computing federal taxable income, 1011
on public obligations and purchase obligations, but only to the 1012
extent that such net amount relates either to income included in 1013

federal taxable income for the taxable year or to income of the 1014
S portion of an electing small business trust for the taxable 1015
year; 1016

(7) Add any loss or deduct any gain resulting from sale, 1017
exchange, or other disposition of public obligations to the 1018
extent that such loss has been deducted or such gain has been 1019
included in computing either federal taxable income or income of 1020
the S portion of an electing small business trust for the 1021
taxable year; 1022

(8) Except in the case of the final return of an estate, 1023
add any amount deducted by the taxpayer on both its Ohio estate 1024
tax return pursuant to section 5731.14 of the Revised Code, and 1025
on its federal income tax return in determining federal taxable 1026
income; 1027

(9) (a) Deduct any amount included in federal taxable 1028
income solely because the amount represents a reimbursement or 1029
refund of expenses that in a previous year the decedent had 1030
deducted as an itemized deduction pursuant to section 63 of the 1031
Internal Revenue Code and applicable treasury regulations. The 1032
deduction otherwise allowed under division (S) (9) (a) of this 1033
section shall be reduced to the extent the reimbursement is 1034
attributable to an amount the taxpayer or decedent deducted 1035
under this section in any taxable year. 1036

(b) Add any amount not otherwise included in Ohio taxable 1037
income for any taxable year to the extent that the amount is 1038
attributable to the recovery during the taxable year of any 1039
amount deducted or excluded in computing federal or Ohio taxable 1040
income in any taxable year, but only to the extent such amount 1041
has not been distributed to beneficiaries for the taxable year. 1042

(10) Deduct any portion of the deduction described in 1043
section 1341(a) (2) of the Internal Revenue Code, for repaying 1044
previously reported income received under a claim of right, that 1045
meets both of the following requirements: 1046

(a) It is allowable for repayment of an item that was 1047
included in the taxpayer's taxable income or the decedent's 1048
adjusted gross income for a prior taxable year and did not 1049
qualify for a credit under division (A) or (B) of section 1050
5747.05 of the Revised Code for that year. 1051

(b) It does not otherwise reduce the taxpayer's taxable 1052
income or the decedent's adjusted gross income for the current 1053
or any other taxable year. 1054

(11) Add any amount claimed as a credit under section 1055
5747.059 or 5747.65 of the Revised Code to the extent that the 1056
amount satisfies either of the following: 1057

(a) The amount was deducted or excluded from the 1058
computation of the taxpayer's federal taxable income as required 1059
to be reported for the taxpayer's taxable year under the 1060
Internal Revenue Code; 1061

(b) The amount resulted in a reduction in the taxpayer's 1062
federal taxable income as required to be reported for any of the 1063
taxpayer's taxable years under the Internal Revenue Code. 1064

(12) Deduct any amount, net of related expenses deducted 1065
in computing federal taxable income, that a trust is required to 1066
report as farm income on its federal income tax return, but only 1067
if the assets of the trust include at least ten acres of land 1068
satisfying the definition of "land devoted exclusively to 1069
agricultural use" under section 5713.30 of the Revised Code, 1070
regardless of whether the land is valued for tax purposes as 1071

such land under sections 5713.30 to 5713.38 of the Revised Code. 1072
If the trust is a pass-through entity investor, section 5747.231 1073
of the Revised Code applies in ascertaining if the trust is 1074
eligible to claim the deduction provided by division (S) (12) of 1075
this section in connection with the pass-through entity's farm 1076
income. 1077

Except for farm income attributable to the S portion of an 1078
electing small business trust, the deduction provided by 1079
division (S) (12) of this section is allowed only to the extent 1080
that the trust has not distributed such farm income. Division 1081
(S) (12) of this section applies only to taxable years of a trust 1082
beginning in 2002 or thereafter. 1083

(13) Add the net amount of income described in section 1084
641(c) of the Internal Revenue Code to the extent that amount is 1085
not included in federal taxable income. 1086

(14) Add or deduct the amount the taxpayer would be 1087
required to add or deduct under division (A) (20) or (21) of this 1088
section if the taxpayer's Ohio taxable income were computed in 1089
the same manner as an individual's Ohio adjusted gross income is 1090
computed under this section. In the case of a trust, division 1091
(S) (14) of this section applies only to any of the trust's 1092
taxable years beginning in 2002 or thereafter. 1093

(T) "School district income" and "school district income 1094
tax" have the same meanings as in section 5748.01 of the Revised 1095
Code. 1096

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 1097
(7) of this section, "public obligations," "purchase 1098
obligations," and "interest or interest equivalent" have the 1099
same meanings as in section 5709.76 of the Revised Code. 1100

(V) "Limited liability company" means any limited 1101
liability company formed under Chapter 1705. of the Revised Code 1102
or under the laws of any other state. 1103

(W) "Pass-through entity investor" means any person who, 1104
during any portion of a taxable year of a pass-through entity, 1105
is a partner, member, shareholder, or equity investor in that 1106
pass-through entity. 1107

(X) "Banking day" has the same meaning as in section 1108
1304.01 of the Revised Code. 1109

(Y) "Month" means a calendar month. 1110

(Z) "Quarter" means the first three months, the second 1111
three months, the third three months, or the last three months 1112
of the taxpayer's taxable year. 1113

(AA) (1) "Eligible institution" means a state university or 1114
state institution of higher education as defined in section 1115
3345.011 of the Revised Code, or a private, nonprofit college, 1116
university, or other post-secondary institution located in this 1117
state that possesses a certificate of authorization issued by 1118
the chancellor of higher education pursuant to Chapter 1713. of 1119
the Revised Code or a certificate of registration issued by the 1120
state board of career colleges and schools under Chapter 3332. 1121
of the Revised Code. 1122

(2) "Qualified tuition and fees" means tuition and fees 1123
imposed by an eligible institution as a condition of enrollment 1124
or attendance, not exceeding two thousand five hundred dollars 1125
in each of the individual's first two years of post-secondary 1126
education. If the individual is a part-time student, "qualified 1127
tuition and fees" includes tuition and fees paid for the 1128
academic equivalent of the first two years of post-secondary 1129

education during a maximum of five taxable years, not exceeding 1130
a total of five thousand dollars. "Qualified tuition and fees" 1131
does not include: 1132

(a) Expenses for any course or activity involving sports, 1133
games, or hobbies unless the course or activity is part of the 1134
individual's degree or diploma program; 1135

(b) The cost of books, room and board, student activity 1136
fees, athletic fees, insurance expenses, or other expenses 1137
unrelated to the individual's academic course of instruction; 1138

(c) Tuition, fees, or other expenses paid or reimbursed 1139
through an employer, scholarship, grant in aid, or other 1140
educational benefit program. 1141

(BB) (1) "Modified business income" means the business 1142
income included in a trust's Ohio taxable income after such 1143
taxable income is first reduced by the qualifying trust amount, 1144
if any. 1145

(2) "Qualifying trust amount" of a trust means capital 1146
gains and losses from the sale, exchange, or other disposition 1147
of equity or ownership interests in, or debt obligations of, a 1148
qualifying investee to the extent included in the trust's Ohio 1149
taxable income, but only if the following requirements are 1150
satisfied: 1151

(a) The book value of the qualifying investee's physical 1152
assets in this state and everywhere, as of the last day of the 1153
qualifying investee's fiscal or calendar year ending immediately 1154
prior to the date on which the trust recognizes the gain or 1155
loss, is available to the trust. 1156

(b) The requirements of section 5747.011 of the Revised 1157
Code are satisfied for the trust's taxable year in which the 1158

trust recognizes the gain or loss. 1159

Any gain or loss that is not a qualifying trust amount is 1160
modified business income, qualifying investment income, or 1161
modified nonbusiness income, as the case may be. 1162

(3) "Modified nonbusiness income" means a trust's Ohio 1163
taxable income other than modified business income, other than 1164
the qualifying trust amount, and other than qualifying 1165
investment income, as defined in section 5747.012 of the Revised 1166
Code, to the extent such qualifying investment income is not 1167
otherwise part of modified business income. 1168

(4) "Modified Ohio taxable income" applies only to trusts, 1169
and means the sum of the amounts described in divisions (BB) (4) 1170
(a) to (c) of this section: 1171

(a) The fraction, calculated under section 5747.013, and 1172
applying section 5747.231 of the Revised Code, multiplied by the 1173
sum of the following amounts: 1174

(i) The trust's modified business income; 1175

(ii) The trust's qualifying investment income, as defined 1176
in section 5747.012 of the Revised Code, but only to the extent 1177
the qualifying investment income does not otherwise constitute 1178
modified business income and does not otherwise constitute a 1179
qualifying trust amount. 1180

(b) The qualifying trust amount multiplied by a fraction, 1181
the numerator of which is the sum of the book value of the 1182
qualifying investee's physical assets in this state on the last 1183
day of the qualifying investee's fiscal or calendar year ending 1184
immediately prior to the day on which the trust recognizes the 1185
qualifying trust amount, and the denominator of which is the sum 1186
of the book value of the qualifying investee's total physical 1187

assets everywhere on the last day of the qualifying investee's 1188
fiscal or calendar year ending immediately prior to the day on 1189
which the trust recognizes the qualifying trust amount. If, for 1190
a taxable year, the trust recognizes a qualifying trust amount 1191
with respect to more than one qualifying investee, the amount 1192
described in division (BB) (4) (b) of this section shall equal the 1193
sum of the products so computed for each such qualifying 1194
investee. 1195

(c) (i) With respect to a trust or portion of a trust that 1196
is a resident as ascertained in accordance with division (I) (3) 1197
(d) of this section, its modified nonbusiness income. 1198

(ii) With respect to a trust or portion of a trust that is 1199
not a resident as ascertained in accordance with division (I) (3) 1200
(d) of this section, the amount of its modified nonbusiness 1201
income satisfying the descriptions in divisions (B) (2) to (5) of 1202
section 5747.20 of the Revised Code, except as otherwise 1203
provided in division (BB) (4) (c) (ii) of this section. With 1204
respect to a trust or portion of a trust that is not a resident 1205
as ascertained in accordance with division (I) (3) (d) of this 1206
section, the trust's portion of modified nonbusiness income 1207
recognized from the sale, exchange, or other disposition of a 1208
debt interest in or equity interest in a section 5747.212 1209
entity, as defined in section 5747.212 of the Revised Code, 1210
without regard to division (A) of that section, shall not be 1211
allocated to this state in accordance with section 5747.20 of 1212
the Revised Code but shall be apportioned to this state in 1213
accordance with division (B) of section 5747.212 of the Revised 1214
Code without regard to division (A) of that section. 1215

If the allocation and apportionment of a trust's income 1216
under divisions (BB) (4) (a) and (c) of this section do not fairly 1217

represent the modified Ohio taxable income of the trust in this 1218
state, the alternative methods described in division (C) of 1219
section 5747.21 of the Revised Code may be applied in the manner 1220
and to the same extent provided in that section. 1221

(5) (a) Except as set forth in division (BB) (5) (b) of this 1222
section, "qualifying investee" means a person in which a trust 1223
has an equity or ownership interest, or a person or unit of 1224
government the debt obligations of either of which are owned by 1225
a trust. For the purposes of division (BB) (2) (a) of this section 1226
and for the purpose of computing the fraction described in 1227
division (BB) (4) (b) of this section, all of the following apply: 1228

(i) If the qualifying investee is a member of a qualifying 1229
controlled group on the last day of the qualifying investee's 1230
fiscal or calendar year ending immediately prior to the date on 1231
which the trust recognizes the gain or loss, then "qualifying 1232
investee" includes all persons in the qualifying controlled 1233
group on such last day. 1234

(ii) If the qualifying investee, or if the qualifying 1235
investee and any members of the qualifying controlled group of 1236
which the qualifying investee is a member on the last day of the 1237
qualifying investee's fiscal or calendar year ending immediately 1238
prior to the date on which the trust recognizes the gain or 1239
loss, separately or cumulatively own, directly or indirectly, on 1240
the last day of the qualifying investee's fiscal or calendar 1241
year ending immediately prior to the date on which the trust 1242
recognizes the qualifying trust amount, more than fifty per cent 1243
of the equity of a pass-through entity, then the qualifying 1244
investee and the other members are deemed to own the 1245
proportionate share of the pass-through entity's physical assets 1246
which the pass-through entity directly or indirectly owns on the 1247

last day of the pass-through entity's calendar or fiscal year 1248
ending within or with the last day of the qualifying investee's 1249
fiscal or calendar year ending immediately prior to the date on 1250
which the trust recognizes the qualifying trust amount. 1251

(iii) For the purposes of division (BB) (5) (a) (iii) of this 1252
section, "upper level pass-through entity" means a pass-through 1253
entity directly or indirectly owning any equity of another pass- 1254
through entity, and "lower level pass-through entity" means that 1255
other pass-through entity. 1256

An upper level pass-through entity, whether or not it is 1257
also a qualifying investee, is deemed to own, on the last day of 1258
the upper level pass-through entity's calendar or fiscal year, 1259
the proportionate share of the lower level pass-through entity's 1260
physical assets that the lower level pass-through entity 1261
directly or indirectly owns on the last day of the lower level 1262
pass-through entity's calendar or fiscal year ending within or 1263
with the last day of the upper level pass-through entity's 1264
fiscal or calendar year. If the upper level pass-through entity 1265
directly and indirectly owns less than fifty per cent of the 1266
equity of the lower level pass-through entity on each day of the 1267
upper level pass-through entity's calendar or fiscal year in 1268
which or with which ends the calendar or fiscal year of the 1269
lower level pass-through entity and if, based upon clear and 1270
convincing evidence, complete information about the location and 1271
cost of the physical assets of the lower pass-through entity is 1272
not available to the upper level pass-through entity, then 1273
solely for purposes of ascertaining if a gain or loss 1274
constitutes a qualifying trust amount, the upper level pass- 1275
through entity shall be deemed as owning no equity of the lower 1276
level pass-through entity for each day during the upper level 1277
pass-through entity's calendar or fiscal year in which or with 1278

which ends the lower level pass-through entity's calendar or 1279
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 1280
shall be construed to provide for any deduction or exclusion in 1281
computing any trust's Ohio taxable income. 1282

(b) With respect to a trust that is not a resident for the 1283
taxable year and with respect to a part of a trust that is not a 1284
resident for the taxable year, "qualifying investee" for that 1285
taxable year does not include a C corporation if both of the 1286
following apply: 1287

(i) During the taxable year the trust or part of the trust 1288
recognizes a gain or loss from the sale, exchange, or other 1289
disposition of equity or ownership interests in, or debt 1290
obligations of, the C corporation. 1291

(ii) Such gain or loss constitutes nonbusiness income. 1292

(6) "Available" means information is such that a person is 1293
able to learn of the information by the due date plus 1294
extensions, if any, for filing the return for the taxable year 1295
in which the trust recognizes the gain or loss. 1296

(CC) "Qualifying controlled group" has the same meaning as 1297
in section 5733.04 of the Revised Code. 1298

(DD) "Related member" has the same meaning as in section 1299
5733.042 of the Revised Code. 1300

(EE) (1) For the purposes of division (EE) of this section: 1301

(a) "Qualifying person" means any person other than a 1302
qualifying corporation. 1303

(b) "Qualifying corporation" means any person classified 1304
for federal income tax purposes as an association taxable as a 1305
corporation, except either of the following: 1306

(i) A corporation that has made an election under 1307
subchapter S, chapter one, subtitle A, of the Internal Revenue 1308
Code for its taxable year ending within, or on the last day of, 1309
the investor's taxable year; 1310

(ii) A subsidiary that is wholly owned by any corporation 1311
that has made an election under subchapter S, chapter one, 1312
subtitle A of the Internal Revenue Code for its taxable year 1313
ending within, or on the last day of, the investor's taxable 1314
year. 1315

(2) For the purposes of this chapter, unless expressly 1316
stated otherwise, no qualifying person indirectly owns any asset 1317
directly or indirectly owned by any qualifying corporation. 1318

(FF) For purposes of this chapter and Chapter 5751. of the 1319
Revised Code: 1320

(1) "Trust" does not include a qualified pre-income tax 1321
trust. 1322

(2) A "qualified pre-income tax trust" is any pre-income 1323
tax trust that makes a qualifying pre-income tax trust election 1324
as described in division (FF)(3) of this section. 1325

(3) A "qualifying pre-income tax trust election" is an 1326
election by a pre-income tax trust to subject to the tax imposed 1327
by section 5751.02 of the Revised Code the pre-income tax trust 1328
and all pass-through entities of which the trust owns or 1329
controls, directly, indirectly, or constructively through 1330
related interests, five per cent or more of the ownership or 1331
equity interests. The trustee shall notify the tax commissioner 1332
in writing of the election on or before April 15, 2006. The 1333
election, if timely made, shall be effective on and after 1334
January 1, 2006, and shall apply for all tax periods and tax 1335

years until revoked by the trustee of the trust. 1336

(4) A "pre-income tax trust" is a trust that satisfies all 1337
of the following requirements: 1338

(a) The document or instrument creating the trust was 1339
executed by the grantor before January 1, 1972; 1340

(b) The trust became irrevocable upon the creation of the 1341
trust; and 1342

(c) The grantor was domiciled in this state at the time 1343
the trust was created. 1344

(GG) "Uniformed services" has the same meaning as in 10 1345
U.S.C. 101. 1346

(HH) "Taxable business income" means the amount by which 1347
an individual's business income that is included in federal 1348
adjusted gross income exceeds the amount of business income the 1349
individual is authorized to deduct under division (A) (31) of 1350
this section for the taxable year. 1351

(II) "Employer" does not include a franchisor with respect 1352
to the franchisor's relationship with a franchisee or an 1353
employee of a franchisee, unless the franchisor agrees to assume 1354
that role in writing or a court of competent jurisdiction 1355
determines that the franchisor exercises a type or degree of 1356
control over the franchisee or the franchisee's employees that 1357
is not customarily exercised by a franchisor for the purpose of 1358
protecting the franchisor's trademark, brand, or both. For 1359
purposes of this division, "franchisor" and "franchisee" have 1360
the same meanings as in 16 C.F.R. 436.1. 1361

Section 2. That existing section 5747.01 of the Revised 1362
Code is hereby repealed. 1363

Section 3. This act shall be known as the "First-time Home	1364
Buyer Savings Act."	1365