

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 18

Representatives Vitale, Crawley

Cosponsors: Representatives Antani, Becker, Boggs, DeVitis, Hambley, Hicks-Hudson, Hood, Jones, Jordan, Keller, Lang, Manning, G., Miller, A., Miller, J., Perales, Riedel, Russo, Upchurch, Weinstein, Zeltwanger

A BILL

To amend section 5747.01 of the Revised Code to
exempt from the income tax disability severance
payments received by honorably discharged
veterans.

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

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

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

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As used in this chapter:

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

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

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

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

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

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

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion,

if any, of such distribution that does not exceed the 46
undistributed net income of the trust for the three taxable 47
years preceding the taxable year in which the distribution is 48
made to the extent that the portion was not included in the 49
trust's taxable income for any of the trust's taxable years 50
beginning in 2002 or thereafter. "Undistributed net income of a 51
trust" means the taxable income of the trust increased by (a) (i) 52
the additions to adjusted gross income required under division 53
(A) of this section and (ii) the personal exemptions allowed to 54
the trust pursuant to section 642(b) of the Internal Revenue 55
Code, and decreased by (b) (i) the deductions to adjusted gross 56
income required under division (A) of this section, (ii) the 57
amount of federal income taxes attributable to such income, and 58
(iii) the amount of taxable income that has been included in the 59
adjusted gross income of a beneficiary by reason of a prior 60
accumulation distribution. Any undistributed net income included 61
in the adjusted gross income of a beneficiary shall reduce the 62
undistributed net income of the trust commencing with the 63
earliest years of the accumulation period. 64

(7) Deduct the amount of wages and salaries, if any, not 65
otherwise allowable as a deduction but that would have been 66
allowable as a deduction in computing federal adjusted gross 67
income for the taxable year, had the targeted jobs credit 68
allowed and determined under sections 38, 51, and 52 of the 69
Internal Revenue Code not been in effect. 70

(8) Deduct any interest or interest equivalent on public 71
obligations and purchase obligations to the extent that the 72
interest or interest equivalent is included in federal adjusted 73
gross income. 74

(9) Add any loss or deduct any gain resulting from the 75

sale, exchange, or other disposition of public obligations to 76
the extent that the loss has been deducted or the gain has been 77
included in computing federal adjusted gross income. 78

(10) Deduct or add amounts, as provided under section 79
5747.70 of the Revised Code, related to contributions to 80
variable college savings program accounts made or tuition units 81
purchased pursuant to Chapter 3334. of the Revised Code. 82

(11) (a) Deduct, to the extent not otherwise allowable as a 83
deduction or exclusion in computing federal or Ohio adjusted 84
gross income for the taxable year, the amount the taxpayer paid 85
during the taxable year for medical care insurance and qualified 86
long-term care insurance for the taxpayer, the taxpayer's 87
spouse, and dependents. No deduction for medical care insurance 88
under division (A) (11) of this section shall be allowed either 89
to any taxpayer who is eligible to participate in any subsidized 90
health plan maintained by any employer of the taxpayer or of the 91
taxpayer's spouse, or to any taxpayer who is entitled to, or on 92
application would be entitled to, benefits under part A of Title 93
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 94
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 95
of this section, "subsidized health plan" means a health plan 96
for which the employer pays any portion of the plan's cost. The 97
deduction allowed under division (A) (11) (a) of this section 98
shall be the net of any related premium refunds, related premium 99
reimbursements, or related insurance premium dividends received 100
during the taxable year. 101

(b) Deduct, to the extent not otherwise deducted or 102
excluded in computing federal or Ohio adjusted gross income 103
during the taxable year, the amount the taxpayer paid during the 104
taxable year, not compensated for by any insurance or otherwise, 105

for medical care of the taxpayer, the taxpayer's spouse, and 106
dependents, to the extent the expenses exceed seven and one-half 107
per cent of the taxpayer's federal adjusted gross income. 108

(c) Deduct, to the extent not otherwise deducted or 109
excluded in computing federal or Ohio adjusted gross income, any 110
amount included in federal adjusted gross income under section 111
105 or not excluded under section 106 of the Internal Revenue 112
Code solely because it relates to an accident and health plan 113
for a person who otherwise would be a "qualifying relative" and 114
thus a "dependent" under section 152 of the Internal Revenue 115
Code but for the fact that the person fails to meet the income 116
and support limitations under section 152(d)(1)(B) and (C) of 117
the Internal Revenue Code. 118

(d) For purposes of division (A)(11) of this section, 119
"medical care" has the meaning given in section 213 of the 120
Internal Revenue Code, subject to the special rules, 121
limitations, and exclusions set forth therein, and "qualified 122
long-term care" has the same meaning given in section 7702B(c) 123
of the Internal Revenue Code. Solely for purposes of divisions 124
(A)(11)(a) and (c) of this section, "dependent" includes a 125
person who otherwise would be a "qualifying relative" and thus a 126
"dependent" under section 152 of the Internal Revenue Code but 127
for the fact that the person fails to meet the income and 128
support limitations under section 152(d)(1)(B) and (C) of the 129
Internal Revenue Code. 130

(12)(a) Deduct any amount included in federal adjusted 131
gross income solely because the amount represents a 132
reimbursement or refund of expenses that in any year the 133
taxpayer had deducted as an itemized deduction pursuant to 134
section 63 of the Internal Revenue Code and applicable United 135

States department of the treasury regulations. The deduction 136
otherwise allowed under division (A) (12) (a) of this section 137
shall be reduced to the extent the reimbursement is attributable 138
to an amount the taxpayer deducted under this section in any 139
taxable year. 140

(b) Add any amount not otherwise included in Ohio adjusted 141
gross income for any taxable year to the extent that the amount 142
is attributable to the recovery during the taxable year of any 143
amount deducted or excluded in computing federal or Ohio 144
adjusted gross income in any taxable year. 145

(13) Deduct any portion of the deduction described in 146
section 1341(a) (2) of the Internal Revenue Code, for repaying 147
previously reported income received under a claim of right, that 148
meets both of the following requirements: 149

(a) It is allowable for repayment of an item that was 150
included in the taxpayer's adjusted gross income for a prior 151
taxable year and did not qualify for a credit under division (A) 152
or (B) of section 5747.05 of the Revised Code for that year; 153

(b) It does not otherwise reduce the taxpayer's adjusted 154
gross income for the current or any other taxable year. 155

(14) Deduct an amount equal to the deposits made to, and 156
net investment earnings of, a medical savings account during the 157
taxable year, in accordance with section 3924.66 of the Revised 158
Code. The deduction allowed by division (A) (14) of this section 159
does not apply to medical savings account deposits and earnings 160
otherwise deducted or excluded for the current or any other 161
taxable year from the taxpayer's federal adjusted gross income. 162

(15) (a) Add an amount equal to the funds withdrawn from a 163
medical savings account during the taxable year, and the net 164

investment earnings on those funds, when the funds withdrawn 165
were used for any purpose other than to reimburse an account 166
holder for, or to pay, eligible medical expenses, in accordance 167
with section 3924.66 of the Revised Code; 168

(b) Add the amounts distributed from a medical savings 169
account under division (A) (2) of section 3924.68 of the Revised 170
Code during the taxable year. 171

(16) Add any amount claimed as a credit under section 172
5747.059 or 5747.65 of the Revised Code to the extent that such 173
amount satisfies either of the following: 174

(a) The amount was deducted or excluded from the 175
computation of the taxpayer's federal adjusted gross income as 176
required to be reported for the taxpayer's taxable year under 177
the Internal Revenue Code; 178

(b) The amount resulted in a reduction of the taxpayer's 179
federal adjusted gross income as required to be reported for any 180
of the taxpayer's taxable years under the Internal Revenue Code. 181

(17) Deduct the amount contributed by the taxpayer to an 182
individual development account program established by a county 183
department of job and family services pursuant to sections 184
329.11 to 329.14 of the Revised Code for the purpose of matching 185
funds deposited by program participants. On request of the tax 186
commissioner, the taxpayer shall provide any information that, 187
in the tax commissioner's opinion, is necessary to establish the 188
amount deducted under division (A) (17) of this section. 189

(18) Beginning in taxable year 2001 but not for any 190
taxable year beginning after December 31, 2005, if the taxpayer 191
is married and files a joint return and the combined federal 192
adjusted gross income of the taxpayer and the taxpayer's spouse 193

for the taxable year does not exceed one hundred thousand 194
dollars, or if the taxpayer is single and has a federal adjusted 195
gross income for the taxable year not exceeding fifty thousand 196
dollars, deduct amounts paid during the taxable year for 197
qualified tuition and fees paid to an eligible institution for 198
the taxpayer, the taxpayer's spouse, or any dependent of the 199
taxpayer, who is a resident of this state and is enrolled in or 200
attending a program that culminates in a degree or diploma at an 201
eligible institution. The deduction may be claimed only to the 202
extent that qualified tuition and fees are not otherwise 203
deducted or excluded for any taxable year from federal or Ohio 204
adjusted gross income. The deduction may not be claimed for 205
educational expenses for which the taxpayer claims a credit 206
under section 5747.27 of the Revised Code. 207

(19) Add any reimbursement received during the taxable 208
year of any amount the taxpayer deducted under division (A) (18) 209
of this section in any previous taxable year to the extent the 210
amount is not otherwise included in Ohio adjusted gross income. 211

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 212
(v) of this section, add five-sixths of the amount of 213
depreciation expense allowed by subsection (k) of section 168 of 214
the Internal Revenue Code, including the taxpayer's 215
proportionate or distributive share of the amount of 216
depreciation expense allowed by that subsection to a pass- 217
through entity in which the taxpayer has a direct or indirect 218
ownership interest. 219

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 220
of this section, add five-sixths of the amount of qualifying 221
section 179 depreciation expense, including the taxpayer's 222
proportionate or distributive share of the amount of qualifying 223

section 179 depreciation expense allowed to any pass-through 224
entity in which the taxpayer has a direct or indirect ownership 225
interest. 226

(iii) Subject to division (A) (20) (a) (v) of this section, 227
for taxable years beginning in 2012 or thereafter, if the 228
increase in income taxes withheld by the taxpayer is equal to or 229
greater than ten per cent of income taxes withheld by the 230
taxpayer during the taxpayer's immediately preceding taxable 231
year, "two-thirds" shall be substituted for "five-sixths" for 232
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 233

(iv) Subject to division (A) (20) (a) (v) of this section, 234
for taxable years beginning in 2012 or thereafter, a taxpayer is 235
not required to add an amount under division (A) (20) of this 236
section if the increase in income taxes withheld by the taxpayer 237
and by any pass-through entity in which the taxpayer has a 238
direct or indirect ownership interest is equal to or greater 239
than the sum of (I) the amount of qualifying section 179 240
depreciation expense and (II) the amount of depreciation expense 241
allowed to the taxpayer by subsection (k) of section 168 of the 242
Internal Revenue Code, and including the taxpayer's 243
proportionate or distributive shares of such amounts allowed to 244
any such pass-through entities. 245

(v) If a taxpayer directly or indirectly incurs a net 246
operating loss for the taxable year for federal income tax 247
purposes, to the extent such loss resulted from depreciation 248
expense allowed by subsection (k) of section 168 of the Internal 249
Revenue Code and by qualifying section 179 depreciation expense, 250
"the entire" shall be substituted for "five-sixths of the" for 251
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 252

The tax commissioner, under procedures established by the 253

commissioner, may waive the add-backs related to a pass-through 254
entity if the taxpayer owns, directly or indirectly, less than 255
five per cent of the pass-through entity. 256

(b) Nothing in division (A) (20) of this section shall be 257
construed to adjust or modify the adjusted basis of any asset. 258

(c) To the extent the add-back required under division (A) 259
(20) (a) of this section is attributable to property generating 260
nonbusiness income or loss allocated under section 5747.20 of 261
the Revised Code, the add-back shall be situated to the same 262
location as the nonbusiness income or loss generated by the 263
property for the purpose of determining the credit under 264
division (A) of section 5747.05 of the Revised Code. Otherwise, 265
the add-back shall be apportioned, subject to one or more of the 266
four alternative methods of apportionment enumerated in section 267
5747.21 of the Revised Code. 268

(d) For the purposes of division (A) (20) (a) (v) of this 269
section, net operating loss carryback and carryforward shall not 270
include the allowance of any net operating loss deduction 271
carryback or carryforward to the taxable year to the extent such 272
loss resulted from depreciation allowed by section 168(k) of the 273
Internal Revenue Code and by the qualifying section 179 274
depreciation expense amount. 275

(e) For the purposes of divisions (A) (20) and (21) of this 276
section: 277

(i) "Income taxes withheld" means the total amount 278
withheld and remitted under sections 5747.06 and 5747.07 of the 279
Revised Code by an employer during the employer's taxable year. 280

(ii) "Increase in income taxes withheld" means the amount 281
by which the amount of income taxes withheld by an employer 282

during the employer's current taxable year exceeds the amount of 283
income taxes withheld by that employer during the employer's 284
immediately preceding taxable year. 285

(iii) "Qualifying section 179 depreciation expense" means 286
the difference between (I) the amount of depreciation expense 287
directly or indirectly allowed to a taxpayer under section 179 288
of the Internal Revised Code, and (II) the amount of 289
depreciation expense directly or indirectly allowed to the 290
taxpayer under section 179 of the Internal Revenue Code as that 291
section existed on December 31, 2002. 292

(21)(a) If the taxpayer was required to add an amount 293
under division (A)(20)(a) of this section for a taxable year, 294
deduct one of the following: 295

(i) One-fifth of the amount so added for each of the five 296
succeeding taxable years if the amount so added was five-sixths 297
of qualifying section 179 depreciation expense or depreciation 298
expense allowed by subsection (k) of section 168 of the Internal 299
Revenue Code; 300

(ii) One-half of the amount so added for each of the two 301
succeeding taxable years if the amount so added was two-thirds 302
of such depreciation expense; 303

(iii) One-sixth of the amount so added for each of the six 304
succeeding taxable years if the entire amount of such 305
depreciation expense was so added. 306

(b) If the amount deducted under division (A)(21)(a) of 307
this section is attributable to an add-back allocated under 308
division (A)(20)(c) of this section, the amount deducted shall 309
be situated to the same location. Otherwise, the add-back shall 310
be apportioned using the apportionment factors for the taxable 311

year in which the deduction is taken, subject to one or more of 312
the four alternative methods of apportionment enumerated in 313
section 5747.21 of the Revised Code. 314

(c) No deduction is available under division (A) (21) (a) of 315
this section with regard to any depreciation allowed by section 316
168(k) of the Internal Revenue Code and by the qualifying 317
section 179 depreciation expense amount to the extent that such 318
depreciation results in or increases a federal net operating 319
loss carryback or carryforward. If no such deduction is 320
available for a taxable year, the taxpayer may carry forward the 321
amount not deducted in such taxable year to the next taxable 322
year and add that amount to any deduction otherwise available 323
under division (A) (21) (a) of this section for that next taxable 324
year. The carryforward of amounts not so deducted shall continue 325
until the entire addition required by division (A) (20) (a) of 326
this section has been deducted. 327

(d) No refund shall be allowed as a result of adjustments 328
made by division (A) (21) of this section. 329

(22) Deduct, to the extent not otherwise deducted or 330
excluded in computing federal or Ohio adjusted gross income for 331
the taxable year, the amount the taxpayer received during the 332
taxable year as reimbursement for life insurance premiums under 333
section 5919.31 of the Revised Code. 334

(23) Deduct, to the extent not otherwise deducted or 335
excluded in computing federal or Ohio adjusted gross income for 336
the taxable year, the amount the taxpayer received during the 337
taxable year as a death benefit paid by the adjutant general 338
under section 5919.33 of the Revised Code. 339

(24) Deduct, to the extent included in federal adjusted 340

gross income and not otherwise allowable as a deduction or 341
exclusion in computing federal or Ohio adjusted gross income for 342
the taxable year, military pay and allowances received by the 343
taxpayer during the taxable year for active duty service in the 344
United States army, air force, navy, marine corps, or coast 345
guard or reserve components thereof or the national guard. The 346
deduction may not be claimed for military pay and allowances 347
received by the taxpayer while the taxpayer is stationed in this 348
state. 349

(25) Deduct, to the extent not otherwise allowable as a 350
deduction or exclusion in computing federal or Ohio adjusted 351
gross income for the taxable year and not otherwise compensated 352
for by any other source, the amount of qualified organ donation 353
expenses incurred by the taxpayer during the taxable year, not 354
to exceed ten thousand dollars. A taxpayer may deduct qualified 355
organ donation expenses only once for all taxable years 356
beginning with taxable years beginning in 2007. 357

For the purposes of division (A) (25) of this section: 358

(a) "Human organ" means all or any portion of a human 359
liver, pancreas, kidney, intestine, or lung, and any portion of 360
human bone marrow. 361

(b) "Qualified organ donation expenses" means travel 362
expenses, lodging expenses, and wages and salary forgone by a 363
taxpayer in connection with the taxpayer's donation, while 364
living, of one or more of the taxpayer's human organs to another 365
human being. 366

(26) Deduct, to the extent not otherwise deducted or 367
excluded in computing federal or Ohio adjusted gross income for 368
the taxable year, amounts received by the taxpayer as retired 369

personnel pay for service in the uniformed services or reserve 370
components thereof, or the national guard, or received by the 371
surviving spouse or former spouse of such a taxpayer under the 372
survivor benefit plan on account of such a taxpayer's death. If 373
the taxpayer receives income on account of retirement paid under 374
the federal civil service retirement system or federal employees 375
retirement system, or under any successor retirement program 376
enacted by the congress of the United States that is established 377
and maintained for retired employees of the United States 378
government, and such retirement income is based, in whole or in 379
part, on credit for the taxpayer's uniformed service, the 380
deduction allowed under this division shall include only that 381
portion of such retirement income that is attributable to the 382
taxpayer's uniformed service, to the extent that portion of such 383
retirement income is otherwise included in federal adjusted 384
gross income and is not otherwise deducted under this section. 385
Any amount deducted under division (A) (26) of this section is 386
not included in a taxpayer's adjusted gross income for the 387
purposes of section 5747.055 of the Revised Code. No amount may 388
be deducted under division (A) (26) of this section on the basis 389
of which a credit was claimed under section 5747.055 of the 390
Revised Code. 391

(27) Deduct, to the extent not otherwise deducted or 392
excluded in computing federal or Ohio adjusted gross income for 393
the taxable year, the amount the taxpayer received during the 394
taxable year from the military injury relief fund created in 395
section 5902.05 of the Revised Code. 396

(28) Deduct, to the extent not otherwise deducted or 397
excluded in computing federal or Ohio adjusted gross income for 398
the taxable year, the amount the taxpayer received as a veterans 399
bonus during the taxable year from the Ohio department of 400

veterans services as authorized by Section 2r of Article VIII, 401
Ohio Constitution. 402

(29) Deduct, to the extent not otherwise deducted or 403
excluded in computing federal or Ohio adjusted gross income for 404
the taxable year, any income derived from a transfer agreement 405
or from the enterprise transferred under that agreement under 406
section 4313.02 of the Revised Code. 407

(30) Deduct, to the extent not otherwise deducted or 408
excluded in computing federal or Ohio adjusted gross income for 409
the taxable year, Ohio college opportunity or federal Pell grant 410
amounts received by the taxpayer or the taxpayer's spouse or 411
dependent pursuant to section 3333.122 of the Revised Code or 20 412
U.S.C. 1070a, et seq., and used to pay room or board furnished 413
by the educational institution for which the grant was awarded 414
at the institution's facilities, including meal plans 415
administered by the institution. For the purposes of this 416
division, receipt of a grant includes the distribution of a 417
grant directly to an educational institution and the crediting 418
of the grant to the enrollee's account with the institution. 419

(31) (a) For taxable years beginning in 2015, deduct from 420
the portion of an individual's adjusted gross income that is 421
business income, to the extent not otherwise deducted or 422
excluded in computing federal or Ohio adjusted gross income for 423
the taxable year, the lesser of the following amounts: 424

(i) Seventy-five per cent of the individual's business 425
income; 426

(ii) Ninety-three thousand seven hundred fifty dollars for 427
each spouse if spouses file separate returns under section 428
5747.08 of the Revised Code or one hundred eighty-seven thousand 429

five hundred dollars for all other individuals. 430

(b) For taxable years beginning in 2016 or thereafter, 431
deduct from the portion of an individual's adjusted gross income 432
that is business income, to the extent not otherwise deducted or 433
excluded in computing federal adjusted gross income for the 434
taxable year, one hundred twenty-five thousand dollars for each 435
spouse if spouses file separate returns under section 5747.08 of 436
the Revised Code or two hundred fifty thousand dollars for all 437
other individuals. 438

(32) Deduct, as provided under section 5747.78 of the 439
Revised Code, contributions to ABLE savings accounts made in 440
accordance with sections 113.50 to 113.56 of the Revised Code. 441

(33) (a) Deduct, to the extent not otherwise deducted or 442
excluded in computing federal or Ohio adjusted gross income 443
during the taxable year, all of the following: 444

(i) Compensation paid to a qualifying employee described 445
in division (A) (14) (a) of section 5703.94 of the Revised Code to 446
the extent such compensation is for disaster work conducted in 447
this state during a disaster response period pursuant to a 448
qualifying solicitation received by the employee's employer; 449

(ii) Compensation paid to a qualifying employee described 450
in division (A) (14) (b) of section 5703.94 of the Revised Code to 451
the extent such compensation is for disaster work conducted in 452
this state by the employee during the disaster response period 453
on critical infrastructure owned or used by the employee's 454
employer; 455

(iii) Income received by an out-of-state disaster business 456
for disaster work conducted in this state during a disaster 457
response period, or, if the out-of-state disaster business is a 458

pass-through entity, a taxpayer's distributive share of the 459
pass-through entity's income from the business conducting 460
disaster work in this state during a disaster response period, 461
if, in either case, the disaster work is conducted pursuant to a 462
qualifying solicitation received by the business. 463

(b) All terms used in division (A) (33) of this section 464
have the same meanings as in section 5703.94 of the Revised 465
Code. 466

(34) Deduct, to the extent not otherwise deducted or 467
excluded in computing federal or Ohio adjusted gross income for 468
the taxable year, amounts received by the taxpayer as a 469
disability severance payment, computed under 10 U.S.C. 1212, 470
following discharge or release under honorable conditions from 471
the armed forces, as defined by 10 U.S.C. 101. 472

(B) "Business income" means income, including gain or 473
loss, arising from transactions, activities, and sources in the 474
regular course of a trade or business and includes income, gain, 475
or loss from real property, tangible property, and intangible 476
property if the acquisition, rental, management, and disposition 477
of the property constitute integral parts of the regular course 478
of a trade or business operation. "Business income" includes 479
income, including gain or loss, from a partial or complete 480
liquidation of a business, including, but not limited to, gain 481
or loss from the sale or other disposition of goodwill. 482

(C) "Nonbusiness income" means all income other than 483
business income and may include, but is not limited to, 484
compensation, rents and royalties from real or tangible personal 485
property, capital gains, interest, dividends and distributions, 486
patent or copyright royalties, or lottery winnings, prizes, and 487
awards. 488

(D) "Compensation" means any form of remuneration paid to	489
an employee for personal services.	490
(E) "Fiduciary" means a guardian, trustee, executor,	491
administrator, receiver, conservator, or any other person acting	492
in any fiduciary capacity for any individual, trust, or estate.	493
(F) "Fiscal year" means an accounting period of twelve	494
months ending on the last day of any month other than December.	495
(G) "Individual" means any natural person.	496
(H) "Internal Revenue Code" means the "Internal Revenue	497
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	498
(I) "Resident" means any of the following, provided that	499
division (I) (3) of this section applies only to taxable years of	500
a trust beginning in 2002 or thereafter:	501
(1) An individual who is domiciled in this state, subject	502
to section 5747.24 of the Revised Code;	503
(2) The estate of a decedent who at the time of death was	504
domiciled in this state. The domicile tests of section 5747.24	505
of the Revised Code are not controlling for purposes of division	506
(I) (2) of this section.	507
(3) A trust that, in whole or part, resides in this state.	508
If only part of a trust resides in this state, the trust is a	509
resident only with respect to that part.	510
For the purposes of division (I) (3) of this section:	511
(a) A trust resides in this state for the trust's current	512
taxable year to the extent, as described in division (I) (3) (d)	513
of this section, that the trust consists directly or indirectly,	514
in whole or in part, of assets, net of any related liabilities,	515

that were transferred, or caused to be transferred, directly or 516
indirectly, to the trust by any of the following: 517

(i) A person, a court, or a governmental entity or 518
instrumentality on account of the death of a decedent, but only 519
if the trust is described in division (I) (3) (e) (i) or (ii) of 520
this section; 521

(ii) A person who was domiciled in this state for the 522
purposes of this chapter when the person directly or indirectly 523
transferred assets to an irrevocable trust, but only if at least 524
one of the trust's qualifying beneficiaries is domiciled in this 525
state for the purposes of this chapter during all or some 526
portion of the trust's current taxable year; 527

(iii) A person who was domiciled in this state for the 528
purposes of this chapter when the trust document or instrument 529
or part of the trust document or instrument became irrevocable, 530
but only if at least one of the trust's qualifying beneficiaries 531
is a resident domiciled in this state for the purposes of this 532
chapter during all or some portion of the trust's current 533
taxable year. If a trust document or instrument became 534
irrevocable upon the death of a person who at the time of death 535
was domiciled in this state for purposes of this chapter, that 536
person is a person described in division (I) (3) (a) (iii) of this 537
section. 538

(b) A trust is irrevocable to the extent that the 539
transferor is not considered to be the owner of the net assets 540
of the trust under sections 671 to 678 of the Internal Revenue 541
Code. 542

(c) With respect to a trust other than a charitable lead 543
trust, "qualifying beneficiary" has the same meaning as 544

"potential current beneficiary" as defined in section 1361(e) (2) 545
of the Internal Revenue Code, and with respect to a charitable 546
lead trust "qualifying beneficiary" is any current, future, or 547
contingent beneficiary, but with respect to any trust 548
"qualifying beneficiary" excludes a person or a governmental 549
entity or instrumentality to any of which a contribution would 550
qualify for the charitable deduction under section 170 of the 551
Internal Revenue Code. 552

(d) For the purposes of division (I) (3) (a) of this 553
section, the extent to which a trust consists directly or 554
indirectly, in whole or in part, of assets, net of any related 555
liabilities, that were transferred directly or indirectly, in 556
whole or part, to the trust by any of the sources enumerated in 557
that division shall be ascertained by multiplying the fair 558
market value of the trust's assets, net of related liabilities, 559
by the qualifying ratio, which shall be computed as follows: 560

(i) The first time the trust receives assets, the 561
numerator of the qualifying ratio is the fair market value of 562
those assets at that time, net of any related liabilities, from 563
sources enumerated in division (I) (3) (a) of this section. The 564
denominator of the qualifying ratio is the fair market value of 565
all the trust's assets at that time, net of any related 566
liabilities. 567

(ii) Each subsequent time the trust receives assets, a 568
revised qualifying ratio shall be computed. The numerator of the 569
revised qualifying ratio is the sum of (1) the fair market value 570
of the trust's assets immediately prior to the subsequent 571
transfer, net of any related liabilities, multiplied by the 572
qualifying ratio last computed without regard to the subsequent 573
transfer, and (2) the fair market value of the subsequently 574

transferred assets at the time transferred, net of any related 575
liabilities, from sources enumerated in division (I) (3) (a) of 576
this section. The denominator of the revised qualifying ratio is 577
the fair market value of all the trust's assets immediately 578
after the subsequent transfer, net of any related liabilities. 579

(iii) Whether a transfer to the trust is by or from any of 580
the sources enumerated in division (I) (3) (a) of this section 581
shall be ascertained without regard to the domicile of the 582
trust's beneficiaries. 583

(e) For the purposes of division (I) (3) (a) (i) of this 584
section: 585

(i) A trust is described in division (I) (3) (e) (i) of this 586
section if the trust is a testamentary trust and the testator of 587
that testamentary trust was domiciled in this state at the time 588
of the testator's death for purposes of the taxes levied under 589
Chapter 5731. of the Revised Code. 590

(ii) A trust is described in division (I) (3) (e) (ii) of 591
this section if the transfer is a qualifying transfer described 592
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 593
trust is an irrevocable inter vivos trust, and at least one of 594
the trust's qualifying beneficiaries is domiciled in this state 595
for purposes of this chapter during all or some portion of the 596
trust's current taxable year. 597

(f) For the purposes of division (I) (3) (e) (ii) of this 598
section, a "qualifying transfer" is a transfer of assets, net of 599
any related liabilities, directly or indirectly to a trust, if 600
the transfer is described in any of the following: 601

(i) The transfer is made to a trust, created by the 602
decedent before the decedent's death and while the decedent was 603

domiciled in this state for the purposes of this chapter, and, 604
prior to the death of the decedent, the trust became irrevocable 605
while the decedent was domiciled in this state for the purposes 606
of this chapter. 607

(ii) The transfer is made to a trust to which the 608
decedent, prior to the decedent's death, had directly or 609
indirectly transferred assets, net of any related liabilities, 610
while the decedent was domiciled in this state for the purposes 611
of this chapter, and prior to the death of the decedent the 612
trust became irrevocable while the decedent was domiciled in 613
this state for the purposes of this chapter. 614

(iii) The transfer is made on account of a contractual 615
relationship existing directly or indirectly between the 616
transferor and either the decedent or the estate of the decedent 617
at any time prior to the date of the decedent's death, and the 618
decedent was domiciled in this state at the time of death for 619
purposes of the taxes levied under Chapter 5731. of the Revised 620
Code. 621

(iv) The transfer is made to a trust on account of a 622
contractual relationship existing directly or indirectly between 623
the transferor and another person who at the time of the 624
decedent's death was domiciled in this state for purposes of 625
this chapter. 626

(v) The transfer is made to a trust on account of the will 627
of a testator who was domiciled in this state at the time of the 628
testator's death for purposes of the taxes levied under Chapter 629
5731. of the Revised Code. 630

(vi) The transfer is made to a trust created by or caused 631
to be created by a court, and the trust was directly or 632

indirectly created in connection with or as a result of the 633
death of an individual who, for purposes of the taxes levied 634
under Chapter 5731. of the Revised Code, was domiciled in this 635
state at the time of the individual's death. 636

(g) The tax commissioner may adopt rules to ascertain the 637
part of a trust residing in this state. 638

(J) "Nonresident" means an individual or estate that is 639
not a resident. An individual who is a resident for only part of 640
a taxable year is a nonresident for the remainder of that 641
taxable year. 642

(K) "Pass-through entity" has the same meaning as in 643
section 5733.04 of the Revised Code. 644

(L) "Return" means the notifications and reports required 645
to be filed pursuant to this chapter for the purpose of 646
reporting the tax due and includes declarations of estimated tax 647
when so required. 648

(M) "Taxable year" means the calendar year or the 649
taxpayer's fiscal year ending during the calendar year, or 650
fractional part thereof, upon which the adjusted gross income is 651
calculated pursuant to this chapter. 652

(N) "Taxpayer" means any person subject to the tax imposed 653
by section 5747.02 of the Revised Code or any pass-through 654
entity that makes the election under division (D) of section 655
5747.08 of the Revised Code. 656

(O) "Dependents" means dependents as defined in the 657
Internal Revenue Code and as claimed in the taxpayer's federal 658
income tax return for the taxable year or which the taxpayer 659
would have been permitted to claim had the taxpayer filed a 660
federal income tax return. 661

(P) "Principal county of employment" means, in the case of 662
a nonresident, the county within the state in which a taxpayer 663
performs services for an employer or, if those services are 664
performed in more than one county, the county in which the major 665
portion of the services are performed. 666

(Q) As used in sections 5747.50 to 5747.55 of the Revised 667
Code: 668

(1) "Subdivision" means any county, municipal corporation, 669
park district, or township. 670

(2) "Essential local government purposes" includes all 671
functions that any subdivision is required by general law to 672
exercise, including like functions that are exercised under a 673
charter adopted pursuant to the Ohio Constitution. 674

(R) "Overpayment" means any amount already paid that 675
exceeds the figure determined to be the correct amount of the 676
tax. 677

(S) "Taxable income" or "Ohio taxable income" applies only 678
to estates and trusts, and means federal taxable income, as 679
defined and used in the Internal Revenue Code, adjusted as 680
follows: 681

(1) Add interest or dividends, net of ordinary, necessary, 682
and reasonable expenses not deducted in computing federal 683
taxable income, on obligations or securities of any state or of 684
any political subdivision or authority of any state, other than 685
this state and its subdivisions and authorities, but only to the 686
extent that such net amount is not otherwise includible in Ohio 687
taxable income and is described in either division (S)(1)(a) or 688
(b) of this section: 689

(a) The net amount is not attributable to the S portion of 690

an electing small business trust and has not been distributed to 691
beneficiaries for the taxable year; 692

(b) The net amount is attributable to the S portion of an 693
electing small business trust for the taxable year. 694

(2) Add interest or dividends, net of ordinary, necessary, 695
and reasonable expenses not deducted in computing federal 696
taxable income, on obligations of any authority, commission, 697
instrumentality, territory, or possession of the United States 698
to the extent that the interest or dividends are exempt from 699
federal income taxes but not from state income taxes, but only 700
to the extent that such net amount is not otherwise includible 701
in Ohio taxable income and is described in either division (S) 702
(1) (a) or (b) of this section; 703

(3) Add the amount of personal exemption allowed to the 704
estate pursuant to section 642(b) of the Internal Revenue Code; 705

(4) Deduct interest or dividends, net of related expenses 706
deducted in computing federal taxable income, on obligations of 707
the United States and its territories and possessions or of any 708
authority, commission, or instrumentality of the United States 709
to the extent that the interest or dividends are exempt from 710
state taxes under the laws of the United States, but only to the 711
extent that such amount is included in federal taxable income 712
and is described in either division (S) (1) (a) or (b) of this 713
section; 714

(5) Deduct the amount of wages and salaries, if any, not 715
otherwise allowable as a deduction but that would have been 716
allowable as a deduction in computing federal taxable income for 717
the taxable year, had the targeted jobs credit allowed under 718
sections 38, 51, and 52 of the Internal Revenue Code not been in 719

effect, but only to the extent such amount relates either to 720
income included in federal taxable income for the taxable year 721
or to income of the S portion of an electing small business 722
trust for the taxable year; 723

(6) Deduct any interest or interest equivalent, net of 724
related expenses deducted in computing federal taxable income, 725
on public obligations and purchase obligations, but only to the 726
extent that such net amount relates either to income included in 727
federal taxable income for the taxable year or to income of the 728
S portion of an electing small business trust for the taxable 729
year; 730

(7) Add any loss or deduct any gain resulting from sale, 731
exchange, or other disposition of public obligations to the 732
extent that such loss has been deducted or such gain has been 733
included in computing either federal taxable income or income of 734
the S portion of an electing small business trust for the 735
taxable year; 736

(8) Except in the case of the final return of an estate, 737
add any amount deducted by the taxpayer on both its Ohio estate 738
tax return pursuant to section 5731.14 of the Revised Code, and 739
on its federal income tax return in determining federal taxable 740
income; 741

(9) (a) Deduct any amount included in federal taxable 742
income solely because the amount represents a reimbursement or 743
refund of expenses that in a previous year the decedent had 744
deducted as an itemized deduction pursuant to section 63 of the 745
Internal Revenue Code and applicable treasury regulations. The 746
deduction otherwise allowed under division (S) (9) (a) of this 747
section shall be reduced to the extent the reimbursement is 748
attributable to an amount the taxpayer or decedent deducted 749

under this section in any taxable year. 750

(b) Add any amount not otherwise included in Ohio taxable 751
income for any taxable year to the extent that the amount is 752
attributable to the recovery during the taxable year of any 753
amount deducted or excluded in computing federal or Ohio taxable 754
income in any taxable year, but only to the extent such amount 755
has not been distributed to beneficiaries for the taxable year. 756

(10) Deduct any portion of the deduction described in 757
section 1341(a)(2) of the Internal Revenue Code, for repaying 758
previously reported income received under a claim of right, that 759
meets both of the following requirements: 760

(a) It is allowable for repayment of an item that was 761
included in the taxpayer's taxable income or the decedent's 762
adjusted gross income for a prior taxable year and did not 763
qualify for a credit under division (A) or (B) of section 764
5747.05 of the Revised Code for that year. 765

(b) It does not otherwise reduce the taxpayer's taxable 766
income or the decedent's adjusted gross income for the current 767
or any other taxable year. 768

(11) Add any amount claimed as a credit under section 769
5747.059 or 5747.65 of the Revised Code to the extent that the 770
amount satisfies either of the following: 771

(a) The amount was deducted or excluded from the 772
computation of the taxpayer's federal taxable income as required 773
to be reported for the taxpayer's taxable year under the 774
Internal Revenue Code; 775

(b) The amount resulted in a reduction in the taxpayer's 776
federal taxable income as required to be reported for any of the 777
taxpayer's taxable years under the Internal Revenue Code. 778

(12) Deduct any amount, net of related expenses deducted 779
in computing federal taxable income, that a trust is required to 780
report as farm income on its federal income tax return, but only 781
if the assets of the trust include at least ten acres of land 782
satisfying the definition of "land devoted exclusively to 783
agricultural use" under section 5713.30 of the Revised Code, 784
regardless of whether the land is valued for tax purposes as 785
such land under sections 5713.30 to 5713.38 of the Revised Code. 786
If the trust is a pass-through entity investor, section 5747.231 787
of the Revised Code applies in ascertaining if the trust is 788
eligible to claim the deduction provided by division (S) (12) of 789
this section in connection with the pass-through entity's farm 790
income. 791

Except for farm income attributable to the S portion of an 792
electing small business trust, the deduction provided by 793
division (S) (12) of this section is allowed only to the extent 794
that the trust has not distributed such farm income. Division 795
(S) (12) of this section applies only to taxable years of a trust 796
beginning in 2002 or thereafter. 797

(13) Add the net amount of income described in section 798
641(c) of the Internal Revenue Code to the extent that amount is 799
not included in federal taxable income. 800

(14) Add or deduct the amount the taxpayer would be 801
required to add or deduct under division (A) (20) or (21) of this 802
section if the taxpayer's Ohio taxable income were computed in 803
the same manner as an individual's Ohio adjusted gross income is 804
computed under this section. In the case of a trust, division 805
(S) (14) of this section applies only to any of the trust's 806
taxable years beginning in 2002 or thereafter. 807

(T) "School district income" and "school district income 808

tax" have the same meanings as in section 5748.01 of the Revised Code. 809
810

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S) 811
(7) of this section, "public obligations," "purchase 812
obligations," and "interest or interest equivalent" have the 813
same meanings as in section 5709.76 of the Revised Code. 814

(V) "Limited liability company" means any limited 815
liability company formed under Chapter 1705. of the Revised Code 816
or under the laws of any other state. 817

(W) "Pass-through entity investor" means any person who, 818
during any portion of a taxable year of a pass-through entity, 819
is a partner, member, shareholder, or equity investor in that 820
pass-through entity. 821

(X) "Banking day" has the same meaning as in section 822
1304.01 of the Revised Code. 823

(Y) "Month" means a calendar month. 824

(Z) "Quarter" means the first three months, the second 825
three months, the third three months, or the last three months 826
of the taxpayer's taxable year. 827

(AA)(1) "Eligible institution" means a state university or 828
state institution of higher education as defined in section 829
3345.011 of the Revised Code, or a private, nonprofit college, 830
university, or other post-secondary institution located in this 831
state that possesses a certificate of authorization issued by 832
the chancellor of higher education pursuant to Chapter 1713. of 833
the Revised Code or a certificate of registration issued by the 834
state board of career colleges and schools under Chapter 3332. 835
of the Revised Code. 836

(2) "Qualified tuition and fees" means tuition and fees 837
imposed by an eligible institution as a condition of enrollment 838
or attendance, not exceeding two thousand five hundred dollars 839
in each of the individual's first two years of post-secondary 840
education. If the individual is a part-time student, "qualified 841
tuition and fees" includes tuition and fees paid for the 842
academic equivalent of the first two years of post-secondary 843
education during a maximum of five taxable years, not exceeding 844
a total of five thousand dollars. "Qualified tuition and fees" 845
does not include: 846

(a) Expenses for any course or activity involving sports, 847
games, or hobbies unless the course or activity is part of the 848
individual's degree or diploma program; 849

(b) The cost of books, room and board, student activity 850
fees, athletic fees, insurance expenses, or other expenses 851
unrelated to the individual's academic course of instruction; 852

(c) Tuition, fees, or other expenses paid or reimbursed 853
through an employer, scholarship, grant in aid, or other 854
educational benefit program. 855

(BB) (1) "Modified business income" means the business 856
income included in a trust's Ohio taxable income after such 857
taxable income is first reduced by the qualifying trust amount, 858
if any. 859

(2) "Qualifying trust amount" of a trust means capital 860
gains and losses from the sale, exchange, or other disposition 861
of equity or ownership interests in, or debt obligations of, a 862
qualifying investee to the extent included in the trust's Ohio 863
taxable income, but only if the following requirements are 864
satisfied: 865

(a) The book value of the qualifying investee's physical 866
assets in this state and everywhere, as of the last day of the 867
qualifying investee's fiscal or calendar year ending immediately 868
prior to the date on which the trust recognizes the gain or 869
loss, is available to the trust. 870

(b) The requirements of section 5747.011 of the Revised 871
Code are satisfied for the trust's taxable year in which the 872
trust recognizes the gain or loss. 873

Any gain or loss that is not a qualifying trust amount is 874
modified business income, qualifying investment income, or 875
modified nonbusiness income, as the case may be. 876

(3) "Modified nonbusiness income" means a trust's Ohio 877
taxable income other than modified business income, other than 878
the qualifying trust amount, and other than qualifying 879
investment income, as defined in section 5747.012 of the Revised 880
Code, to the extent such qualifying investment income is not 881
otherwise part of modified business income. 882

(4) "Modified Ohio taxable income" applies only to trusts, 883
and means the sum of the amounts described in divisions (BB) (4) 884
(a) to (c) of this section: 885

(a) The fraction, calculated under section 5747.013, and 886
applying section 5747.231 of the Revised Code, multiplied by the 887
sum of the following amounts: 888

(i) The trust's modified business income; 889

(ii) The trust's qualifying investment income, as defined 890
in section 5747.012 of the Revised Code, but only to the extent 891
the qualifying investment income does not otherwise constitute 892
modified business income and does not otherwise constitute a 893
qualifying trust amount. 894

(b) The qualifying trust amount multiplied by a fraction, 895
the numerator of which is the sum of the book value of the 896
qualifying investee's physical assets in this state on the last 897
day of the qualifying investee's fiscal or calendar year ending 898
immediately prior to the day on which the trust recognizes the 899
qualifying trust amount, and the denominator of which is the sum 900
of the book value of the qualifying investee's total physical 901
assets everywhere on the last day of the qualifying investee's 902
fiscal or calendar year ending immediately prior to the day on 903
which the trust recognizes the qualifying trust amount. If, for 904
a taxable year, the trust recognizes a qualifying trust amount 905
with respect to more than one qualifying investee, the amount 906
described in division (BB) (4) (b) of this section shall equal the 907
sum of the products so computed for each such qualifying 908
investee. 909

(c) (i) With respect to a trust or portion of a trust that 910
is a resident as ascertained in accordance with division (I) (3) 911
(d) of this section, its modified nonbusiness income. 912

(ii) With respect to a trust or portion of a trust that is 913
not a resident as ascertained in accordance with division (I) (3) 914
(d) of this section, the amount of its modified nonbusiness 915
income satisfying the descriptions in divisions (B) (2) to (5) of 916
section 5747.20 of the Revised Code, except as otherwise 917
provided in division (BB) (4) (c) (ii) of this section. With 918
respect to a trust or portion of a trust that is not a resident 919
as ascertained in accordance with division (I) (3) (d) of this 920
section, the trust's portion of modified nonbusiness income 921
recognized from the sale, exchange, or other disposition of a 922
debt interest in or equity interest in a section 5747.212 923
entity, as defined in section 5747.212 of the Revised Code, 924
without regard to division (A) of that section, shall not be 925

allocated to this state in accordance with section 5747.20 of 926
the Revised Code but shall be apportioned to this state in 927
accordance with division (B) of section 5747.212 of the Revised 928
Code without regard to division (A) of that section. 929

If the allocation and apportionment of a trust's income 930
under divisions (BB) (4) (a) and (c) of this section do not fairly 931
represent the modified Ohio taxable income of the trust in this 932
state, the alternative methods described in division (C) of 933
section 5747.21 of the Revised Code may be applied in the manner 934
and to the same extent provided in that section. 935

(5) (a) Except as set forth in division (BB) (5) (b) of this 936
section, "qualifying investee" means a person in which a trust 937
has an equity or ownership interest, or a person or unit of 938
government the debt obligations of either of which are owned by 939
a trust. For the purposes of division (BB) (2) (a) of this section 940
and for the purpose of computing the fraction described in 941
division (BB) (4) (b) of this section, all of the following apply: 942

(i) If the qualifying investee is a member of a qualifying 943
controlled group on the last day of the qualifying investee's 944
fiscal or calendar year ending immediately prior to the date on 945
which the trust recognizes the gain or loss, then "qualifying 946
investee" includes all persons in the qualifying controlled 947
group on such last day. 948

(ii) If the qualifying investee, or if the qualifying 949
investee and any members of the qualifying controlled group of 950
which the qualifying investee is a member on the last day of the 951
qualifying investee's fiscal or calendar year ending immediately 952
prior to the date on which the trust recognizes the gain or 953
loss, separately or cumulatively own, directly or indirectly, on 954
the last day of the qualifying investee's fiscal or calendar 955

year ending immediately prior to the date on which the trust 956
recognizes the qualifying trust amount, more than fifty per cent 957
of the equity of a pass-through entity, then the qualifying 958
investee and the other members are deemed to own the 959
proportionate share of the pass-through entity's physical assets 960
which the pass-through entity directly or indirectly owns on the 961
last day of the pass-through entity's calendar or fiscal year 962
ending within or with the last day of the qualifying investee's 963
fiscal or calendar year ending immediately prior to the date on 964
which the trust recognizes the qualifying trust amount. 965

(iii) For the purposes of division (BB) (5) (a) (iii) of this 966
section, "upper level pass-through entity" means a pass-through 967
entity directly or indirectly owning any equity of another pass- 968
through entity, and "lower level pass-through entity" means that 969
other pass-through entity. 970

An upper level pass-through entity, whether or not it is 971
also a qualifying investee, is deemed to own, on the last day of 972
the upper level pass-through entity's calendar or fiscal year, 973
the proportionate share of the lower level pass-through entity's 974
physical assets that the lower level pass-through entity 975
directly or indirectly owns on the last day of the lower level 976
pass-through entity's calendar or fiscal year ending within or 977
with the last day of the upper level pass-through entity's 978
fiscal or calendar year. If the upper level pass-through entity 979
directly and indirectly owns less than fifty per cent of the 980
equity of the lower level pass-through entity on each day of the 981
upper level pass-through entity's calendar or fiscal year in 982
which or with which ends the calendar or fiscal year of the 983
lower level pass-through entity and if, based upon clear and 984
convincing evidence, complete information about the location and 985
cost of the physical assets of the lower pass-through entity is 986

not available to the upper level pass-through entity, then 987
solely for purposes of ascertaining if a gain or loss 988
constitutes a qualifying trust amount, the upper level pass- 989
through entity shall be deemed as owning no equity of the lower 990
level pass-through entity for each day during the upper level 991
pass-through entity's calendar or fiscal year in which or with 992
which ends the lower level pass-through entity's calendar or 993
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 994
shall be construed to provide for any deduction or exclusion in 995
computing any trust's Ohio taxable income. 996

(b) With respect to a trust that is not a resident for the 997
taxable year and with respect to a part of a trust that is not a 998
resident for the taxable year, "qualifying investee" for that 999
taxable year does not include a C corporation if both of the 1000
following apply: 1001

(i) During the taxable year the trust or part of the trust 1002
recognizes a gain or loss from the sale, exchange, or other 1003
disposition of equity or ownership interests in, or debt 1004
obligations of, the C corporation. 1005

(ii) Such gain or loss constitutes nonbusiness income. 1006

(6) "Available" means information is such that a person is 1007
able to learn of the information by the due date plus 1008
extensions, if any, for filing the return for the taxable year 1009
in which the trust recognizes the gain or loss. 1010

(CC) "Qualifying controlled group" has the same meaning as 1011
in section 5733.04 of the Revised Code. 1012

(DD) "Related member" has the same meaning as in section 1013
5733.042 of the Revised Code. 1014

(EE) (1) For the purposes of division (EE) of this section: 1015

(a) "Qualifying person" means any person other than a 1016
qualifying corporation. 1017

(b) "Qualifying corporation" means any person classified 1018
for federal income tax purposes as an association taxable as a 1019
corporation, except either of the following: 1020

(i) A corporation that has made an election under 1021
subchapter S, chapter one, subtitle A, of the Internal Revenue 1022
Code for its taxable year ending within, or on the last day of, 1023
the investor's taxable year; 1024

(ii) A subsidiary that is wholly owned by any corporation 1025
that has made an election under subchapter S, chapter one, 1026
subtitle A of the Internal Revenue Code for its taxable year 1027
ending within, or on the last day of, the investor's taxable 1028
year. 1029

(2) For the purposes of this chapter, unless expressly 1030
stated otherwise, no qualifying person indirectly owns any asset 1031
directly or indirectly owned by any qualifying corporation. 1032

(FF) For purposes of this chapter and Chapter 5751. of the 1033
Revised Code: 1034

(1) "Trust" does not include a qualified pre-income tax 1035
trust. 1036

(2) A "qualified pre-income tax trust" is any pre-income 1037
tax trust that makes a qualifying pre-income tax trust election 1038
as described in division (FF)(3) of this section. 1039

(3) A "qualifying pre-income tax trust election" is an 1040
election by a pre-income tax trust to subject to the tax imposed 1041
by section 5751.02 of the Revised Code the pre-income tax trust 1042
and all pass-through entities of which the trust owns or 1043

controls, directly, indirectly, or constructively through 1044
related interests, five per cent or more of the ownership or 1045
equity interests. The trustee shall notify the tax commissioner 1046
in writing of the election on or before April 15, 2006. The 1047
election, if timely made, shall be effective on and after 1048
January 1, 2006, and shall apply for all tax periods and tax 1049
years until revoked by the trustee of the trust. 1050

(4) A "pre-income tax trust" is a trust that satisfies all 1051
of the following requirements: 1052

(a) The document or instrument creating the trust was 1053
executed by the grantor before January 1, 1972; 1054

(b) The trust became irrevocable upon the creation of the 1055
trust; and 1056

(c) The grantor was domiciled in this state at the time 1057
the trust was created. 1058

(GG) "Uniformed services" has the same meaning as in 10 1059
U.S.C. 101. 1060

(HH) "Taxable business income" means the amount by which 1061
an individual's business income that is included in federal 1062
adjusted gross income exceeds the amount of business income the 1063
individual is authorized to deduct under division (A) (31) of 1064
this section for the taxable year. 1065

(II) "Employer" does not include a franchisor with respect 1066
to the franchisor's relationship with a franchisee or an 1067
employee of a franchisee, unless the franchisor agrees to assume 1068
that role in writing or a court of competent jurisdiction 1069
determines that the franchisor exercises a type or degree of 1070
control over the franchisee or the franchisee's employees that 1071
is not customarily exercised by a franchisor for the purpose of 1072

protecting the franchisor's trademark, brand, or both. For 1073
purposes of this division, "franchisor" and "franchisee" have 1074
the same meanings as in 16 C.F.R. 436.1. 1075

Section 2. That existing section 5747.01 of the Revised 1076
Code is hereby repealed. 1077

Section 3. The amendment by this act of section 5747.01 of 1078
the Revised Code applies to taxable years ending on or after the 1079
effective date of this section. 1080

Section 4. (A) All terms used in this section have the 1081
same meanings as in section 5747.01 of the Revised Code. 1082

(B) For taxable years ending in 2019 or 2020, a refundable 1083
credit is allowed against a taxpayer's aggregate tax liability 1084
under section 5747.02 of the Revised Code equal to the taxes 1085
paid by the taxpayer under that section on an amount received as 1086
a disability severance payment, computed under 10 U.S.C. 1212, 1087
in any taxable year ending after January 17, 1991, but before 1088
the effective date of this section. The credit shall be claimed 1089
after all of the other credits listed in section 5747.98 of the 1090
Revised Code. If the amount of the credit exceeds the aggregate 1091
amount of tax otherwise due under section 5747.02 of the Revised 1092
Code after deduction of all other credits listed in that 1093
section, the taxpayer is entitled to a refund of the excess. 1094

(C) The taxes paid on a disability severance payment equal 1095
the taxpayer's aggregate tax liability under section 5747.02 of 1096
the Revised Code for the year in which the payment was received 1097
minus the amount the taxpayer's aggregate tax liability under 1098
that section would have been had the deduction authorized under 1099
division (A) (34) of section 5747.01 of the Revised Code, as 1100
amended by this act, applied to that taxable year. The Tax 1101

Commissioner shall provide information on the Department of 1102
Taxation's website instructing taxpayers how the amount shall be 1103
calculated. 1104

(D) A taxpayer claiming the credit authorized by this 1105
section shall submit, along with their return, documentation 1106
sufficient to prove they are entitled to the amount of credit 1107
claimed. No taxpayer may claim the credit authorized by this 1108
section more than once. For this purpose, correcting the amount 1109
of the credit as previously claimed does not constitute claiming 1110
the credit more than once. 1111