

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 26**

**Senator Kunze**

**Cosponsors: Senators Maharath, Thomas, Roegner, Sykes, Williams, Fedor**

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**A BILL**

To amend section 5747.01 of the Revised Code to  
authorize a state income tax deduction for  
teachers' out-of-pocket expenses for  
professional development and classroom supplies.

**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:

**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.

As used in this chapter:

(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 19  
section: 20

(1) Add interest or dividends on obligations or securities 21  
of any state or of any political subdivision or authority of any 22  
state, other than this state and its subdivisions and 23  
authorities. 24

(2) Add interest or dividends on obligations of any 25  
authority, commission, instrumentality, territory, or possession 26  
of the United States to the extent that the interest or 27  
dividends are exempt from federal income taxes but not from 28  
state income taxes. 29

(3) Deduct interest or dividends on obligations of the 30  
United States and its territories and possessions or of any 31  
authority, commission, or instrumentality of the United States 32  
to the extent that the interest or dividends are included in 33  
federal adjusted gross income but exempt from state income taxes 34  
under the laws of the United States. 35

(4) Deduct disability and survivor's benefits to the 36  
extent included in federal adjusted gross income. 37

(5) Deduct benefits under Title II of the Social Security 38  
Act and tier 1 railroad retirement benefits to the extent 39  
included in federal adjusted gross income under section 86 of 40  
the Internal Revenue Code. 41

(6) In the case of a taxpayer who is a beneficiary of a 42  
trust that makes an accumulation distribution as defined in 43  
section 665 of the Internal Revenue Code, add, for the 44  
beneficiary's taxable years beginning before 2002, the portion, 45  
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) For a taxpayer who is a qualifying Ohio educator, 467  
deduct, to the extent not otherwise deducted or excluded in 468  
computing federal or Ohio adjusted gross income for the taxable 469  
year, the lesser of two hundred fifty dollars or the amount of 470  
expenses described in subsections (a) (2) (D) (i) and (ii) of 471  
section 62 of the Internal Revenue Code paid or incurred by the 472  
taxpayer during the taxpayer's taxable year in excess of the 473  
amount the taxpayer is authorized to deduct for that taxable 474  
year under subsection (a) (2) (D) of that section. 475

(B) "Business income" means income, including gain or 476  
loss, arising from transactions, activities, and sources in the 477  
regular course of a trade or business and includes income, gain, 478  
or loss from real property, tangible property, and intangible 479  
property if the acquisition, rental, management, and disposition 480  
of the property constitute integral parts of the regular course 481  
of a trade or business operation. "Business income" includes 482  
income, including gain or loss, from a partial or complete 483  
liquidation of a business, including, but not limited to, gain 484  
or loss from the sale or other disposition of goodwill. 485

(C) "Nonbusiness income" means all income other than 486  
business income and may include, but is not limited to, 487  
compensation, rents and royalties from real or tangible personal 488  
property, capital gains, interest, dividends and distributions, 489  
patent or copyright royalties, or lottery winnings, prizes, and 490

awards. 491

(D) "Compensation" means any form of remuneration paid to 492  
an employee for personal services. 493

(E) "Fiduciary" means a guardian, trustee, executor, 494  
administrator, receiver, conservator, or any other person acting 495  
in any fiduciary capacity for any individual, trust, or estate. 496

(F) "Fiscal year" means an accounting period of twelve 497  
months ending on the last day of any month other than December. 498

(G) "Individual" means any natural person. 499

(H) "Internal Revenue Code" means the "Internal Revenue 500  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 501

(I) "Resident" means any of the following, provided that 502  
division (I) (3) of this section applies only to taxable years of 503  
a trust beginning in 2002 or thereafter: 504

(1) An individual who is domiciled in this state, subject 505  
to section 5747.24 of the Revised Code; 506

(2) The estate of a decedent who at the time of death was 507  
domiciled in this state. The domicile tests of section 5747.24 508  
of the Revised Code are not controlling for purposes of division 509  
(I) (2) of this section. 510

(3) A trust that, in whole or part, resides in this state. 511  
If only part of a trust resides in this state, the trust is a 512  
resident only with respect to that part. 513

For the purposes of division (I) (3) of this section: 514

(a) A trust resides in this state for the trust's current 515  
taxable year to the extent, as described in division (I) (3) (d) 516  
of this section, that the trust consists directly or indirectly, 517

in whole or in part, of assets, net of any related liabilities, 518  
that were transferred, or caused to be transferred, directly or 519  
indirectly, to the trust by any of the following: 520

(i) A person, a court, or a governmental entity or 521  
instrumentality on account of the death of a decedent, but only 522  
if the trust is described in division (I) (3) (e) (i) or (ii) of 523  
this section; 524

(ii) A person who was domiciled in this state for the 525  
purposes of this chapter when the person directly or indirectly 526  
transferred assets to an irrevocable trust, but only if at least 527  
one of the trust's qualifying beneficiaries is domiciled in this 528  
state for the purposes of this chapter during all or some 529  
portion of the trust's current taxable year; 530

(iii) A person who was domiciled in this state for the 531  
purposes of this chapter when the trust document or instrument 532  
or part of the trust document or instrument became irrevocable, 533  
but only if at least one of the trust's qualifying beneficiaries 534  
is a resident domiciled in this state for the purposes of this 535  
chapter during all or some portion of the trust's current 536  
taxable year. If a trust document or instrument became 537  
irrevocable upon the death of a person who at the time of death 538  
was domiciled in this state for purposes of this chapter, that 539  
person is a person described in division (I) (3) (a) (iii) of this 540  
section. 541

(b) A trust is irrevocable to the extent that the 542  
transferor is not considered to be the owner of the net assets 543  
of the trust under sections 671 to 678 of the Internal Revenue 544  
Code. 545

(c) With respect to a trust other than a charitable lead 546

trust, "qualifying beneficiary" has the same meaning as 547  
"potential current beneficiary" as defined in section 1361(e) (2) 548  
of the Internal Revenue Code, and with respect to a charitable 549  
lead trust "qualifying beneficiary" is any current, future, or 550  
contingent beneficiary, but with respect to any trust 551  
"qualifying beneficiary" excludes a person or a governmental 552  
entity or instrumentality to any of which a contribution would 553  
qualify for the charitable deduction under section 170 of the 554  
Internal Revenue Code. 555

(d) For the purposes of division (I) (3) (a) of this 556  
section, the extent to which a trust consists directly or 557  
indirectly, in whole or in part, of assets, net of any related 558  
liabilities, that were transferred directly or indirectly, in 559  
whole or part, to the trust by any of the sources enumerated in 560  
that division shall be ascertained by multiplying the fair 561  
market value of the trust's assets, net of related liabilities, 562  
by the qualifying ratio, which shall be computed as follows: 563

(i) The first time the trust receives assets, the 564  
numerator of the qualifying ratio is the fair market value of 565  
those assets at that time, net of any related liabilities, from 566  
sources enumerated in division (I) (3) (a) of this section. The 567  
denominator of the qualifying ratio is the fair market value of 568  
all the trust's assets at that time, net of any related 569  
liabilities. 570

(ii) Each subsequent time the trust receives assets, a 571  
revised qualifying ratio shall be computed. The numerator of the 572  
revised qualifying ratio is the sum of (1) the fair market value 573  
of the trust's assets immediately prior to the subsequent 574  
transfer, net of any related liabilities, multiplied by the 575  
qualifying ratio last computed without regard to the subsequent 576

transfer, and (2) the fair market value of the subsequently 577  
transferred assets at the time transferred, net of any related 578  
liabilities, from sources enumerated in division (I) (3) (a) of 579  
this section. The denominator of the revised qualifying ratio is 580  
the fair market value of all the trust's assets immediately 581  
after the subsequent transfer, net of any related liabilities. 582

(iii) Whether a transfer to the trust is by or from any of 583  
the sources enumerated in division (I) (3) (a) of this section 584  
shall be ascertained without regard to the domicile of the 585  
trust's beneficiaries. 586

(e) For the purposes of division (I) (3) (a) (i) of this 587  
section: 588

(i) A trust is described in division (I) (3) (e) (i) of this 589  
section if the trust is a testamentary trust and the testator of 590  
that testamentary trust was domiciled in this state at the time 591  
of the testator's death for purposes of the taxes levied under 592  
Chapter 5731. of the Revised Code. 593

(ii) A trust is described in division (I) (3) (e) (ii) of 594  
this section if the transfer is a qualifying transfer described 595  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 596  
trust is an irrevocable inter vivos trust, and at least one of 597  
the trust's qualifying beneficiaries is domiciled in this state 598  
for purposes of this chapter during all or some portion of the 599  
trust's current taxable year. 600

(f) For the purposes of division (I) (3) (e) (ii) of this 601  
section, a "qualifying transfer" is a transfer of assets, net of 602  
any related liabilities, directly or indirectly to a trust, if 603  
the transfer is described in any of the following: 604

(i) The transfer is made to a trust, created by the 605

decedent before the decedent's death and while the decedent was 606  
domiciled in this state for the purposes of this chapter, and, 607  
prior to the death of the decedent, the trust became irrevocable 608  
while the decedent was domiciled in this state for the purposes 609  
of this chapter. 610

(ii) The transfer is made to a trust to which the 611  
decedent, prior to the decedent's death, had directly or 612  
indirectly transferred assets, net of any related liabilities, 613  
while the decedent was domiciled in this state for the purposes 614  
of this chapter, and prior to the death of the decedent the 615  
trust became irrevocable while the decedent was domiciled in 616  
this state for the purposes of this chapter. 617

(iii) The transfer is made on account of a contractual 618  
relationship existing directly or indirectly between the 619  
transferor and either the decedent or the estate of the decedent 620  
at any time prior to the date of the decedent's death, and the 621  
decedent was domiciled in this state at the time of death for 622  
purposes of the taxes levied under Chapter 5731. of the Revised 623  
Code. 624

(iv) The transfer is made to a trust on account of a 625  
contractual relationship existing directly or indirectly between 626  
the transferor and another person who at the time of the 627  
decedent's death was domiciled in this state for purposes of 628  
this chapter. 629

(v) The transfer is made to a trust on account of the will 630  
of a testator who was domiciled in this state at the time of the 631  
testator's death for purposes of the taxes levied under Chapter 632  
5731. of the Revised Code. 633

(vi) The transfer is made to a trust created by or caused 634

to be created by a court, and the trust was directly or 635  
indirectly created in connection with or as a result of the 636  
death of an individual who, for purposes of the taxes levied 637  
under Chapter 5731. of the Revised Code, was domiciled in this 638  
state at the time of the individual's death. 639

(g) The tax commissioner may adopt rules to ascertain the 640  
part of a trust residing in this state. 641

(J) "Nonresident" means an individual or estate that is 642  
not a resident. An individual who is a resident for only part of 643  
a taxable year is a nonresident for the remainder of that 644  
taxable year. 645

(K) "Pass-through entity" has the same meaning as in 646  
section 5733.04 of the Revised Code. 647

(L) "Return" means the notifications and reports required 648  
to be filed pursuant to this chapter for the purpose of 649  
reporting the tax due and includes declarations of estimated tax 650  
when so required. 651

(M) "Taxable year" means the calendar year or the 652  
taxpayer's fiscal year ending during the calendar year, or 653  
fractional part thereof, upon which the adjusted gross income is 654  
calculated pursuant to this chapter. 655

(N) "Taxpayer" means any person subject to the tax imposed 656  
by section 5747.02 of the Revised Code or any pass-through 657  
entity that makes the election under division (D) of section 658  
5747.08 of the Revised Code. 659

(O) "Dependents" means dependents as defined in the 660  
Internal Revenue Code and as claimed in the taxpayer's federal 661  
income tax return for the taxable year or which the taxpayer 662  
would have been permitted to claim had the taxpayer filed a 663

federal income tax return. 664

(P) "Principal county of employment" means, in the case of 665  
a nonresident, the county within the state in which a taxpayer 666  
performs services for an employer or, if those services are 667  
performed in more than one county, the county in which the major 668  
portion of the services are performed. 669

(Q) As used in sections 5747.50 to 5747.55 of the Revised 670  
Code: 671

(1) "Subdivision" means any county, municipal corporation, 672  
park district, or township. 673

(2) "Essential local government purposes" includes all 674  
functions that any subdivision is required by general law to 675  
exercise, including like functions that are exercised under a 676  
charter adopted pursuant to the Ohio Constitution. 677

(R) "Overpayment" means any amount already paid that 678  
exceeds the figure determined to be the correct amount of the 679  
tax. 680

(S) "Taxable income" or "Ohio taxable income" applies only 681  
to estates and trusts, and means federal taxable income, as 682  
defined and used in the Internal Revenue Code, adjusted as 683  
follows: 684

(1) Add interest or dividends, net of ordinary, necessary, 685  
and reasonable expenses not deducted in computing federal 686  
taxable income, on obligations or securities of any state or of 687  
any political subdivision or authority of any state, other than 688  
this state and its subdivisions and authorities, but only to the 689  
extent that such net amount is not otherwise includible in Ohio 690  
taxable income and is described in either division (S) (1) (a) or 691  
(b) of this section: 692



(a) The net amount is not attributable to the S portion of 693  
an electing small business trust and has not been distributed to 694  
beneficiaries for the taxable year; 695

(b) The net amount is attributable to the S portion of an 696  
electing small business trust for the taxable year. 697

(2) Add interest or dividends, net of ordinary, necessary, 698  
and reasonable expenses not deducted in computing federal 699  
taxable income, on obligations of any authority, commission, 700  
instrumentality, territory, or possession of the United States 701  
to the extent that the interest or dividends are exempt from 702  
federal income taxes but not from state income taxes, but only 703  
to the extent that such net amount is not otherwise includible 704  
in Ohio taxable income and is described in either division (S) 705  
(1) (a) or (b) of this section; 706

(3) Add the amount of personal exemption allowed to the 707  
estate pursuant to section 642(b) of the Internal Revenue Code; 708

(4) Deduct interest or dividends, net of related expenses 709  
deducted in computing federal taxable income, on obligations of 710  
the United States and its territories and possessions or of any 711  
authority, commission, or instrumentality of the United States 712  
to the extent that the interest or dividends are exempt from 713  
state taxes under the laws of the United States, but only to the 714  
extent that such amount is included in federal taxable income 715  
and is described in either division (S) (1) (a) or (b) of this 716  
section; 717

(5) Deduct the amount of wages and salaries, if any, not 718  
otherwise allowable as a deduction but that would have been 719  
allowable as a deduction in computing federal taxable income for 720  
the taxable year, had the targeted jobs credit allowed under 721

sections 38, 51, and 52 of the Internal Revenue Code not been in 722  
effect, but only to the extent such amount relates either to 723  
income included in federal taxable income for the taxable year 724  
or to income of the S portion of an electing small business 725  
trust for the taxable year; 726

(6) Deduct any interest or interest equivalent, net of 727  
related expenses deducted in computing federal taxable income, 728  
on public obligations and purchase obligations, but only to the 729  
extent that such net amount relates either to income included in 730  
federal taxable income for the taxable year or to income of the 731  
S portion of an electing small business trust for the taxable 732  
year; 733

(7) Add any loss or deduct any gain resulting from sale, 734  
exchange, or other disposition of public obligations to the 735  
extent that such loss has been deducted or such gain has been 736  
included in computing either federal taxable income or income of 737  
the S portion of an electing small business trust for the 738  
taxable year; 739

(8) Except in the case of the final return of an estate, 740  
add any amount deducted by the taxpayer on both its Ohio estate 741  
tax return pursuant to section 5731.14 of the Revised Code, and 742  
on its federal income tax return in determining federal taxable 743  
income; 744

(9) (a) Deduct any amount included in federal taxable 745  
income solely because the amount represents a reimbursement or 746  
refund of expenses that in a previous year the decedent had 747  
deducted as an itemized deduction pursuant to section 63 of the 748  
Internal Revenue Code and applicable treasury regulations. The 749  
deduction otherwise allowed under division (S) (9) (a) of this 750  
section shall be reduced to the extent the reimbursement is 751

attributable to an amount the taxpayer or decedent deducted 752  
under this section in any taxable year. 753

(b) Add any amount not otherwise included in Ohio taxable 754  
income for any taxable year to the extent that the amount is 755  
attributable to the recovery during the taxable year of any 756  
amount deducted or excluded in computing federal or Ohio taxable 757  
income in any taxable year, but only to the extent such amount 758  
has not been distributed to beneficiaries for the taxable year. 759

(10) Deduct any portion of the deduction described in 760  
section 1341(a)(2) of the Internal Revenue Code, for repaying 761  
previously reported income received under a claim of right, that 762  
meets both of the following requirements: 763

(a) It is allowable for repayment of an item that was 764  
included in the taxpayer's taxable income or the decedent's 765  
adjusted gross income for a prior taxable year and did not 766  
qualify for a credit under division (A) or (B) of section 767  
5747.05 of the Revised Code for that year. 768

(b) It does not otherwise reduce the taxpayer's taxable 769  
income or the decedent's adjusted gross income for the current 770  
or any other taxable year. 771

(11) Add any amount claimed as a credit under section 772  
5747.059 or 5747.65 of the Revised Code to the extent that the 773  
amount satisfies either of the following: 774

(a) The amount was deducted or excluded from the 775  
computation of the taxpayer's federal taxable income as required 776  
to be reported for the taxpayer's taxable year under the 777  
Internal Revenue Code; 778

(b) The amount resulted in a reduction in the taxpayer's 779  
federal taxable income as required to be reported for any of the 780

taxpayer's taxable years under the Internal Revenue Code. 781

(12) Deduct any amount, net of related expenses deducted 782  
in computing federal taxable income, that a trust is required to 783  
report as farm income on its federal income tax return, but only 784  
if the assets of the trust include at least ten acres of land 785  
satisfying the definition of "land devoted exclusively to 786  
agricultural use" under section 5713.30 of the Revised Code, 787  
regardless of whether the land is valued for tax purposes as 788  
such land under sections 5713.30 to 5713.38 of the Revised Code. 789  
If the trust is a pass-through entity investor, section 5747.231 790  
of the Revised Code applies in ascertaining if the trust is 791  
eligible to claim the deduction provided by division (S)(12) of 792  
this section in connection with the pass-through entity's farm 793  
income. 794

Except for farm income attributable to the S portion of an 795  
electing small business trust, the deduction provided by 796  
division (S)(12) of this section is allowed only to the extent 797  
that the trust has not distributed such farm income. Division 798  
(S)(12) of this section applies only to taxable years of a trust 799  
beginning in 2002 or thereafter. 800

(13) Add the net amount of income described in section 801  
641(c) of the Internal Revenue Code to the extent that amount is 802  
not included in federal taxable income. 803

(14) Add or deduct the amount the taxpayer would be 804  
required to add or deduct under division (A)(20) or (21) of this 805  
section if the taxpayer's Ohio taxable income were computed in 806  
the same manner as an individual's Ohio adjusted gross income is 807  
computed under this section. In the case of a trust, division 808  
(S)(14) of this section applies only to any of the trust's 809  
taxable years beginning in 2002 or thereafter. 810

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

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

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

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

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

(Y) "Month" means a calendar month.

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

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

(2) "Qualified tuition and fees" means tuition and fees 840  
imposed by an eligible institution as a condition of enrollment 841  
or attendance, not exceeding two thousand five hundred dollars 842  
in each of the individual's first two years of post-secondary 843  
education. If the individual is a part-time student, "qualified 844  
tuition and fees" includes tuition and fees paid for the 845  
academic equivalent of the first two years of post-secondary 846  
education during a maximum of five taxable years, not exceeding 847  
a total of five thousand dollars. "Qualified tuition and fees" 848  
does not include: 849

(a) Expenses for any course or activity involving sports, 850  
games, or hobbies unless the course or activity is part of the 851  
individual's degree or diploma program; 852

(b) The cost of books, room and board, student activity 853  
fees, athletic fees, insurance expenses, or other expenses 854  
unrelated to the individual's academic course of instruction; 855

(c) Tuition, fees, or other expenses paid or reimbursed 856  
through an employer, scholarship, grant in aid, or other 857  
educational benefit program. 858

(BB) (1) "Modified business income" means the business 859  
income included in a trust's Ohio taxable income after such 860  
taxable income is first reduced by the qualifying trust amount, 861  
if any. 862

(2) "Qualifying trust amount" of a trust means capital 863  
gains and losses from the sale, exchange, or other disposition 864  
of equity or ownership interests in, or debt obligations of, a 865  
qualifying investee to the extent included in the trust's Ohio 866  
taxable income, but only if the following requirements are 867  
satisfied: 868

(a) The book value of the qualifying investee's physical 869  
assets in this state and everywhere, as of the last day of the 870  
qualifying investee's fiscal or calendar year ending immediately 871  
prior to the date on which the trust recognizes the gain or 872  
loss, is available to the trust. 873

(b) The requirements of section 5747.011 of the Revised 874  
Code are satisfied for the trust's taxable year in which the 875  
trust recognizes the gain or loss. 876

Any gain or loss that is not a qualifying trust amount is 877  
modified business income, qualifying investment income, or 878  
modified nonbusiness income, as the case may be. 879

(3) "Modified nonbusiness income" means a trust's Ohio 880  
taxable income other than modified business income, other than 881  
the qualifying trust amount, and other than qualifying 882  
investment income, as defined in section 5747.012 of the Revised 883  
Code, to the extent such qualifying investment income is not 884  
otherwise part of modified business income. 885

(4) "Modified Ohio taxable income" applies only to trusts, 886  
and means the sum of the amounts described in divisions (BB) (4) 887  
(a) to (c) of this section: 888

(a) The fraction, calculated under section 5747.013, and 889  
applying section 5747.231 of the Revised Code, multiplied by the 890  
sum of the following amounts: 891

(i) The trust's modified business income; 892

(ii) The trust's qualifying investment income, as defined 893  
in section 5747.012 of the Revised Code, but only to the extent 894  
the qualifying investment income does not otherwise constitute 895  
modified business income and does not otherwise constitute a 896  
qualifying trust amount. 897

(b) The qualifying trust amount multiplied by a fraction, 898  
the numerator of which is the sum of the book value of the 899  
qualifying investee's physical assets in this state on the last 900  
day of the qualifying investee's fiscal or calendar year ending 901  
immediately prior to the day on which the trust recognizes the 902  
qualifying trust amount, and the denominator of which is the sum 903  
of the book value of the qualifying investee's total physical 904  
assets everywhere on the last day of the qualifying investee's 905  
fiscal or calendar year ending immediately prior to the day on 906  
which the trust recognizes the qualifying trust amount. If, for 907  
a taxable year, the trust recognizes a qualifying trust amount 908  
with respect to more than one qualifying investee, the amount 909  
described in division (BB) (4) (b) of this section shall equal the 910  
sum of the products so computed for each such qualifying 911  
investee. 912

(c) (i) With respect to a trust or portion of a trust that 913  
is a resident as ascertained in accordance with division (I) (3) 914  
(d) of this section, its modified nonbusiness income. 915

(ii) With respect to a trust or portion of a trust that is 916  
not a resident as ascertained in accordance with division (I) (3) 917  
(d) of this section, the amount of its modified nonbusiness 918  
income satisfying the descriptions in divisions (B) (2) to (5) of 919  
section 5747.20 of the Revised Code, except as otherwise 920  
provided in division (BB) (4) (c) (ii) of this section. With 921  
respect to a trust or portion of a trust that is not a resident 922  
as ascertained in accordance with division (I) (3) (d) of this 923  
section, the trust's portion of modified nonbusiness income 924  
recognized from the sale, exchange, or other disposition of a 925  
debt interest in or equity interest in a section 5747.212 926  
entity, as defined in section 5747.212 of the Revised Code, 927  
without regard to division (A) of that section, shall not be 928



allocated to this state in accordance with section 5747.20 of 929  
the Revised Code but shall be apportioned to this state in 930  
accordance with division (B) of section 5747.212 of the Revised 931  
Code without regard to division (A) of that section. 932

If the allocation and apportionment of a trust's income 933  
under divisions (BB) (4) (a) and (c) of this section do not fairly 934  
represent the modified Ohio taxable income of the trust in this 935  
state, the alternative methods described in division (C) of 936  
section 5747.21 of the Revised Code may be applied in the manner 937  
and to the same extent provided in that section. 938

(5) (a) Except as set forth in division (BB) (5) (b) of this 939  
section, "qualifying investee" means a person in which a trust 940  
has an equity or ownership interest, or a person or unit of 941  
government the debt obligations of either of which are owned by 942  
a trust. For the purposes of division (BB) (2) (a) of this section 943  
and for the purpose of computing the fraction described in 944  
division (BB) (4) (b) of this section, all of the following apply: 945

(i) If the qualifying investee is a member of a qualifying 946  
controlled group on the last day of the qualifying investee's 947  
fiscal or calendar year ending immediately prior to the date on 948  
which the trust recognizes the gain or loss, then "qualifying 949  
investee" includes all persons in the qualifying controlled 950  
group on such last day. 951

(ii) If the qualifying investee, or if the qualifying 952  
investee and any members of the qualifying controlled group of 953  
which the qualifying investee is a member on the last day of the 954  
qualifying investee's fiscal or calendar year ending immediately 955  
prior to the date on which the trust recognizes the gain or 956  
loss, separately or cumulatively own, directly or indirectly, on 957  
the last day of the qualifying investee's fiscal or calendar 958

year ending immediately prior to the date on which the trust 959  
recognizes the qualifying trust amount, more than fifty per cent 960  
of the equity of a pass-through entity, then the qualifying 961  
investee and the other members are deemed to own the 962  
proportionate share of the pass-through entity's physical assets 963  
which the pass-through entity directly or indirectly owns on the 964  
last day of the pass-through entity's calendar or fiscal year 965  
ending within or with the last day of the qualifying investee's 966  
fiscal or calendar year ending immediately prior to the date on 967  
which the trust recognizes the qualifying trust amount. 968

(iii) For the purposes of division (BB) (5) (a) (iii) of this 969  
section, "upper level pass-through entity" means a pass-through 970  
entity directly or indirectly owning any equity of another pass- 971  
through entity, and "lower level pass-through entity" means that 972  
other pass-through entity. 973

An upper level pass-through entity, whether or not it is 974  
also a qualifying investee, is deemed to own, on the last day of 975  
the upper level pass-through entity's calendar or fiscal year, 976  
the proportionate share of the lower level pass-through entity's 977  
physical assets that the lower level pass-through entity 978  
directly or indirectly owns on the last day of the lower level 979  
pass-through entity's calendar or fiscal year ending within or 980  
with the last day of the upper level pass-through entity's 981  
fiscal or calendar year. If the upper level pass-through entity 982  
directly and indirectly owns less than fifty per cent of the 983  
equity of the lower level pass-through entity on each day of the 984  
upper level pass-through entity's calendar or fiscal year in 985  
which or with which ends the calendar or fiscal year of the 986  
lower level pass-through entity and if, based upon clear and 987  
convincing evidence, complete information about the location and 988  
cost of the physical assets of the lower pass-through entity is 989

not available to the upper level pass-through entity, then 990  
solely for purposes of ascertaining if a gain or loss 991  
constitutes a qualifying trust amount, the upper level pass- 992  
through entity shall be deemed as owning no equity of the lower 993  
level pass-through entity for each day during the upper level 994  
pass-through entity's calendar or fiscal year in which or with 995  
which ends the lower level pass-through entity's calendar or 996  
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 997  
shall be construed to provide for any deduction or exclusion in 998  
computing any trust's Ohio taxable income. 999

(b) With respect to a trust that is not a resident for the 1000  
taxable year and with respect to a part of a trust that is not a 1001  
resident for the taxable year, "qualifying investee" for that 1002  
taxable year does not include a C corporation if both of the 1003  
following apply: 1004

(i) During the taxable year the trust or part of the trust 1005  
recognizes a gain or loss from the sale, exchange, or other 1006  
disposition of equity or ownership interests in, or debt 1007  
obligations of, the C corporation. 1008

(ii) Such gain or loss constitutes nonbusiness income. 1009

(6) "Available" means information is such that a person is 1010  
able to learn of the information by the due date plus 1011  
extensions, if any, for filing the return for the taxable year 1012  
in which the trust recognizes the gain or loss. 1013

(CC) "Qualifying controlled group" has the same meaning as 1014  
in section 5733.04 of the Revised Code. 1015

(DD) "Related member" has the same meaning as in section 1016  
5733.042 of the Revised Code. 1017

(EE) (1) For the purposes of division (EE) of this section: 1018

(a) "Qualifying person" means any person other than a 1019  
qualifying corporation. 1020

(b) "Qualifying corporation" means any person classified 1021  
for federal income tax purposes as an association taxable as a 1022  
corporation, except either of the following: 1023

(i) A corporation that has made an election under 1024  
subchapter S, chapter one, subtitle A, of the Internal Revenue 1025  
Code for its taxable year ending within, or on the last day of, 1026  
the investor's taxable year; 1027

(ii) A subsidiary that is wholly owned by any corporation 1028  
that has made an election under subchapter S, chapter one, 1029  
subtitle A of the Internal Revenue Code for its taxable year 1030  
ending within, or on the last day of, the investor's taxable 1031  
year. 1032

(2) For the purposes of this chapter, unless expressly 1033  
stated otherwise, no qualifying person indirectly owns any asset 1034  
directly or indirectly owned by any qualifying corporation. 1035

(FF) For purposes of this chapter and Chapter 5751. of the 1036  
Revised Code: 1037

(1) "Trust" does not include a qualified pre-income tax 1038  
trust. 1039

(2) A "qualified pre-income tax trust" is any pre-income 1040  
tax trust that makes a qualifying pre-income tax trust election 1041  
as described in division (FF)(3) of this section. 1042

(3) A "qualifying pre-income tax trust election" is an 1043  
election by a pre-income tax trust to subject to the tax imposed 1044  
by section 5751.02 of the Revised Code the pre-income tax trust 1045  
and all pass-through entities of which the trust owns or 1046

controls, directly, indirectly, or constructively through 1047  
related interests, five per cent or more of the ownership or 1048  
equity interests. The trustee shall notify the tax commissioner 1049  
in writing of the election on or before April 15, 2006. The 1050  
election, if timely made, shall be effective on and after 1051  
January 1, 2006, and shall apply for all tax periods and tax 1052  
years until revoked by the trustee of the trust. 1053

(4) A "pre-income tax trust" is a trust that satisfies all 1054  
of the following requirements: 1055

(a) The document or instrument creating the trust was 1056  
executed by the grantor before January 1, 1972; 1057

(b) The trust became irrevocable upon the creation of the 1058  
trust; and 1059

(c) The grantor was domiciled in this state at the time 1060  
the trust was created. 1061

(GG) "Uniformed services" has the same meaning as in 10 1062  
U.S.C. 101. 1063

(HH) "Taxable business income" means the amount by which 1064  
an individual's business income that is included in federal 1065  
adjusted gross income exceeds the amount of business income the 1066  
individual is authorized to deduct under division (A) (31) of 1067  
this section for the taxable year. 1068

(II) "Employer" does not include a franchisor with respect 1069  
to the franchisor's relationship with a franchisee or an 1070  
employee of a franchisee, unless the franchisor agrees to assume 1071  
that role in writing or a court of competent jurisdiction 1072  
determines that the franchisor exercises a type or degree of 1073  
control over the franchisee or the franchisee's employees that 1074  
is not customarily exercised by a franchisor for the purpose of 1075

protecting the franchisor's trademark, brand, or both. For 1076  
purposes of this division, "franchisor" and "franchisee" have 1077  
the same meanings as in 16 C.F.R. 436.1. 1078

(JJ) "Qualifying Ohio educator" means an individual who, 1079  
for a taxable year, qualifies as an eligible educator, as that 1080  
term is defined in section 62 of the Internal Revenue Code, and 1081  
who holds a certificate, license, or permit described in Chapter 1082  
3319. or section 3301.071 of the Revised Code. 1083

**Section 2.** That existing section 5747.01 of the Revised 1084  
Code is hereby repealed. 1085

**Section 3.** The amendment by this act of section 5747.01 of 1086  
the Revised Code applies to taxable years beginning on or after 1087  
January 1, 2020. 1088